

# Indio Police Department

## Indio PD Policy Manual

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### **CHIEF'S INTRODUCTORY STATEMENT**

The Indio Police Department has a long-standing reputation as a progressive and innovative agency that works collaboratively with community members and groups, business leaders, and across public service disciplines to compassionately address crime and quality of life issues in the neighborhoods of Indio. Our effectiveness as an agency is closely linked to our commitment to adhering to the highest standards of integrity, ethics, professional conduct, and industry best practices. This policy manual serves to establish the rules, expectations, and procedures of the Indio Police Department as we fulfill our duties and oath of office.

Although we are all expected to follow policy, there is no way a written document can address every situation or contingency one may encounter. In extraordinary circumstances, it may be appropriate to step outside of policy in order to act in accordance with our values and guiding principles. However, such deviation from written policy requires the employee or authorizing supervisor to demonstrate that the action taken was necessary, reasonable, ethical, and appropriate for the particular situation.

Finally, although the work we do can be challenging and sometimes thankless, it is a noble profession in which we have tremendous impacts on the lives of others. Please take that responsibility seriously and represent the Indio Police Department with pride and professionalism.

Michael R. Washburn, Chief of Police

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

## Law Enforcement Authority

### 100.1 PURPOSE AND SCOPE

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

### 100.2 PEACE OFFICER POWERS

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

#### 100.2.1 DELIVERY TO NEAREST MAGISTRATE

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

#### 100.2.2 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE INDIO POLICE DEPARTMENT

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

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

On-duty arrests will not generally be made outside the jurisdiction of this department except in cases of hot or fresh pursuit, while following up on crimes committed within the City, or while assisting another agency.

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

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#### 100.2.3 ARREST AUTHORITY INSIDE THE JURISDICTION OF THE INDIO POLICE DEPARTMENT

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

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

#### 100.2.4 TIME OF MISDEMEANOR ARRESTS

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

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

#### **100.3 POLICY**

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

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

#### **100.4 INTERSTATE PEACE OFFICER POWERS**

Peace officer powers may be extended to other states:

- (a) As applicable under interstate compacts, memorandums of understanding or mutual aid agreements in compliance with the laws of each state.

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- (b) When an officer enters an adjoining state in close or fresh pursuit of a person believed to have committed a felony (ARS § 13-3832; NRS 171.158; ORS 133.430).

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

#### **100.5 CONSTITUTIONAL REQUIREMENTS**

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

## 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 (Penal Code § 832.4).

## Oath of Office

### 104.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that oaths, when appropriate, are administered to department members.

### 104.2 POLICY

It is the policy of the Indio Police Department that, when appropriate, department members affirm the oath of their office as an expression of commitment to the constitutional rights of those served by the Department and the dedication of its members to their duties.

### 104.3 OATH OF OFFICE

All department members, when appropriate, shall take and subscribe to the oaths or affirmations applicable to their positions. All sworn members shall be required to affirm the oath of office expressing commitment and intent to respect constitutional rights in discharging the duties of a law enforcement officer (Cal. Const. Art. 20, § 3; Government Code § 3102). The oath shall be as follows:

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

### 104.4 MAINTENANCE OF RECORDS

The oath of office shall be filed as prescribed by law (Government Code § 3105).

# Policy Manual

## 106.1 PURPOSE AND SCOPE

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

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

## 106.2 POLICY

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

### 106.2.1 DISCLAIMER

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

## 106.3 AUTHORITY

The Chief of Police shall be considered the ultimate authority for the content and adoption of the provisions of this manual and shall ensure compliance with all applicable federal, state and local laws. The Chief of Police or the authorized designee is authorized to issue 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.

## 106.4 DEFINITIONS

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

**Adult** - Any person 18 years of age or older.

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

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**CHP**- The California Highway Patrol.

**CFR** - Code of Federal Regulations.

**City** - The City of Indio.

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

**Department/IPD** - The Indio Police Department.

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

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

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

**Manual** - The Indio Police Department Policy Manual.

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

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

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

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

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

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

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

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

**Shall or will** - Indicates a mandatory action.

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

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



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

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

**USC** - United States Code.

#### **106.5 ISSUING THE POLICY MANUAL**

An electronic version of the Policy Manual will be made available to all members on the department network for viewing and printing. The policy will also be available to all members through the Lexipol Knowledge Management System website. No changes shall be made to the manual without authorization from the Chief of Police or the authorized designee.

Each member shall acknowledge that he/she has been provided access to, and has had the opportunity to review the Policy Manual and Departmental Directives. The acknowledgement will be completed through the Lexipol Knowledge Management website. Members shall seek clarification as needed from an appropriate supervisor for any provisions that they do not fully understand.

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

The Chief of Police or his designee shall ensure that the Policy Manual is periodically reviewed and updated as necessary.

#### **106.7 REVISIONS TO POLICIES**

All revisions to the Policy Manual will be provided to each member on or before the date the policy becomes effective. All members will be notified of any change in the policy through the issuance of an official memorandum. The revisions will be provided to each member through the Lexipol Knowledge Management website and the complete updated policy will be posted on the department network. Each member will be required to acknowledge that he/she has reviewed the revisions through the Lexipol Knowledge Management System website within 30 days of receiving notification of the new policy and shall seek clarification from an appropriate supervisor as needed.

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

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

Finally, each member of the Indio Police Department has an obligation to help in the Department's continuing quest to stay compliance with current best practices. Accordingly, any errors or deficiencies identified in this policy or other procedures shall be reported in a timely manner. All department members suggesting revision of the contents of the Policy Manual shall forward their written suggestions to their Division Chiefs, who will consider the recommendations and forward them to the command staff as appropriate.

## Law Enforcement Code of Ethics

### 107.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that all peace officers are aware of their individual responsibilities to maintain their integrity and that of their department at all times.

### 107.2 POLICY

The Law Enforcement Code of Ethics shall be administered to all peace officer trainees during the Basic Academy course and to all other persons at the time of appointment (11 CCR 1013).

### 107.3 LAW ENFORCEMENT CODE OF ETHICS

AS A LAW ENFORCEMENT OFFICER, my fundamental duty is to serve; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against abuse 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; 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 in both my personal and official life, I will be exemplary in obeying the laws of the land 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, 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 the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before god to my chosen profession... law enforcement.

#### 107.3.1 OBJECTION TO RELIGIOUS AFFIRMATION

Reference to religious affirmation in the Law Enforcement Code of Ethics may be omitted where objected to by the officer.

## **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 Indio Police Department. There are three divisions in the Police Department, each managed by a Division Chief:

- Investigative Services Division
- Field Services Division
- Support Services Division

The Investigative Services Division and the Field Services Division are each managed by an Assistant Chief. The Support Services Division is supervised by the Chief Administrative Officer.

#### 200.2.1 INVESTIGATIVE SERVICES DIVISION

The Investigative Services Division consists of the following:

Technical Services, Major Crimes Unit, Street Crimes Unit,, Eastern PACT, members of any assigned special task force teams, Volunteer Services, Property and Evidence Unit, Professional Standards Unit, Training Unit, Crime Analysis, Code Enforcement, Public Relations and Regional SWAT.

#### 200.2.2 FIELD SERVICES DIVISION

The Field Services Division consists of the following:

Uniformed Patrol, Traffic Unit, Canine Unit, the Field Training Program, and the Community Outreach Unit.

#### 200.2.3 SUPPORT SERVICES DIVISION

The Administrative Services Division consists of the following:

Records Bureau, Fiscal Services Unit (Budget, Grants, Purchasing, Accounts Payable, Timekeeping), Communications Unit, and Police-Researcher Initiatives.

### 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 Chief to serve as the acting Chief of Police.

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

- (a) Field Services Division Chief

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### *Organizational Structure and Responsibility*

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- (b) Investigative Services Division Chief
- (c) Field Services Lieutenant
- (d) Investigative Services Lieutenant
- (e) 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.

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## 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 may be recommended by staff and incorporated into the manual upon approval of the Chief of Police. Departmental Directives modify existing policies or create a new policy as appropriate and are rescinded when incorporated into the manual.

All existing Departmental Directives have 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, 07-01.

Chief's directive orders that are event or issue specific shall contain a definite effective until date and not be incorporated into any subsequent revisions of the IPD Policy unless designated as so by the Chief of policy at which point specific updates shall be made available to all.

### 204.2 RESPONSIBILITIES

#### 204.2.1 STAFF

The Chiefs' designee shall review and make revisions of the Policy Manual per the order of the Chief or legislative mandate, 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.

### 204.3 ACCEPTANCE OF DEPARTMENTAL DIRECTIVES

All employees shall read and obtain any necessary clarification of all Departmental Directives. All employees shall acknowledge in writing the receipt and review of any new Departmental Directive. Signed acknowledgement forms and/or e-mail receipts showing an employee's acknowledgement will be maintained by the Training Unit Supervisor.

## Emergency Management Plan

### **206.1 PURPOSE AND SCOPE**

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

### **206.2 ACTIVATING THE EMERGENCY PLAN**

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

#### **206.2.1 RECALL OF PERSONNEL**

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

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

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

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

### **206.4 UPDATING OF MANUALS**

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

## Training Policy

### 208.1 PURPOSE AND SCOPE

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

### 208.2 PHILOSOPHY

The Department provides 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.

#### **208.3.1 POST Continuing Professional Training (CPT) (Required)**

The Police Training Specialist shall ensure the following POST mandates are met;

1. CPT is required for certain peace officer and dispatcher personnel who are employed by POST participating departments. The purpose of CPT is to maintain, update, expand, and/or enhance an individual's knowledge and/or skills.

2. In order to be compliant with the annual required POST (CPT) Continuing Professional Training, the Police Training Specialist shall ensure that personnel are provided with and complete the annual 24 hours of continuing professional training and 12 hours of perishable skills training which shall consist of a minimum of 12 hours in each two-year period. Of the total 12 hours required, a minimum of 4 hours of each of the three following topical areas shall be completed:

- a. Arrest and Control.
- b. Driver Training/Awareness or Driving Simulator.
- c. Tactical Firearms\* or Force Options Simulator.

(Refer to POST PAM Section D-2 for minimum requirements)

#### **208.3.2 POST Supervisory Course (Required)**

The Police Training Specialist shall ensure the following Post mandates are met;



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1. Every peace officer (except jail deputies) promoted, appointed, or transferred to a first-level supervisory position after July 1, 2018, shall satisfactorily complete a certified Supervisory Course either 12 months prior to promotion or within 12 months after the initial promotion, appointment, or transfer to such position. An officer who will be appointed within 12 months to a first-level supervisory position or an officer assigned to a quasi-supervisory position may attend a Supervisory Course, if authorized by the department head. Requirements for the Supervisory Course are set forth in POST PAM Section D-3.

2. Every peace officer (except all jail deputies) promoted, appointed, or transferred to a middle management position after July 1, 2018, shall satisfactorily complete a certified Management Course either 12 months prior to promotion or within 12 months after the initial promotion, appointment, or transfer to such position.

3. All training sergeants and training cadre shall familiarize themselves with the POST guidelines and requirements in order to be in compliance and meet the mandated CPT and Perishable Skills training required annually by reviewing the post training manual located at;

<https://post.ca.gov/commission-procedure-d-2-continuing-professional-training-and-perishable-skills#d21>

#### **208.4 TRAINING PLAN**

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

- (a) Legislative changes
- (b) State mandated training
- (c) Critical issues training

#### **208.5 TRAINING NEEDS ASSESSMENT**

The Police Training Specialist shall 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 Police Training specialist to attend the required training on an alternate date.

#### **208.7 DAILY TRAINING BULLETINS**

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

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

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

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

#### **208.8 EXTENDED ABSENCE PROCEDURES**

##### **EMPLOYEE RESPONSIBILITY:**

Employees returning to work following a 90-day or longer absence from work for any reason, including protected leave, shall report to the Training Unit in order to complete any required certifications or qualifications as well as to receive all updates on laws, procedures, and training. Sworn employees will be required to complete a range qualification prior to being returned to active duty.

##### **TRAINING UNIT RESPONSIBILITY:**

The Training Unit shall conduct an assessment of what the individual employee has missed in terms of training, legal updates, qualifications, new policies and procedures and new equipment. The Training Unit will also make recommendations to the FTO Coordinator and Field Services Lieutenant as to whether a sworn employee should be partnered with another employee or even a Field Training Officer for a period of time.

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The Training Unit is responsible for scheduling and collecting the documentation recording the returning employee's progress which will be maintained as part of their training record.

Upon completion of the individual employee's training plan or a determination that the employee can report to their permanent unit of assignment; the training Sergeant shall complete a memorandum detailing their assessment or the completion of the returning employee's training plan and forwarded it through the employee's chain of command to the Chief of Police. The memorandum shall contain a detailed account of all qualifications, updates, and training provided to include location of training, total hours completed and instructor information.

#### **208.9 TRAINING COORDINATOR**

The Chief of Police shall designate a Training Coordinator who is responsible for developing, reviewing, updating, and maintaining the department training plan so that required training is completed. The Training Coordinator should review the training plan annually.

#### **208.10 POLICY**

The Department shall administer a training program that will meet the standards of federal, state, local, and POST training requirements. It is a priority of this department to provide continuing education and training for the professional growth and development of its members.

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# Circulation, Maintenance and Tracking of Training Bulletins and Memorandums

## 210.1 PURPOSE AND SCOPE

The purpose of this procedure is to outline the steps for circulating and tracking training bulletins and informational memorandums related to legal updates and information related to officers for training purposes and or best practices at the Indio Police Department. Training bulletins include officer safety updates, notices of change in laws or court precedence, or any other informative or instructive internal memorandum circulated throughout the Indio Police Department by the training staff. This procedure will not apply to memorandums or letters limited in distribution to individual persons, shifts or divisions and only applies to training related memorandums and training bulletins.

## 210.2 POLICY

All training bulletins intended for distribution throughout the Indio Police Department will be issued by, or have the approval of a Lieutenant or higher. When a bulletin is distributed, whether by e-mail, flyer, or other method, a copy shall be forwarded to the Police Training Specialist. The Police Training Specialist shall maintain a file that includes all submitted training bulletins. Each bulletin will be numbered using a seven numbered system that is laid out as follows:

- The first two numbers will be the year the bulletin was circulated followed by a dash.
- The second two numbers will be the month the bulletin was circulated.
- The last three numbers will be sequential and will be in the order the bulletin was received.
- For example, the third bulletin circulated in April of 2021 will be numbered 21-04003. Each training bulletin will also be noted on a log sheet that lists the bulletin by its assigned number and includes the date the bulletin was circulated, the topic of the training bulletin, and the person who created it.

## 210.3 RESPONSIBILITY FOR RECORD MAINTENANCE

The Police Training Specialist will be responsible for the maintenance of the log sheet and for maintaining copies of the individual bulletins. These files shall be maintained both in electronic format and in a hardcopy format (Training Bulleting Manual) and made available to all employees for review. Patrol supervisors or other supervisors may choose to maintain personal Briefing Binders that include training bulletins. This practice does not relieve the responsibilities of the Police Training Specialist to maintain complete records of all training bulletins circulated by the Indio Police Department.

## 210.4 PURGING OF OBSOLETE INFORMATION

Periodically, the information in the Training Bulletin Manual will be reviewed for accuracy and relevance by the Police Training Specialist. Bulletins found to have incorrect or out of date information, or those that have been rescinded for other reasons, shall be removed. When a

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### *Circulation, Maintenance and Tracking of Training Bulletins and Memorandums*

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bulletin is removed, the log sheet shall be updated by including the date the bulletin was removed, who removed it, and the reason it was removed.

For additional guidance on records retention refer to:

- City Administrative policy A-24 / Request for public records
- Records retention schedule / city-wide standards

## Electronic Mail

### 212.1 PURPOSE AND SCOPE

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

### 212.2 EMAIL RIGHT OF PRIVACY

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

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

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

#### 212.2 (a)

#### EMPLOYEE RESPONSIBILITY

All employees are required to view their e-mail daily on work days and respond in a timely manner. E-mail users should delete any unexpected or unknown e-mails especially with attachments, or report them to ITS immediately to prevent computer virus attacks. E-mail users should review and delete their obsolete messages periodically.

### 212.3 PROHIBITED USE OF EMAIL

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

Email messages addressed to the entire department are 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 Chief. Personal advertisements are not acceptable.

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### *Electronic Mail*

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

#### **212.4 EMAIL RECORD MANAGEMENT**

The email system is not designed for long-term retention of messages. Emails 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 email are solely responsible for the management of their mailboxes. Non-essential messages should be purged manually by the user at least once per week. All messages in excess of one month may be deleted at regular intervals from the server computer.

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

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

## Administrative Communications

### 214.1 PURPOSE AND SCOPE

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

### 214.2 MEMORANDUMS

Memorandums may be issued periodically by the Chief of Police, or his or her designee, 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.

a. Intra-Departmental - All tangible correspondence between the different bureaus, divisions and sections of the Department should be forwarded on the Intra-Department Correspondence envelopes.

b. Inter-Departmental - All tangible correspondence between the Department and other City Departments should be forwarded on the Inter-Department Correspondence envelopes.

#### 214.3 (a) BUSINESS CARDS

(a) Department business cards are intended to be used in a professional manner for citizen and professional contacts, information, and to facilitate outreach to the community. The business cards are not to be misused. The business cards can be purchased via an approved vendor.

(b) Business cards will contain the employee's name, rank or assignment, Department physical address, email, direct dial number, and facsimile number. Detectives have the option of using the word "Detective" or their specific assignment.

#### 204.3 (b) MAIL

1. The address of the Department or any of its offices shall not be used by employees for the purpose of receiving personal mail or unrelated police merchandise.

2. The Records Division is responsible for receiving, sorting and distributing all Department mail. The receiving desk shall open mail only when it is necessary to ascertain the

intended recipient. All mail not addressed to a specific division shall be forwarded to the Records Division.

### 214.4 SURVEYS

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



## Staffing Levels

### **216.1 PURPOSE AND SCOPE**

The purpose of this policy is to ensure that proper deployment of personnel and supervision is available for all shifts, incidents or events. The paramount concern is the Department's need to meet operational requirements.

### **216.2 MINIMUM STAFFING LEVELS**

The individual Division Chief will determine minimum staffing levels of personnel within each Division with careful consideration given to factors that affect each particular Division. These factors should include; but not be limited to, service delivery needs, case management, crime trends, type and size of incident/event, and call volume.

The minimum supervisory staffing should result in at least 1 sworn supervisor on-duty at all times, regardless of Division. For purposes of minimum staffing, a Division Chief must approve the use of an acting Sergeant.

## License to Carry a Firearm

### 218.1 PURPOSE AND SCOPE

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

#### 218.1.1 APPLICATION OF POLICY

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

### 218.2 POLICY

The Indio Police Department will only process applications for license renewals for persons who already possess a valid permit for carrying a concealed weapon issued by this agency. All persons seeking to obtain an original permit for carrying a concealed weapon shall be referred to the Riverside County Sheriff's Department, which will process all new applications. The Indio Police Department will fairly and impartially consider all renewal applications to carry firearms in accordance with applicable law and this policy.

### 218.3 QUALIFIED APPLICANTS

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

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

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### *License to Carry a Firearm*

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- (i) Be free from any psychological conditions that might make the applicant unsuitable for carrying a firearm (Penal Code § 26190).
- (j) Complete required training (Penal Code § 26165).

#### **218.4 APPLICATION PROCESS**

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

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

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

- (a) Any individual applying for a license to carry a firearm shall first fully complete a California Department of Justice (DOJ) application to be signed under penalty of perjury. Any applicant who provides false information or statements on the application will be removed from further consideration and may be prosecuted for a criminal offense (Penal Code § 26180).
  - 1. In the event of any discrepancies in the application or background investigation, the applicant may be required to undergo a polygraph examination, at no cost to the applicant.
  - 2. If an incomplete application package is received, the Chief of Police or authorized designee may do any of the following:
    - (a) Require the applicant to complete the package before any further processing.
    - (b) Advance the incomplete package to phase two for conditional processing pending completion of all mandatory conditions.
    - (c) Issue a denial if the materials submitted at the time demonstrate that the applicant would not qualify for a license to carry a firearm even if the package was completed (e.g., not a resident, disqualifying criminal conviction, absence of good cause).
- (b) At the time the completed application is submitted, the applicant shall submit a check made payable to the California Department of Justice for the required California DOJ application fee, along with a separate check made payable to the City of Indio for a nonrefundable 20 percent of the application fee to cover the cost of processing the application (Penal Code § 26190).
  - 1. Additional fees may be required for fingerprinting, training or psychological testing, in addition to the application fee.

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2. Full payment of the remainder of the application fee will be required upon issuance of a license.
  3. Payment of related fees may be waived if the applicant is a duly appointed reserve peace officer as defined in Penal Code § 830.6 (a) or (b) (Penal Code § 26170).
- (c) The applicant shall be required to submit to fingerprinting and a complete criminal background check by the California DOJ. A second set of fingerprints may be required for retention in department files. Two recent passport-size photos (2 inches by 2 inches) of the applicant shall be submitted for department use. No person determined to fall within a prohibited class described in Penal Code § 29800, Penal Code § 29900, Welfare and Institutions Code § 8100 or Welfare and Institutions Code § 8103 will be issued a license to carry a firearm. A license shall not be issued if the California DOJ determines that the applicant is prohibited by state or federal law from possessing, receiving, owning or purchasing a firearm (Penal Code § 26195).
- (d) The applicant should submit at least three signed letters of character reference from individuals other than relatives.
- (e) The applicant shall submit proof of ownership or registration of each firearm to be licensed.

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

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

#### 218.4.2 PHASE TWO

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

- (a) Upon successful completion of phase one, the applicant shall be scheduled for a personal interview with the Chief of Police or authorized designee. During this stage, there will be further discussion of the applicant's statement of good cause and any potential restrictions or conditions that might be placed on the license.
1. The determination of good cause should consider the totality of circumstances in each individual case.
  2. Any denial for lack of good cause should be rational, articulable and not arbitrary in nature.
  3. The Department will provide written notice to the applicant as to the determination of good cause (Penal Code § 26202).
- (b) The Chief of Police may, based upon criteria established by the Chief of Police, require that the applicant be referred to an authorized psychologist used by the Department for psychological testing. The cost of such psychological testing (not to exceed \$150) shall

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be paid by the applicant. The purpose of any such psychological testing is intended only to identify any outward indications or history of psychological problems that might render the applicant unfit to carry a firearm. This testing is not intended to certify in any other respect that the applicant is psychologically fit. If it is determined that the applicant is not a suitable candidate for carrying a firearm, the applicant shall be removed from further consideration (Penal Code § 26190).

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

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

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

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

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

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

- (a) The applicant physically spends a substantial period of working hours in the applicant's principal place of employment or business within the City of Indio (Penal Code § 26150).

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- (b) Such a license will be valid for a period not to exceed 90 days from the date of issuance (Penal Code § 26220).
- (c) The applicant shall provide a copy of the license to the licensing authority of the city or county in which the applicant resides (Penal Code § 26220).
- (d) Any application for renewal or reissuance of such a license may be granted only upon concurrence of the original issuing authority and the licensing authority of the city or county in which the applicant resides (Penal Code § 26220).

#### **218.6 ISSUED FIREARMS PERMITS**

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

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

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#### 218.6.1 LICENSE RESTRICTIONS

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

#### 218.6.2 AMENDMENTS TO LICENSES

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

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

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

#### 218.6.3 REVOCATION OF LICENSES

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

- (a) The licensee has violated any of the restrictions or conditions placed upon the license.
- (b) The licensee becomes psychologically unsuitable to carry a firearm.

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- (c) The licensee is determined to be within a prohibited class described in Penal Code § 29800, Penal Code § 29900, Welfare and Institutions Code § 8100, Welfare and Institutions Code § 8103 or any state or federal law.
- (d) The licensee engages in any conduct which involves a lack of good moral character or that might otherwise remove the good cause for the original issuance of the license.
- (e) If the license is one to carry “loaded and exposed,” the license shall be revoked immediately upon a change of the licensee’s place of residence to another county (Penal Code § 26210).

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

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

#### 218.6.4 LICENSE RENEWAL

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

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

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

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

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

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

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



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- (d) The amendment of a license
- (e) The revocation of a license

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

#### **218.8 CONFIDENTIAL RECORDS**

The home address and telephone numbers of any peace officer, public defender, prosecutor, magistrate, court commissioner, or judge contained in an application shall not be considered public record (Government Code § 7923.805).

Any information in an application for a license to carry a firearm that indicates when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of the applicant's family shall not be considered public record (Government Code § 7923.800).

#### **218.9 WRITTEN NOTICE FOR DENIAL OF LICENSE**

The Chief of Police or the authorized designee shall give written notice to the applicant for a new license that the license is approved or denied within 120 days of the initial application or within 30 days after receipt of the applicant's criminal background check from the California DOJ, whichever is later (Penal Code § 26205).

Written notice to an applicant for a renewal license that is approved or denied shall be given within 120 days of receiving the completed application (Penal Code § 26205).

Additionally, regardless of the type of license, if the license is denied, the notice shall state which requirement was not satisfied (Penal Code § 26205).

##### **218.9.1 ADDITIONAL REQUIREMENTS**

If an application for a new license, renewal of a license, or revocation is denied based on a determination that the person is a disqualified person as provided by Penal Code § 26202, the Chief of Police or the authorized designee shall provide the person with the notice of determination as provided by Penal Code § 26202(d), Penal Code § 26205, or Penal Code § 26195(b)(3). The notice shall state the reason why the determination was made and inform the applicant that they may request a hearing from a court. The Department shall also provide the most recent California DOJ hearing request form to the applicant (Penal Code § 26206).

If an application for a new license, renewal of a license, or revocation is denied for any other reason as described in Penal Code § 26206(i), the Chief of Police or the authorized designee shall provide the person with the notice required under Penal Code § 26205 or Penal Code § 26195(b)(3), as applicable, and inform the applicant they may apply to the county Superior Court for a writ of mandate pursuant to Code of Civil Procedure § 1085 (Penal Code § 26206).

#### **218.10 POLICY AVAILABILITY**

This policy shall be made accessible to the public as provided by Penal Code § 26160.

## Retiree Concealed Firearms

### 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 LEOSA

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

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

#### 220.3.1 LEOSA IDENTIFICATION CARD FORMAT

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

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

#### 220.3.2 AUTHORIZATION

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

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- (a) In possession of photographic identification that identifies him/her as having been employed as a law enforcement officer, and one of the following:
  - 1. An indication from the person's former law enforcement agency that he/she has, within the past year, been tested or otherwise found by the law enforcement agency to meet agency-established active duty standards for qualification in firearms training to carry a firearm of the same type as the concealed firearm.
  - 2. A certification, issued by either the state in which the person resides or by a certified firearms instructor who is qualified to conduct a firearms qualification test for active duty law enforcement officers within that state, indicating that the person has, within the past year, been tested or otherwise found to meet the standards established by the state or, if not applicable, the standards of any agency in that state.
- (b) Not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.
- (c) Not prohibited by federal law from receiving a firearm.
- (d) Not in a location prohibited by California law or by a private person or entity on his/her property if such prohibition is permitted by California law.

#### **220.4 CALIFORNIA IDENTIFICATION CARD ISSUANCE**

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

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

##### **220.4.1 CALIFORNIA IDENTIFICATION CARD FORMAT**

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

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

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#### 220.4.2 QUALIFIED RETIREES FROM INCORPORATED JURISDICTION

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

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

#### 220.4.3 QUALIFIED RETIRED RESERVES

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

### **220.5 IDENTIFICATION CARD FORMAT**

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

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

#### 220.5.1 RESPONSIBILITIES UNDER LEOSA

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

- (a) Sign a waiver of liability of the Department for all acts taken related to carrying a concealed firearm, acknowledging both his/her personal responsibility as a private person for all acts taken when carrying a concealed firearm as permitted by LEOSA and also that these acts were not taken as an employee or former employee of the Department.
- (b) Remain subject to all applicable department policies and federal, state and local laws.
- (c) Demonstrate good judgment and character commensurate with carrying a loaded and concealed firearm.

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- (d) Successfully pass an annual criminal history background check indicating that he/she is not prohibited by law from receiving or possessing a firearm.

#### **220.5.2 MAINTAINING A CALIFORNIA IDENTIFICATION CARD CCW ENDORSEMENT**

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

- (a) Qualify annually with the authorized firearm at a course approved by this department at the retired officer's expense.
- (b) Remain subject to all applicable department policies and federal, state and local laws.
- (c) Not engage in conduct that compromises public safety.
- (d) Only be authorized to carry a concealed firearm inspected and approved by the Department.

#### **220.6 DENIAL, SUSPENSION OR REVOCATION OF A LEOSA IDENTIFICATION CARD**

A LEOSA identification card may be denied or revoked upon a showing of good cause as determined by the Department. In the event that an identification card is denied, suspended or revoked, the former officer may request a review by the Chief of Police. The decision of the Chief of Police is final.

#### **220.7 DENIAL, SUSPENSION OR REVOCATION OF A CALIFORNIA CCW ENDORSEMENT CARD**

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

- (a) In the event that a CCW endorsement is initially denied, the retired officer shall have 15 days from the date of denial to request a formal hearing. The failure to submit a timely written request for a hearing shall be deemed a waiver of such right. The hearing, absent written agreement between the parties, shall be held no later than 120 days after the request is received.
- (b) 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) A hearing for the denial or revocation of any CCW endorsement shall be conducted before a hearing board composed of three members, one selected by the Department,

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one selected by the retiree or his/her employee organization and one selected jointly (Penal Code § 26320).

1. The decision of such hearing board shall be binding on the Department and the retiree.
  2. Any retiree who waives the right to a hearing or whose CCW endorsement has been revoked at a hearing shall immediately surrender his/her identification card. The Department will then reissue a new identification card which shall be stamped "No CCW Privilege."
- (d) Members who have reason to suspect the conduct of a retiree has compromised public safety shall notify the Watch Commander as soon as practicable. The Watch Commander should promptly take appropriate steps to look into the matter and, if warranted, contact the retiree in person and advise him/her of the temporary suspension and hearing information listed below.
1. Notification of the temporary suspension should also be promptly mailed to the retiree via first class mail, postage prepaid, return receipt requested (Penal Code § 26312).
  2. The Watch Commander should document the investigation, the actions taken and, if applicable, any notification made to the retiree. The memo should be forwarded to the Chief of Police.
  3. The personal and written notification should be as follows:
    - (a) The retiree's CCW endorsement is immediately and temporarily suspended.
    - (b) The retiree has 15 days to request a hearing to determine whether the temporary suspension should become permanent revocation.
    - (c) The retiree will forfeit his/her right to a hearing and the CCW endorsement will be permanently revoked if the retiree fails to respond to the notice of hearing within the 15-day period.
  4. In the event that personal contact with the retiree cannot be reasonably achieved in a timely manner, the Watch Commander should attempt to make the above notice of temporary suspension through another law enforcement officer. For example, if a retiree was arrested or detained by a distant agency, the Watch Commander may request that a law enforcement officer from that agency act as the agent of the Department to deliver the written notification.

#### **220.8 FIREARM QUALIFICATIONS**

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

## **Chapter 3 - General Operations**

## Use of Force

### 300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner (Government Code § 7286).

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Techniques and Conducted Energy Device policies.

Retaliation prohibitions for reporting suspected violations are addressed in the Anti-Retaliation Policy.

#### 300.1.1 DEFINITIONS

Definitions related to this policy include:

**Deadly force** - Any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to the discharge of a firearm (Penal Code § 835a).

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

**LESS-LETHAL FORCE** - Any use of force other than that which is considered deadly force that involves physical effort to control, restrain, or overcome the resistance of another.

**OBJECTIVELY REASONABLE** - The determination that the necessity for using force and the level of force used is based upon the officer's evaluation of the situation in light of the totality of the circumstances known to the officer at the time the force is used and upon what a reasonably prudent officer would use under the same or similar situations.

**SERIOUS BODILY INJURY** - means a bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member or organ (refer to GC 12525.2(d)(4)).

**DE-ESCALATION** - Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.

**EXIGENT CIRCUMSTANCES** - Those circumstances that would cause a reasonable person to believe that a particular action is necessary to prevent physical harm to an individual, the



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destruction of relevant evidence, the escape of a suspect, or some other consequence improperly frustrating legitimate law enforcement efforts

**HEAD CONTROL** - A technique utilized to control the movement of a subject's head or neck that does not rise to the level of a neck or carotid restraints

#### **300.2 POLICY**

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

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

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests. The decision to use force requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officer or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.

##### **300.2.1 DUTY TO INTERCEDE**

Any officer present and observing another law enforcement officer or an employee using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, shall, when in a position to do so, intercede (as defined by Government Code § 7286) to prevent the use of unreasonable force.

When observing force used by a law enforcement officer, each officer should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject (Government Code § 7286(b)).

##### **300.2.2 FAIR AND UNBIASED USE OF FORCE**

Officers are expected to carry out their duties, including the use of force, in a manner that is fair and unbiased (Government Code § 7286(b)). See the Bias-Based Policing Policy for additional guidance.

##### **300.2.3 DUTY TO REPORT EXCESSIVE FORCE**

Any officer who observes a law enforcement officer or an employee use force that potentially exceeds what the officer reasonably believes to be necessary shall immediately report these observations to a supervisor (Government Code § 7286(b)).

As used in this subsection, "immediately" means as soon as it is safe and feasible to do so.

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#### 300.2.4 FAILURE TO INTERCEDE

An officer who has received the required training on the duty to intercede and then fails to act to intercede when required by law, may be disciplined in the same manner as the officer who used force beyond that which is necessary (Government Code § 7286(b)).

#### **300.3 USE OF FORCE**

Officers shall use only that amount of force that reasonably appears necessary given the facts and totality of the circumstances known to or perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose (Penal Code § 835a).

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain, and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance (Government Code § 7286(b)).

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

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

#### 300.3.1 USE OF FORCE TO EFFECT AN ARREST

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

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

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit

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(See attachment; Graham v. Connor 490 U.S. 386 (1989).pdf) (Government Code § 7286(b)). These factors include but are not limited to:

- (a) The apparent immediacy and severity of the threat to officers or others (Penal Code § 835a).
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time (Penal Code § 835a).
- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The conduct of the involved officer leading up to the use of force (Penal Code § 835a).
- (e) The effects of suspected drugs or alcohol.
- (f) The individual's apparent mental state or capacity (Penal Code § 835a).
- (g) The individual's apparent ability to understand and comply with officer commands (Penal Code § 835a).
- (h) Proximity of weapons or dangerous improvised devices.
- (i) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (j) The availability of other reasonable and feasible options and their possible effectiveness (Penal Code § 835a).
- (k) Seriousness of the suspected offense or reason for contact with the individual prior to and at the time force is used.
- (l) Training and experience of the officer.
- (m) Potential for injury to officers, suspects, bystanders, and others.
- (n) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (o) The risk and reasonably foreseeable consequences of escape.
- (p) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (q) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (r) Prior contacts with the subject or awareness of any propensity for violence.
- (s) Any other exigent circumstances.

#### 300.3.3 PAIN COMPLIANCE TECHNIQUES

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

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

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

#### 300.3.4 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. Officers may use reasonable force, not including hands to the neck or insertion of any objects or hands into a subject's mouth, to prevent a suspect from putting a substance in their mouth. However, an officer will not use force to stop a subject from swallowing a substance that is already in their mouth. In the event that an officer reasonably believes that a suspect has ingested a harmful substance, officers shall summon medical assistance as soon as feasible.

#### 300.3.5 ALTERNATIVE TACTICS - DE-ESCALATION

As time and circumstances reasonably permit, and when community and officer safety would not be compromised, [officers\_deputies] should consider actions that may increase officer safety and may decrease the need for using force:

- (a) Summoning additional resources that are able to respond in a reasonably timely manner.
- (b) Formulating a plan with responding officers before entering an unstable situation that does not reasonably appear to require immediate intervention.
- (c) Employing other tactics that do not unreasonably increase officer jeopardy.

In addition, when reasonable, officers should evaluate the totality of circumstances presented at the time in each situation and, when feasible, consider and utilize reasonably available alternative tactics and techniques that may persuade an individual to voluntarily comply or may mitigate the need to use a higher level of force to resolve the situation before applying force (Government Code § 7286(b)(1)). Such alternatives may include but are not limited to:

- (a) Attempts to de-escalate a situation.
- (b) If reasonably available, the use of crisis intervention techniques by properly trained personnel.

#### 300.3.6 RESTRICTIONS ON THE USE OF A CHOKE HOLD

Officers of this department are not authorized to use a choke hold. A choke hold means any defensive tactic or force option in which direct pressure is applied to a person's trachea or windpipe (Government Code § 7286.5).

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#### **300.3.7 ADDITIONAL RESTRICTIONS**

Terms such as “positional asphyxia,” “restraint asphyxia,” and “excited delirium” continue to remain the subject of debate among experts and medical professionals, are not universally recognized medical conditions, and frequently involve other collateral or controlling factors such as narcotics or alcohol influence, or pre-existing medical conditions. While it is impractical to restrict an officer’s use of reasonable control methods when attempting to restrain a combative individual, officers are not authorized to use any restraint or transportation method which might unreasonably impair an individual’s breathing or respiratory capacity for a period beyond the point when the individual has been adequately and safely controlled. Once controlled, the individual should be placed into a recovery position (e.g., supine or seated) and monitored for signs of medical distress (Government Code § 7286.5).

#### **300.4 DEADLY FORCE APPLICATIONS**

Where feasible, the officer shall, prior to the use of deadly force, make reasonable efforts to identify him/herself as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts (Penal Code 835a(5)(c)(1)(B)).

If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers shall evaluate and use other reasonably available resources and techniques when determining whether to use deadly force. To the extent that it is reasonably practical, officers should consider their surroundings and any potential risks to bystanders prior to discharging a firearm (Government Code § 7286(b)).

The use of deadly force is only justified when the officer reasonably believes it is necessary in the following circumstances (Penal Code § 835a):

- (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury to the officer or another person.
- (b) An officer may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

Officers shall not use deadly force against a person based on the danger that person poses to him/herself, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or to another person (Penal Code § 835a).

An “imminent” threat of death or serious bodily injury exists when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the officer or another person. An officer’s subjective fear of future harm alone is insufficient as an imminent threat. An imminent threat is one that from appearances is reasonably believed to require instant attention (Penal Code § 835a).

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#### 300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective and involve considerations and risks in addition to the justification for the use of deadly force. When feasible, officers should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others (Government Code § 7286(b)).

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

#### 300.4.2 DISPLAYING OF FIREARMS

Given that individuals might perceive the display of a firearm as a potential application of force, officers should carefully evaluate each tactical situation and use sound discretion when drawing a firearm in public by considering the following guidelines (Government Code § 7286(b)):

- (a) If the officer does not initially perceive a threat but reasonably believes that the potential for such threat exists, firearms should generally be kept in the low-ready or other position not directed toward an individual.
- (b) If the officer reasonably believes that a threat exists based on the totality of circumstances presented at the time (e.g., high-risk stop, tactical entry, armed encounter), firearms may be directed toward such imminent threat until the officer no longer perceives such threat.

Once it is reasonably safe to do so, officers should carefully secure all firearms.

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

Any use of force by a member of this department shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure or law.

#### 300.5.1 NOTIFICATION TO SUPERVISORS

Any use of force by an officer shall be reported immediately to a supervisor, including but not limited to the following circumstances (Penal Code § 832.13):

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of a conducted energy device or control device.

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- (f) Any application of a restraint device other than handcuffs, shackles, or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges unreasonable force was used or that any of the above has occurred.

As used in this subsection, "immediately" means as soon as it is safe and feasible to do so.

#### **300.5.2 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE**

Statistical data regarding all officer-involved shootings and incidents involving use of force resulting in serious bodily injury is to be reported to the California Department of Justice as required by Government Code § 12525.2. See the Records Bureau Policy.

#### **300.5.3 REPORT RESTRICTIONS**

Officers shall not use the term "excited delirium" to describe an individual in an incident report. Officers may describe the characteristics of an individual's conduct, but shall not generally describe the individual's demeanor, conduct, or physical and mental condition at issue as "excited delirium" (Health and Safety Code § 24402).

#### **300.6 MEDICAL CONSIDERATION**

Once it is reasonably safe to do so, properly trained officers should promptly provide or procure medical assistance for any person injured or claiming to have been injured in a use of force incident (Government Code § 7286(b)).

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

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

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

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain

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(sometimes called “excited delirium”), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

#### **300.7 SUPERVISOR RESPONSIBILITY**

A supervisor should respond to any reported use of force, if reasonably available. The responding supervisor is expected to (Government Code § 7286(b)):

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her *Miranda* rights, the following shall apply:
  1. The content of the interview should not be summarized or included in any related criminal charges.
  2. The fact that a recorded interview was conducted should be documented in a property or other report.
  3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) Determine if there is any indication that the subject may pursue civil litigation.
  1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

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



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#### 300.7.1 WATCH COMMANDER RESPONSIBILITY

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

#### **300.8 BLUE TEAM GUIDELINES**

A Blue Team entry should be made by the supervisor as soon as possible, and must be created before the end of the investigating supervisor's shift. Investigations held or assigned to a line level supervisor, will be completed within 10 calendar days from the date of the incident and forwarded to a lieutenant. The investigations should include the following items as applicable; BWC footage, interviews, photos, reports, other documents as appropriate. The lieutenant must complete his or her review within 10 calendar days from receiving the investigation from the investigating supervisor. Lieutenant then forwards the completed review to their Assistant Chief. The Assistant Chief will complete his or her review and provide a recommendation to Chief of Police.

An employee must receive an extension from their supervisor in order to exceed the 10-day timeline.

#### **300.9 TRAINING**

Officers, investigators, and supervisors will receive annual training on this policy and demonstrate their knowledge and understanding (Government Code § 7286(b)).

##### 300.9.1 TRAINING REQUIREMENTS

Required annual training shall include:

- (a) Legal updates.
- (b) De-escalation tactics, including alternatives to force.
- (c) The duty to intercede.
- (d) The duty to request and/or render medical aid.
- (e) Warning shots (see the Firearms Policy).
- (f) All other subjects covered in this policy (e.g., use of deadly force, chokeholds and carotid holds, discharge of a firearm at or from a moving vehicle, verbal warnings).
- (g) Training courses required by and consistent with POST guidelines set forth in Penal Code § 13519.10.

See the Training Policy for restrictions relating to officers who are the subject of a sustained use of force complaint.

##### 300.9.2 STATE-SPECIFIC TRAINING REQUIREMENTS

Required state-specific training shall include guidelines regarding vulnerable populations, including but not limited to children, elderly persons, pregnant individuals, and individuals with physical, mental, and developmental disabilities (Government Code § 7286(b)).

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#### **300.10 USE OF FORCE ANALYSIS**

At least annually, the Professional Standards Unit should prepare an analysis report on use of force incidents. The report should be submitted to the Chief of Police. The report should not contain the names of officers, suspects or case numbers, and should include:

- (a) The identification of any trends in the use of force by members.
- (b) Training needs recommendations.
- (c) Equipment needs recommendations.
- (d) Policy revision recommendations.

#### **300.11 USE OF FORCE COMPLAINTS**

The receipt, processing, and investigation of civilian complaints involving use of force incidents should be handled in accordance with the Personnel Complaints Policy (Government Code § 7286(b)).

#### **300.12 POLICY REVIEW**

The Chief of Police or the authorized designee should regularly review and update this policy to reflect developing practices and procedures (Government Code § 7286(b)).

#### **300.13 POLICY AVAILABILITY**

The Chief of Police or the authorized designee should ensure this policy is accessible to the public (Government Code § 7286(c)).

#### **300.14 PUBLIC RECORDS REQUESTS**

Requests for public records involving an officer's personnel records shall be processed in accordance with Penal Code § 832.7 and the Personnel Records and Records Maintenance and Release policies (Government Code § 7286(b)).

## USE OF THE ANTI-SPIT MASK POLICY

### 301.1 PURPOSE AND SCOPE

It is the policy of the Indio Police department that prisoners be treated humanely and that every precaution be taken to ensure the safety and welfare of the arrestee, as well as the police officer. The preventative or controlling measure outlined here is presented with this policy in mind. The **anti-spit mask** is a disposable and porous mask designed to protect officers from being spat upon by prisoners. Only use agency approved anti-spit mask. **Follow all manufacturer product warnings and all applicable legal standards as application of such mask is a use of force.**

### 301.2 PROCEDURE

#### ISSUANCE OF ANTI-SPIT MASK

(a) The anti-spit mask will be stored in the equipment room at in the Indio Police Department. Each supervisor(s) will be issued one mask.

#### WHEN TO USE THE ANTI-SPIT MASK

(a) The anti-spit mask should be used on any prisoner who starts to spit upon officers, or who has just previously spat upon civilians; and, in all probability will spit on the arresting or transporting officer(s), and or medical staff. Officers are reminded this item is intended for a one time use only.

1. The anti-spit mask is only effective if the prisoners is handcuffed and cannot remove the spit mask with his/her hands.

### 301.3 HOW TO USE THE SPIT MASK

(a) The anti-spit mask is to be removed from the sealed plastic bag. Always wear PPE (i.e. gloves)

(b) The anti-spit mask has a closed top and an open, elasticized bottom. The officer should follow the instructions on the mask packaging.. The elasticized bottom should fit loosely around the prisoner's neck. The cloth mask is porous so the prisoner will be able to breathe normally with the mask in place.

1. Under no circumstances should any tape, string, rope or any other object be used to secure the mask to anyone's head or neck.

2. The mask should not be used as a physical means to control the movement or actions of a prisoner wherein the mask is pulled or gathered in the officer's hand to reduce the size of the bottom opening or the space about the neck, face or head.

3. The mask is not to be pulled on to guide a prisoner from place to place.

4. The anti-spit mask shall not be used for punishment or punitive purposes.

5. Do not place an individual near a running vehicle's exhaust if an anti-spit mask has been applied.

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6. Do not leave a subject unattended if a spit-mask has been applied.

7. Do not permit an anti-spit mask device to be applied for an unreasonable amount of time.

8. Do not apply to anyone who is:

- Vomiting
- Heavily bleeding from the mouth, nose, facial area
- Having breathing difficulty
- Complaining of breathing difficulty
- AVOID spraying a spit-masked individual with an aerosol agent
- Use two officers for spit-mask application if practical

9. Make sure the spit-mask is not:

- Blocking vision
- Interfering with ventilation
- Do not apply restrictive pressure to the person's neck
- Adjust spit-mask if necessary
- Video and audio record the application if practical
- Continuously monitor the individual (visual & auditory) for signs of distress

(c) The mask, when in place, will allow the prisoner only limited vision. Officers should assist and guide any prisoner who has the mask in place.

(d) Removal of the mask from a prisoner may be done by the transporting officer in the jail prior to or immediately following the searching process, depending on the attitude of the prisoner. Actual removal of the mask should be accomplished by grasping the elasticized bottom of the back of the head, pulling the bottom out and away from the neck, and lifting the mask. Lift the mask over the back of the head, toward the front and down away from the face.

1. The used mask shall be disposed of unless it contains evidentiary value determined by the on duty watch commander (i.e, an in custody death).

2. The officer using an anti-spit mask shall also ensure that a new anti-spit mask is replaced in the patrol vehicle when feasible.

(e) Any officer who uses an anti-spit mask on a prisoner shall document its use in a police report. The report should include the following:

- (a) How the spit-mask was used as a de-escalation strategy.
- (b) The subject's behavior that induced the spit-mask application (i.e, person threatened to spit, did spit, etc.).

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- (c) Any application deviation from manufacturers' warnings, agency policy or training.

## Use of Force Review Boards

### 302.1 PURPOSE AND SCOPE

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

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

### 302.2 POLICY

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

### 302.3 REMOVAL FROM LINE DUTY ASSIGNMENT

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

### 302.4 REVIEW BOARD

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

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

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

The Investigative Services Division Chief will convene the Use of Force Review Board as necessary. It will be the responsibility of the Division Chief or supervisor of the involved employee to notify the Investigative Services Division Chief of any incidents requiring board review. The Investigative Services Division Chief will ensure that all relevant reports, documents and materials are available for consideration and review by the board. At least one week prior to board convening, the assigned presenter will provide the Investigative Services Division Chief with a complete copy of the information that will be presented.

#### 302.4.1 COMPOSITION OF THE BOARD

The Investigative Services Division Chief should select five voting Use of Force Review Board members from the following, as appropriate:

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

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- Training Coordinator
- Lieutenant
- Peer officer
- A sworn member of the department, selected by the chairperson

More than five members may participate in the Use of Force Review Board, however only the five predetermined decision makers will have a vote to determine the official findings. The senior ranking command representative who is not in the same division as the involved employee will serve as chairperson. The chairperson does not necessarily need to be a voting member of the board.

#### 302.4.2 RESPONSIBILITIES OF THE BOARD

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

The board members may request further investigation, request reports be submitted for the board's review, and call persons to present information.

The board does not have the authority to recommend discipline.

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

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

The board shall make one of the following recommended findings:

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

A recommended finding requires a majority vote of the board. The board may also recommend additional investigations or reviews, such as disciplinary investigations, training reviews to consider whether training should be developed or revised, and policy reviews, as may be appropriate. In addition to the reviews of training and policy, the board will document any tactical concerns or considerations that were noted or the absence thereof. The board chairperson will submit the written recommendation(s) to the Chief of Police.

The Chief of Police shall review the recommendation(s), make a final determination as to whether the employee's actions were within policy and procedure and will determine whether any additional actions, investigations or reviews are appropriate. The Chief of Police's final findings will be

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forwarded to the involved employee's Division Chief for review and appropriate action. If the Chief of Police concludes that discipline should be considered, a disciplinary process will be initiated.

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



## Handcuffing and Restraints

### 306.1 PURPOSE AND SCOPE

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

### 306.2 POLICY

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

### 306.3 USE OF RESTRAINTS

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

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

- The circumstances or crime leading to the arrest.
- The demeanor and behavior of the arrested person.
- The age and health of the person.
- Whether the person is known to be pregnant.
- Whether the person has a hearing or speaking disability. In such cases, consideration should be given, safety permitting, to handcuffing to the front in order to allow the person to sign or write notes. Officers shall not handcuff individuals to the front unless they have a cover officer available, deem the circumstances safe and without notifying their supervisor if it is imperative to have the individual communicate with officers via sign language.
- Whether the person has any other apparent disability.

#### 306.3.1 RESTRAINT OF DETAINEES

Situations may arise where it may be reasonable to restrain a person who may after brief investigation, be released without arrest. Unless arrested, the use of restraints on detainees should continue only for as long as is reasonably necessary to ensure the safety of officers and others. When deciding whether to remove restraints from a detainee, officers should continuously weigh the safety interests at hand against the continuing intrusion upon the detainee. If, during the course of an investigation, it becomes apparent the person under arrest should be released pursuant to Section 849(b)(1) or (3) of the Penal Code, the officer responsible for the investigation, or his superior officer shall complete an 849 PC certificate and provide a copy to the person detained. The officer will document the circumstances in their report. Personnel shall then turn in the detention certificate duplicate(s) to their supervisor so records personnel can process the detention certificate via scanning to ensure a digital image is saved under the respective incident

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or case file number for record storage. A detention will not be extended merely to wait for a supervisor's arrival.

#### **306.3.2 RESTRAINT OF PREGNANT PERSONS**

Persons who are known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety. Leg irons, waist chains, or handcuffs behind the body should not be used unless the officer has a reasonable suspicion that the person may resist, attempt escape, injure self or others, or damage property.

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

#### **306.3.3 RESTRAINT OF JUVENILES**

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

#### **306.3.4 NOTIFICATIONS**

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

#### **306.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS**

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

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

In most situations, handcuffs should be applied with the hands behind the person's back. When feasible, handcuffs will be double-locked to prevent tightening, which may cause undue discomfort or injury to the hands or wrists.

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

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

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#### **306.5 APPLICATION OF AUXILIARY RESTRAINT DEVICES**

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

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

#### **306.6 APPLICATION OF LEG RESTRAINT DEVICES**

Leg restraints may be used to restrain the legs of a violent or potentially violent person when it is reasonable to do so during the course of detention, arrest, or transportation. Only restraint devices approved by the Department shall be used. These restraints include the (1) Wrap device, (2) "Humane Restraint" NCS-300 Hook & Loop Nylon Control Strap, and (3) leg shackles.

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

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

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

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

- (a) If practicable, officers should notify a supervisor of the intent to apply the leg restraint device. In all cases, a supervisor shall be notified as soon as practicable after the application of the leg restraint device.
- (b) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.
- (c) Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.
- (d) The restrained person should be continually monitored by an officer while in the leg restraint. The officer should ensure that the person does not roll onto and remain on his/her stomach.
- (e) The officer should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.

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- (f) When transported by emergency medical services, the restrained person should be accompanied by an officer when requested by medical personnel. The transporting officer should describe to medical personnel any unusual behaviors or other circumstances the officer reasonably believes would be potential safety or medical risks to the person (e.g., prolonged struggle, extreme agitation, impaired respiration).

#### **306.7 REQUIRED DOCUMENTATION**

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

If a person is arrested, the use of handcuffs or other restraints shall be documented in the related report.

Officers should document the following information in reports, as appropriate, when restraints other than handcuffs are used on a person:

- (a) The factors that led to the decision to use restraints.
- (b) Supervisor notification and approval of restraint use.
- (c) The types of restraint used.
- (d) The amount of time the person was restrained.
- (e) How the person was transported and the position of the person during transport.
- (f) Observations of the person's behavior and any signs of physiological problems.
- (g) Any known or suspected drug use or other medical problems.

#### **306.8 TRAINING**

Subject to available resources, the Police Training Specialist should ensure that officers receive periodic training on the proper use of handcuffs and other restraints, including:

- (a) Proper placement and fit of handcuffs and other restraint devices approved for use by the Department.
- (b) Response to complaints of pain by restrained persons.
- (c) Options for restraining those who may be pregnant without the use of leg irons, waist chains, or handcuffs behind the body.
- (d) Options for restraining amputees or those with medical conditions or other physical conditions that may be aggravated by being restrained.

## Control Devices and Techniques

### 308.1 PURPOSE AND SCOPE

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

### 308.2 POLICY

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

### 308.3 ISSUING, CARRYING AND USING CONTROL DEVICES

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

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

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

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

### 308.4 RESPONSIBILITIES

#### 308.4.1 WATCH COMMANDER RESPONSIBILITIES

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

#### 308.4.2 RANGEMASTER RESPONSIBILITIES

The Rangemaster shall control the inventory and issuance of all control devices and shall ensure that all damaged, inoperative, outdated or expended control devices or munitions are properly disposed of, repaired or replaced.

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

#### 308.4.3 USER RESPONSIBILITIES

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

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

#### **308.5 BATON GUIDELINES**

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

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

#### **308.6 TEAR GAS GUIDELINES**

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

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

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

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

##### **308.7.1 OC SPRAY**

Uniformed personnel carrying OC spray shall carry the device in its holster on the equipment belt. Plainclothes and non-field personnel may carry OC spray as authorized, in accordance with the needs of their assignment or at the direction of their supervisor.

##### **308.7.2 PEPPER PROJECTILE SYSTEMS**

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

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

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

#### **308.7.3 TREATMENT FOR OC SPRAY EXPOSURE**

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

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

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

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

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

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

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

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

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

- (a) The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.
- (b) The suspect has made credible threats to harm him/herself or others.

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- (c) The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.
- (d) There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

#### 308.9.2 DEPLOYMENT CONSIDERATIONS

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

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

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

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

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

#### 308.9.3 SAFETY PROCEDURES

Weapon systems specifically designated for use with kinetic energy projectiles will be readily identifiable as such.

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

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



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

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

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

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

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

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

## Taser Device

### 309.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of Tasers'.

### 309.2 POLICY

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

### 309.3 ISSUANCE AND CARRYING TASER'S

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

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

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

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

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

- (a) Whenever practicable, officers should carry two or more cartridges on their person when carrying the taser.
- (b) Officers shall be responsible for ensuring that their issued Taser is properly maintained and in good working order.
- (c) Officers should not hold both a firearm and the Taser at the same time.

### 309.4 VERBAL AND VISUAL WARNINGS

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

- (a) Provide the individual with a reasonable opportunity to voluntarily comply.
- (b) Provide other officers and individuals with a warning that the Taser 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 feasible under the circumstances, the officer may, but is not required to, display the electrical arc (provided that a cartridge has not been loaded into the device), or the laser in a further attempt to gain compliance prior to the application of the taser. The

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

The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the officer deploying the Taser in the related report.

#### 309.4.1 EQUIPMENT

- (a) The air cartridges and probes used shall be tagged into evidence. Since the probes will probably have blood on them (biohazard), officers should wear latex gloves when handling them. The wires shall be wound around the cartridge. The probes shall be inverted into the portals, which they were fired from (this will prevent sharp ends from penetrating the evidence envelope). Tape should be placed over the portals to secure the probes in the cartridge.
- (b) AFID (Anti-Felon Identification): Every time an air cartridge is fired, it disperses 20-30 identification tags called AFIDs. These tags are printed with the serial number of the cartridge and can be used to determine who fired the cartridge. At least three (4) AFID's will be placed inside the evidence envelope with the air cartridge. The number from the AFID's shall be logged on the use of force report.
- (c) The Taser shall be turned over to the Taser Instructor or his/her designate for downloading of information from the device within ten (10) days of usage.
- (d) The Taser Instructor will retain all records and downloaded information.

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

The Taser has limitations and restrictions requiring consideration before its use. The Taser should only be used when its operator can safely approach the subject within the operational range of the device. Although the Taser is generally effective in controlling most individuals, officers should be aware that the device may not achieve the intended results and be prepared with other options.

##### 309.5.1 APPLICATION OF THE TASER

When a subject causes an immediate threat of harm to any person or when public safety interests dictate that a subject needs to be taken into custody and the level of resistance presented by the subject is;

- (a) Likely to cause injury to the officer; or
- (b) If hands-on control tactics or other force options would be likely to cause greater injury to the subject than the use of a taser

In either of the above circumstances, the force must be objectively reasonable, necessary and proportional.

##### 309.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the Taser on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of using the device. This includes:

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- (a) Individuals who are known to be pregnant.
- (b) Elderly individuals or obvious juveniles.
- (c) Individuals with obviously low body mass.
- (d) Individuals who are handcuffed or otherwise restrained.
- (e) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.
- (f) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

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

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

#### 309.5.3 TARGETING CONSIDERATIONS

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

#### 309.5.4 MULTIPLE APPLICATIONS OF THE TASER

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

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

- (a) Whether the probes are making proper contact.
- (b) Whether the individual has the ability and has been given a reasonable opportunity to comply.
- (c) Whether verbal commands, other options or tactics may be more effective.

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

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#### 309.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Officers shall notify a supervisor of all Taser discharges. Confetti tags should be collected and the expended cartridge, along with both probes and wire, should be submitted into evidence. The cartridge serial number should be noted and documented on the evidence paperwork. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

#### 309.5.6 DANGEROUS ANIMALS

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

#### 309.5.7 OFF-DUTY CONSIDERATIONS

Officers who have met the Department standards are authorized to carry department Tasers' while off-duty. The Taser shall be carried concealed and in the Department issued holster at all times.

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

### **309.6 DOCUMENTATION**

Officers shall document all Taser discharges in the related arrest/crime report and the Taser report form. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges, pointing the device at a person, laser activation and arcing the device will also be documented on the report form.

#### 309.6.1 REPORTS

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

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

### **309.7 MEDICAL TREATMENT**

Officers should remove CED probes from a person's body unless they are lodged in a sensitive area (e.g., groin, female breast, head, face, neck). If the probes are lodged in a sensitive area, they should only be removed by appropriate medical personnel. Used CED probes shall be treated as a sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

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

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

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications (i.e., more than 15 seconds) shall be transported to a medical facility for examination or medically evaluated prior to booking. If any individual refuses medical attention, such a refusal should be witnessed by another officer and/or medical personnel and shall be fully documented in related reports. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

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

#### **309.8 SUPERVISOR RESPONSIBILITIES**

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

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

#### **309.9 TRAINING**

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

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

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

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

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

Application of taser's during training could result in injury to personnel and should not be mandatory for certification.

The Training Sergeant should ensure that all training includes:

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

## Officer-Involved Shootings and Deaths

### 310.1 PURPOSE AND SCOPE

The purpose of this policy is to establish policy and procedures for the investigation of an incident in which a person is injured or dies as the result of an officer-involved shooting or dies as a result of other action of an officer.

In other incidents not covered by this policy, the Chief of Police may decide that the investigation will follow the process provided in this policy.

### 310.2 POLICY

The policy of the Indio Police Department is to ensure that officer-involved shootings and deaths are investigated in a thorough, fair and impartial manner. This Department conforms to the Riverside County Law Enforcement Administrators guidelines for the investigation of officer - involved shootings and deaths and DOJ guidelines for investigating officer-involved shootings which result in the death of "an unarmed civilian". (Government Code section 12525.3(b)(1) An officer involved shooting which results in a suspect being hospitalized and injured but recovering from those injuries, even if the person was "unarmed" within the meaning of the law is not a "qualifying event". [See attachments:](#)

1. [RCLEAA Policy R-001 OIS.pdf](#)
2. AB 1506
3. Government Code section 12525.3(b)(1)
4. DLE AB1506 OIS Program Procedures

#### 310.2.1 DEFINITIONS

**Unarmed civilian defined** - An unarmed civilian is anyone "not in possession of a deadly weapon." A deadly weapon would include such objects as screwdrivers, hammers, baseball bats, and clubs of various sorts. In addition, all firearms and BB/pellet guns, even if unloaded or inoperable are considered "deadly weapons." However, "replica firearms" are not considered deadly weapons unless used in a manner to cause death or great bodily injury (for instance, as a bludgeon).

### 310.3 TYPES OF INVESTIGATIONS

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

- A criminal investigation of the suspect's actions.
- A criminal investigation of the involved officer's actions.
- An administrative investigation as to policy compliance by involved officers.
- A civil investigation to determine potential liability.



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#### **310.4 CONTROL OF INVESTIGATIONS**

Investigators from surrounding agencies may be assigned to work on the criminal investigation of officer-involved shootings and deaths. This may include at least one investigator from the agency that employs the involved officer.

Jurisdiction is determined by the location of the shooting or death and the agency employing the involved officer. The following scenarios outline the jurisdictional responsibilities for investigating officer-involved shootings and deaths.

##### **310.4.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS**

The investigation of any possible criminal conduct by the suspect is controlled by the agency in whose jurisdiction the suspect's crime occurred. For example, the Indio Police Department would control the investigation if the suspect's crime occurred in Indio.

If multiple crimes have been committed in multiple jurisdictions, identification of the agency that will control the investigation may be reached in the same way as with any other crime. The investigation may be conducted by the agency in control of the criminal investigation of the involved officer, at the discretion of the Chief of Police and with concurrence from the other agency.

##### **310.4.2 CRIMINAL INVESTIGATION OF OFFICER ACTIONS**

The control of the criminal investigation into the involved officer's conduct during the incident will be determined by the employing agency's protocol. When an officer from this department is involved, the criminal investigation will be handled according to the Criminal Investigation section of this policy.

Requests made of this department to investigate a shooting or death involving an outside agency's officer shall be referred to the Chief of Police or the authorized designee for approval.

##### **310.4.3 ADMINISTRATIVE AND CIVIL INVESTIGATION**

Regardless of where the incident occurs, the administrative and civil investigation of each involved officer is controlled by the respective employing agency.

#### **310.5 INVESTIGATION PROCESS**

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

##### **310.5.1 UNINVOLVED OFFICER RESPONSIBILITIES**

Upon arrival at the scene of an officer-involved shooting, the first uninvolved IPD officer will be the officer-in-charge and will assume the responsibilities of a supervisor until properly relieved. This officer should, as appropriate:

- (a) Secure the scene and identify and eliminate hazards for all those involved.
- (b) Take reasonable steps to obtain emergency medical attention for injured individuals.
- (c) Request additional resources from the Department or other agencies.
- (d) Coordinate a perimeter or pursuit of suspects.

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- (e) Check for injured persons and evacuate as needed.
- (f) Brief the supervisor upon arrival.

#### 310.5.2 WATCH COMMANDER RESPONSIBILITIES

Upon learning of an officer-involved shooting or death, the Watch Commander shall be responsible for coordinating all aspects of the incident until he/she is relieved by a lieutenant or above.

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

#### 310.5.3 NOTIFICATIONS

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

- Chief of Police
- Investigative Services Division Chief
- Field Services Division Chief
- Field Services Lieutenant
- Investigative Services Lieutenant
- Officer Involved Shooting rollout team
- Outside agency investigator (if appropriate)
- Professional Standards Unit supervisor
- Civil liability response team
- Psychological/peer support personnel
- Chaplain
- Coroner (if necessary)
- Involved officer's agency representative (if requested)
- Public Information Officer

#### 310.5.4 SUPERVISOR RESPONSIBILITIES

Upon arrival at the scene, the first uninvolved IPD supervisor should ensure completion of the duties as outlined above, plus:

- (a) Attempt to obtain a brief overview of the situation from any uninvolved officers.
  - (a) In the event that there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved officer.
- (b) If a brief voluntary interview is conducted with an involved officer, the supervisor should utilize the approved Public Safety Statement - Officer Involved Shooting form. Refer to attached copy of IPD OIS Public Safety Statement form.

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- (c) If necessary, the supervisor may administratively order any IPD officer to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.
  - 1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident scene, identity of known or potential witnesses and any other pertinent information.
  - 2. The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.
- (d) Provide all available information to the Watch Commander and the Dispatch Center. If feasible, sensitive information should be communicated over secure networks.
- (e) Take command of and secure the incident scene with additional IPD members until properly relieved by another supervisor or other assigned personnel or investigator.
- (f) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction.
  - 1. Each involved IPD officer should be given an administrative order not to discuss the incident with other involved officers or IPD members pending further direction from a supervisor.
  - 2. When an involved officer's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported by other officers.

#### 310.5.5 INVOLVED OFFICERS

The following shall be considered for the involved officer:

- (a) Any request for legal or union representation will be accommodated.
  - 1. Involved IPD officers shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
  - 2. Requests from involved non-IPD officers should be referred to their employing agency.
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (c) Discussions with agency representatives/employee groups will be privileged only as to the discussion of non-criminal information (Government Code § 3303(i)).
- (d) A licensed psychotherapist shall be provided by the Department to each involved IPD officer. A licensed psychotherapist may also be provided to any other affected IPD members, upon request.
  - 1. Interviews with a licensed psychotherapist will be considered privileged.
  - 2. An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, involved members

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shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.

3. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).
- (e) Although the Department will honor the sensitivity of communications with peer counselors, there is no legal privilege to such communications. 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 involved officer's equipment or clothing, such as blood or fingerprints, until investigators or lab personnel can properly retrieve it.

Each involved IPD officer shall be given reasonable paid administrative leave following an officer-involved shooting or death. It shall be the responsibility of the officer's direct supervisor to make schedule adjustments to accommodate such leave.

#### **310.5.6 NOTIFICATION TO DEPARTMENT OF JUSTICE**

The California Department of Justice (DOJ) is required to investigate an officer-involved shooting resulting in the death of an unarmed civilian. The RSO FID Supervisor should promptly notify the DOJ in all incidents involving an officer-involved shooting resulting in the death of an unarmed civilian, including where it is undetermined if the civilian was unarmed.

For purposes of notification, "unarmed civilian" means anyone who is not in possession of a deadly weapon (Government Code § 12525.3).

This notification requirement shall also apply when an OIS involving a moving vehicle occurs when an officer shoots at or into a moving vehicle. Due to the unique factual uncertainties related to moving vehicle OIS incidents, these incidents are among the most complicated investigations which require extensive evaluation of the circumstances at the scene to determine whether the vehicle was driven in a manner as to constitute a "deadly weapon".

These cases consider witness (e.g., passengers) accounts which often differ from the officer(s)' version of events. Further, with or without witnesses, forensic analysis has played an important role in determining whether the moving vehicle was used in a manner likely to produce death or great bodily injury at the time of the shooting. DOJ requests that law enforcement agencies (LEA) contact DOJ for moving vehicle OIS incidents.

#### **310.6 CRIMINAL INVESTIGATION**

According to State law, the District Attorney's Office is responsible for the criminal investigation into the circumstances of any officer-involved shooting or death. The established practice of this Department is the criminal investigation will be handled by the Riverside County Sheriff's Department at the request of the Chief of Police. This practice is accepted by the Riverside County District Attorney's Office, which will ultimately review the completed criminal case.

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If available, investigative personnel from this department may be assigned to partner with investigators from outside agencies or the District Attorney's Office to avoid duplicating efforts in related criminal investigations.

Once public safety issues have been addressed, criminal investigators should be given the opportunity to obtain a voluntary statement from involved officers and to complete their interviews. The following shall be considered for the involved officer:

- (a) IPD supervisors and Professional Standards Unit personnel should not participate directly in any voluntary interview of IPD officers. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics 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 or conducting a walkthrough (Government Code § 3303(i)). However, in order to maintain the integrity of each involved officer's statement, involved officers shall not consult or meet with a representative or an attorney collectively or in groups prior to being interviewed.
- (c) If any involved officer is physically, emotionally or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.
- (d) Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation, including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.
- (e) If requested to participate in a crime scene walkthrough, it should be scheduled to accommodate the involved officer(s) or witness officer(s) and their legal representation. Interviews of involved officer(s) and or witness officer(s) shall be audio recorded. Any request to interview an officer(s) or witness officer(s) shall be scheduled to accommodate the involved officer(s) or witness officer(s) and their legal representation, and or investigators.

#### 310.6.1 REPORTS BY INVOLVED IPD OFFICERS

In the event that suspects remain outstanding or subject to prosecution for related offenses, this department shall retain the authority to require involved IPD 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 IPD officer may write the report, it is generally recommended that such reports be completed by assigned investigators, who should interview all 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 suspects. Care should be taken not to duplicate information provided by involved officers in other reports.

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Nothing in this section shall be construed to deprive an involved IPD 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 or death.

#### 310.6.2 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an officer-involved shooting or death 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) Identification of 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 a member of the Department.
  - 1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.
- (c) Promptly contacting 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 the incident.

#### 310.6.3 INVESTIGATIVE PERSONNEL

Once notified of an officer-involved shooting or death, it shall be the responsibility of the designated Major Crimes Unit or Street Crimes Unit supervisor to assign appropriate investigative personnel to handle the investigation of related crimes. Department investigators will be assigned to work with investigators from the District Attorney's Office or other outside agency and may be assigned to separately handle the investigation of any related crimes not being investigated by the District Attorney's Office or other outside agency.

All related department reports, except administrative and/or privileged reports, will be forwarded to the designated Major Crimes Unit or Street Crimes Unit supervisor for approval. Privileged reports

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shall be maintained exclusively by members who are authorized such access. Administrative reports will be forwarded to the appropriate Division Chief and the Professional Standards Unit.

#### **310.7 ADMINISTRATIVE INVESTIGATION**

In addition to all other investigations associated with an officer-involved shooting or death, this department will conduct an internal administrative investigation of IPD officers to determine conformance with department policy. The investigation will be conducted under the supervision of the Professional Standards Unit and will be considered a confidential officer personnel file.

Interviews of members shall be subject to department policies and applicable laws (see the Personnel Complaints Policy).

- (a) Any officer involved in a shooting or death may be administratively compelled to provide samples of blood when objective symptoms consistent with the use of alcohol, a drug or narcotic are exhibited by the involved employee. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- (b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.
  1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his/her prior statement before proceeding with any subsequent interviews.
- (c) In the event that an involved officer has elected to not provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
  1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
  2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed (Government Code § 3303(i)).
  3. Administrative interviews should be recorded by the investigator. The officer may also record the interview (Government Code § 3303(g)).
  4. The officer shall be informed of the nature of the investigation. If an officer refuses to answer questions, he/she should be given his/her *Lybarger* or *Garrity* rights and ordered to provide full and truthful answers to all questions. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.

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5. The Professional Standards Unit shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
6. Regardless of whether the use of force is an issue in the case, the completed administrative investigation shall be submitted to the Use of Force Review Board, which will restrict its findings as to whether there was compliance with the Use of Force Policy.
7. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

#### **310.7.1 COMPLIANCE WITH AB 1506 & INVESTIGATIVE PROTOCOLS**

Effective July 1, 2021 pursuant to AB 1506 and section 12525.3 of the Government Code, the Department of Justice shall investigate incidents of an officer involved shooting resulting in the death of an unarmed civilian. Pursuant to this change in law, the following protocols have been established to comply with AB 1506;

- If a law enforcement officer is involved in a "qualifying event" as defined in this new law, the RSO FID Supervisor or their designee is required to call the **Department of Justice hotline at 800-522-9327**.
- The Department of Justice will be considered the "lead investigating agency" in an investigation in any one of these qualifying events.
- The Department of Justice will be working in concert with the Riverside County District Attorney's Office, and will also work with the Indio Police Department regarding the use of deadly force.
- Since it is possible, if not likely, that the arrival of DOJ investigators at the incident scene or location of the sequestered involved officer(s) may take substantial time, interviews of the involved officer(s) may be delayed by agreement with the involved officers and their representatives following the event so as to reasonably accommodate the involved officers needs following a critical incident. In the event of such request, factors to consider are but not limited to:
  - Duration of Officers shift prior to critical incident (i.e. scheduled shift, court time, training time, overtime shift)
  - Emotional well being of involved officer(s) following the incident.
  - Availability of requested union representative and or attorney
  - Any unforeseen difficulty deemed "reasonable" by management
- Crime scene work will be performed by the local agency, i.e., either the local District Attorney's Office, the county crime lab, or crime scene technicians of the employing agency.
- The employing agency of the officer(s) involved in the fatal shooting of an unarmed civilian will still be required to conduct an administrative investigation to determine whether or not the shooting was in violation of department policy, in order to comply with the provisions of Penal Code section 835(a).



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#### **310.7.2 NOTIFICATION RESPONSIBILITY OF AGENCY VIA LA CLEAR**

Effective July 1, 2021, the RSO FID Supervisors shall immediately notify the DOJ when the Law Enforcement Agency has an incident of an officer-involved shooting resulting in the death of an unarmed civilian. When situations arise and it is undetermined if the civilian was unarmed, a notification to DOJ is still requested. The Los Angeles Regional Criminal Information Clearinghouse (LA CLEAR) will be the central point of contact for all officer-involved shooting incident notifications: **(800) 522-5327**.

#### **310.8 AUDIO AND VIDEO RECORDINGS**

Any officer involved in a shooting or death may be permitted to review available Mobile Audio/Video (MAV), body-worn video, or other video or audio recordings prior to providing a recorded statement or completing reports.

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

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

#### **310.9 CIVIL LIABILITY RESPONSE**

A member of this department may be assigned to work exclusively under the direction of the legal counsel for the Department to assist in the preparation of materials deemed necessary in anticipation of potential civil litigation.

All materials generated in this capacity shall be considered attorney work product and may not be used for any other purpose. The civil liability response is not intended to interfere with any other investigation but shall be given reasonable access to all other investigations.

#### **310.10 DEBRIEFING**

Following an officer-involved shooting or death, the Indio Police Department should conduct both a critical incident/stress debriefing and a tactical debriefing.

##### **310.10.1 CRITICAL INCIDENT/STRESS DEBRIEFING**

A critical incident/stress debriefing should occur as soon as practicable. The Support Services Division Chief is responsible for organizing the debriefing. Notes and recorded statements should not be taken because the sole purpose of the debriefing is to help mitigate the stress-related effects of a traumatic event.

The debriefing is not part of any investigative process. Care should be taken not to release or repeat any communication made during a debriefing unless otherwise authorized by policy, law or a valid court order.

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Attendance at the debriefing shall only include those members of the Department directly involved in the incident, which can include support personnel (e.g., dispatchers, other non-sworn personnel). Family or other support personnel may attend with the concurrence of those involved in the incident. The debriefing shall be closed to the public and should be closed to all other members of the Department, including supervisory and Professional Standards Unit personnel.

#### **310.10.2 TACTICAL DEBRIEFING**

A tactical debriefing should take place to identify any training or areas of policy that need improvement. The Chief of Police should identify the appropriate participants. This debriefing should not be conducted until all involved members have provided recorded or formal statements to criminal and/or administrative investigators.

#### **310.11 MEDIA RELATIONS**

Any media release shall be prepared with input and concurrence from the supervisor and department representative responsible for each phase of the investigation and shall be approved by the Chief of Police. Releases will be available to the Watch Commander, Investigative Services Division Chief and Public Information Officer in the event of inquiries from the media.

The Department shall not subject any involved IPD officer to visits by the media (Government Code § 3303(e)). No involved IPD officer shall make any comment to the media unless he/she is authorized by the Chief of Police or a Division Chief. Department members receiving inquiries regarding officer-involved shootings or deaths occurring in other jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

#### **310.12 REPORTING**

If the death of an individual occurs in the Indio Police Department jurisdiction and qualifies to be reported to the state as a justifiable homicide or an in-custody death, the Field Services Division Chief will ensure that the Records Supervisor is provided with enough information to meet the reporting requirements (Penal Code § 196; Penal Code § 13022; Government Code § 12525).

## Firearms

### 312.1 PURPOSE AND SCOPE

This policy provides guidelines for issuing firearms, the safe and legal carrying of firearms, firearms maintenance and firearms training.

This policy does not apply to issues related to the use of firearms that are addressed in the Use of Force or Officer-Involved Shootings and Deaths policies.

This policy only applies to those members who are authorized to carry firearms.

### 312.2 POLICY

The Indio Police Department will equip its members with firearms to address the risks posed to the public and department members by violent and sometimes well-armed persons. The Department will ensure firearms are appropriate and in good working order and that relevant training is provided as resources allow.

### 312.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Members shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Rangemaster. Except in an emergency or as directed by a supervisor, no firearm shall be carried by a member who has not qualified with that firearm at an authorized department range.

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

#### 312.3.1 HANDGUNS

The authorized department-issued handgun is the Glock, Model 22 or 23, .40 caliber. Sworn personnel assigned to plain clothes assignments are authorized to carry a Glock Model 27 .40 caliber SW handgun. The Glock Model 27 will not be provided by the Department and must be purchased by the officer at his/her own expense. Executive Staff (Chief and Assistant Chiefs) are authorized to carry a Glock Model 43 9mm handgun, while in plain clothes. The Glock Model 43 will not be provided by the Department and must be purchased, along with the appropriate ammunition, at the member's expense.

#### 312.3.2 SHOTGUNS

The authorized department-issued shotgun is the Remington 870 12 gauge.

When not deployed, the shotgun shall be properly secured consistent with department training in a locking weapons rack in the patrol vehicle.

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#### 312.3.3 PATROL RIFLES

Any .223/5.56 caliber rifle manufactured by Colt, Bushmaster, or American Defense Manufacturing that is approved by the Department Rangemaster may be deployed as a patrol rifle.

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

- Situations where the member reasonably anticipates an armed encounter.
- When a member is faced with a situation that may require accurate and effective fire at long range.
- Situations where a member reasonably expects the need to meet or exceed a suspect's firepower.
- When a member reasonably believes that there may be a need to fire on a barricaded person or a person with a hostage.
- When a member reasonably believes that a suspect may be wearing body armor.
- When authorized or requested by a supervisor.
- When needed to euthanize an animal.

When not deployed, the patrol rifle shall be properly secured consistent with department training in a locking weapons rack in the patrol vehicle. The patrol rifle may also be secured in the trunk of the patrol vehicle utilizing an approved locking storage box or gun cable.

#### 312.3.4 PERSONALLY OWNED DUTY FIREARMS

Members desiring to carry an authorized but personally owned duty firearm must receive approval from the Department Rangemaster. Once approved, personally owned duty firearms are subject to the following restrictions:

- (a) The firearm shall be in good working order.
- (b) The firearm shall be inspected by the Rangemaster prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.
- (c) Prior to carrying the firearm, members shall qualify under range supervision and thereafter shall qualify in accordance with the department qualification schedule. Members must demonstrate proficiency and safe handling, and that the firearm functions properly.
- (d) Members shall provide written notice of the make, model, color, serial number and caliber of the firearm to the Rangemaster, who will maintain a list of the information.

#### 312.3.5 AUTHORIZED SECONDARY HANDGUN

Members desiring to carry department or personally owned secondary handguns are subject to the following restrictions:

- (a) The handgun shall be in good working order and on the department list of approved firearms.
- (b) Only one secondary handgun may be carried at a time.
- (c) The purchase of the handgun and ammunition shall be the responsibility of the member unless the handgun and ammunition are provided by the Department.

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

#### 312.3.6 AUTHORIZED OFF-DUTY FIREARMS

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

- (a) The member may use his/her duty firearm or may use a personally owned firearm that is carried and inspected in accordance with the Personally Owned Duty Firearms requirements in this policy. A member carrying his/her duty firearm will be deemed to have complied with (c), (d) and (e) of this section.
  - 1. The purchase of the personally owned firearm and ammunition shall be the responsibility of the member.
- (b) The firearm shall be carried concealed at all times and in such a manner as to prevent accidental unintentional cocking, discharge or loss of physical control.
- (c) It will be the responsibility of the member to submit the firearm to the Rangemaster for inspection prior to being personally carried. Thereafter the firearm shall be subject to periodic inspection by the Rangemaster.
- (d) Prior to carrying any off-duty firearm, the member shall demonstrate to the Rangemaster that he/she is proficient in handling and firing the firearm and that it will be carried in a safe manner.
- (e) The member will successfully qualify with the firearm prior to it being carried.
- (f) Members shall provide written notice of the make, model, color, serial number and caliber of the firearm to the Rangemaster, who will maintain a list of the information.
- (g) If a member desires to use more than one firearm while off-duty, he/she may do so, as long as all requirements set forth in this policy for each firearm are met.
- (h) Members shall only carry department-authorized ammunition.

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- (i) When armed, officers shall carry their badges and Indio Police Department identification cards under circumstances requiring possession of such identification.

#### **312.3.7 AMMUNITION**

Members shall carry only department-authorized ammunition. Members shall be issued fresh duty ammunition in the specified quantity for all department-issued firearms during the member's firearms qualification. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by the Rangemaster when needed, in accordance with established policy.

Members 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.

#### **312.4 EQUIPMENT**

Firearms carried on- or off-duty shall be maintained in a clean, serviceable condition. Maintenance and repair of authorized personally owned firearms are the responsibility of the individual member.

##### **312.4.1 REPAIRS OR MODIFICATIONS**

Each member shall be responsible for promptly reporting any damage or malfunction of an assigned firearm to a supervisor or the Rangemaster.

Firearms that are the property of the Department or personally owned firearms that are approved for department use may be repaired or modified only by a person who is department-approved and certified as an armorer or gunsmith in the repair of the specific firearm. Such modification or repair must be authorized in advance by the Rangemaster.

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

##### **312.4.2 HOLSTERS**

Only department-approved holsters shall be used and worn by members. Members shall periodically inspect their holsters to make sure they are serviceable and provide the proper security and retention of the handgun.

##### **312.4.3 TACTICAL LIGHTS**

Tactical lights may only be installed on a firearm carried on- or off-duty after they have been examined and approved by the Rangemaster. Once the approved tactical lights have been properly installed on any firearm, the member shall qualify with the firearm to ensure proper functionality and sighting of the firearm prior to carrying it.

##### **312.4.4 OPTICS OR LASER SIGHTS**

Optics or laser sights may only be installed on a firearm carried on- or off-duty after they have been examined and approved by the Rangemaster. Any approved sight shall only be installed in strict accordance with manufacturer specifications. Once approved sights have been properly installed

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on any firearm, the member shall qualify with the firearm to ensure proper functionality and sighting of the firearm prior to carrying it. Red dot optics are authorized for on- and off- duty handguns. Members must attend and pass a transition course and qualification prior to carrying a red dot optic, on- or off-duty. Members shall purchase, at their own expense, the required equipment to properly outfit their handgun with a red dot optic system. Authorized optics, magnified optics and red dot optics are listed in the Department Firearms Matrix for reference.

Except in an approved training situation, a member may only sight in on a target when the member would otherwise be justified in pointing a firearm at the target.

#### **312.5 SAFE HANDLING, INSPECTION AND STORAGE**

Members shall maintain the highest level of safety when handling firearms and shall consider the following:

- (a) Members shall not unnecessarily display or handle any firearm.
- (b) Members shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Rangemaster. Members shall not dry fire or practice quick draws except as instructed by the Rangemaster or other firearms training staff.
- (c) Members shall not clean, repair, load or unload a firearm anywhere in the Department, except where clearing barrels are present.
- (d) Shotguns or rifles removed from vehicles or the equipment storage room shall be loaded and unloaded in the parking lot and outside of the vehicle, using clearing barrels.
- (e) Members 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 an arrestee, but shall place all firearms in a secured location. Members providing access to the jail section to persons from outside agencies are responsible for ensuring firearms are not brought into the jail section.
- (f) Members shall not use any automatic firearm, heavy caliber rifle, gas or other type of chemical weapon or firearm from the armory, except with approval of a supervisor.
- (g) Any firearm authorized by the Department to be carried on- or off-duty that is determined by a member to be malfunctioning or in need of service or repair shall not be carried. It shall be promptly presented to the Department or a Rangemaster approved by the Department for inspection and repair. Any firearm deemed in need of repair or service by the Rangemaster will be immediately removed from service. If the firearm is the member's primary duty firearm, a replacement firearm will be issued to the member until the duty firearm is serviceable.

##### **312.5.1 ARMORER DUTIES**

###### **I. ARMORER POSITION**

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All Department Armorers shall be separate from the Department Firearm Instructors and shall not provide any instruction regarding the firing, deployment, and/or tactics of department issued/authorized weapons.

All Department Armorers must obtain Armorer certification (which must be recertified every three years) from the selected Armorer schools deemed necessary by the Department prior to conducting any maintenance on department issued weapons.

#### **II. ARMORER RESPONSIBILITIES**

Only Department Armorers are responsible for issuing, maintaining, cleaning and conducting detailed inspections of all Department issued weapons. Furthermore, additional duties may include assisting the firearm staff at the direction of the Head Range Master with Armorer related duties and to conduct Armorer related training when necessary.

#### **III. LEAD ARMORER RESPONSIBILITIES**

The Lead Armorer shall be selected at the discretion of the Chief of Police. His or her duties may include, but are not limited to the following: supervising Armorers, maintenance of weapons cleaning systems, cleaning of department issued/authorized weapons, purchasing weapons/equipment, maintenance/detailed inspection of department issued weapons and training. The Lead Armorer and or his or her designee(s) may be available for on call emergencies. Each emergency call out will be reviewed by the Lead Armorer. All call outs will be compensated by overtime, if applicable. All decisions regarding the aforementioned responsibilities must be approved by the Lead Armorer prior to implementation. Any deviation from the Lead Armorer's decisions must be reviewed solely by the Chief of Police and or his/her designee.

#### **IV. CLEANING & MAINTENANCE RULES**

Officers may conduct a basic break down (field strip) of their Department issued weapon system for cleansing/maintenance; however, no officer shall conduct a detailed break of any Department owned weapon system.

#### **V. SCHEDULED CLEANING DAYS**

Department Armorers will be made available for officers who wish to have their Department issued firearms cleaned and inspected. This will include personally owned weapon systems authorized for duty use by the department (870 Remington shotguns, Colt, Bushmaster, or American Defense Manufacturing .223 rifles and their variants and on/off duty back ups). However, Department issued weapons will take priority. These scheduled cleaning days will be held on the first Monday and Friday of each calendar month excluding holidays between the hours of 9:00 am through 12:00 pm at the Department's Armory. The only exceptions are as follows: As soon as practical, post range qualifications, Department issued weapon systems should be inspected/cleaned by a Department Armorer. Additionally, all sworn officers issued department weapons shall make the weapons available for a yearly inspection (which will be conducted prior to January 1st of each calendar year) by the Lead/Department Armorer and or when requested by the Lead/Department Armorer.

#### **VI. NONDEPARTMENTAL ISSUED WEAPONS**



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All officers carrying non Departmental issued weapons off duty will be responsible for maintaining the operational status of their personally owned weapons. Prior to January 1st of each calendar year, Officers will be required to present a certificate of inspection to the Department Armorer from a certified Gunsmith at the officer's expense. Weapons which are not certified by the January 1st date will not be allowed for off-duty deployment. However, officers who select to carry personally owned Glock back-up/off duty handguns (to include the patrol approved Colt, Bushmaster, or American Defense Manufacturing.223 caliber rifles and Remington 870 Police shotguns) may have their personally owned weapons inspected and maintained through the Department's Armorer. It shall be the responsibility of the officer to pay for any replacement part(s) if deemed necessary by the Department Armorer. The payment will be made in the form of a check to the City of Indio.

### **VII. DEPARTMENT WEAPONS USE FOR DUTY AND TRAINING**

All officers using Department weapon(s) for duty use (excluding Glock issued sidearm) shall return the weapon(s) to the Department Armory at the end of shift. It shall be the responsibility of each shift supervisor or their designee to ensure that all Department weapon(s) are returned daily and to maintain a daily issuance log. The log shall contain the name of the officer, date issued and weapon number. No officer shall take a Department owned weapon home and or leave the Department owned weapon in their assigned patrol unit or car without the authorization from the Chief of Police and or his or her designee. Officers who wish to attend firearm related schools to include but not limited to Patrol Rifle Courses, Handgun Courses and Shotgun schools and do not personally own the duty approved weapon(s) system(s) needed for that specific training class / school may at the discretion of the Department be allowed to use the Department weapon(s) for training purposes. All officers shall be required to obtain prior approval from the Chief of Police, his or her designee and complete a sign out log. All officers who wish to participate in this program shall be responsible for the weapon(s).

#### **312.5.2 INSPECTION AND STORAGE**

Handguns shall be inspected regularly and upon access or possession by another person. Shotguns and rifles shall be inspected at the beginning of the shift by the member to whom the weapon is issued. The member shall ensure that the firearm is carried in the proper condition and loaded with approved ammunition. Inspection of the shotgun and rifle shall be done while standing outside of the patrol vehicle. All firearms shall be pointed in a safe direction or into clearing barrels.

Personally owned firearms may be safely stored in employee lockers at the end of the shift. Department-owned handguns may be safely stored in employee lockers at the end of the shift. Department-owned rifles and shotguns shall be stored in the Department Armory. Handguns may remain loaded if they are secured in an appropriate holster. Shotguns and rifles shall be unloaded in a safe manner outside of buildings using a clearing barrel. Shotguns and rifles may be stored appropriately in a Department-owned vehicle parked in the secured lot at the station during the member's work week, but shall not be left in this manner if the member will not be returning to work the following day.

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#### 312.5.3 STORAGE AT HOME

Members shall ensure that all firearms and ammunition are locked and secured while in their homes, vehicles or any other area under their control, and in a manner that will keep them inaccessible to children and others who should not have access. Members shall not permit department-issued firearms to be handled by anyone not authorized by the Department to do so. Members should be aware that negligent storage of a firearm could result in civil and criminal liability (Penal Code § 25100).

#### 312.5.4 ALCOHOL AND DRUGS

Firearms shall not be carried by any member, either on- or off-duty, who has consumed any amount of an alcoholic beverage, or has taken any drugs or medication, has taken any combination thereof that would tend to adversely affect the member's senses or judgment.

#### 312.5.5 STORAGE IN VEHICLES

When leaving a handgun in an unattended vehicle, members shall ensure that it is locked in the trunk, or in a locked container that is placed out of view, or in a locked container that is permanently affixed to the vehicle's interior and not in plain view, or in a locked toolbox or utility box permanently affixed to the vehicle (Penal Code § 16850; Penal Code § 25140; Penal Code § 25452).

If the vehicle does not have a trunk or a locked container, then the firearm should be locked within the center utility console that can be locked with a padlock, keylock, combination lock, or other similar locking device (Penal Code § 25140).

Officers are exempt from these requirements during circumstances requiring immediate aid or action in the course of official duties (Penal Code § 25140).

### **312.6 FIREARMS TRAINING AND QUALIFICATIONS**

All members who carry a firearm while on-duty are required to successfully complete training quarterly with their duty firearms. In addition to quarterly training, all members will qualify at least annually with their duty firearms. Members will qualify with off-duty and secondary firearms at least twice a year. Training and qualifications must be on an approved range course.

At least annually, all members carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

#### 312.6.1 NON-CERTIFICATION OR NON-QUALIFICATION

If any member fails to meet minimum standards for firearms training or qualification for any reason, including injury, illness, duty status or scheduling conflict, that member shall submit a memorandum to his/her immediate supervisor prior to the end of the required training or qualification period.

Those who fail to meet minimum standards or qualify on their first shooting attempt shall be provided remedial training and will be subject to the following requirements:

- (a) Additional range assignments may be scheduled to assist the member in demonstrating consistent firearm proficiency.

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- (b) Members shall be given credit for a range training or qualification when obtaining a qualifying score or meeting standards after remedial training.
- (c) No range credit will be given for the following:
  - 1. Unauthorized range make-up
  - 2. Failure to meet minimum standards or qualify after remedial training

Members who repeatedly fail to meet minimum standards will be removed from field assignment and may be subject to disciplinary action.

#### **312.7 FIREARM DISCHARGE**

Except during training or recreational use, any member who discharges a firearm intentionally or unintentionally, on- or off-duty, shall make a verbal report to his/her supervisor as soon as circumstances permit. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with the Officer-Involved Shootings and Deaths Policy. If a firearm was discharged as a use of force, the involved member shall adhere to the additional reporting requirements set forth in the Use of Force Policy.

In all other cases, written reports shall be made as follows:

- (a) If on-duty at the time of the incident, the member shall file a written report with his/her Division Chief or provide a recorded statement to investigators prior to the end of shift, unless otherwise directed.
- (b) If off-duty at the time of the incident, the member shall file a written report or provide a recorded statement no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

##### **312.7.1 DESTRUCTION OF ANIMALS**

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

In circumstances where there is sufficient advance notice that a potentially dangerous animal may be encountered, department members should develop reasonable contingency plans for dealing with the animal (e.g., fire extinguisher, Conducted Energy Device, oleoresin capsicum (OC) spray, animal control officer). Nothing in this policy shall prohibit any member from shooting a dangerous animal if circumstances reasonably dictate that a contingency plan has failed or becomes impractical.

##### **312.7.2 INJURED ANIMALS**

With the approval of a supervisor, a member may euthanize an animal that is so badly injured that human compassion requires its removal from further suffering and where other dispositions are impractical.

Stray or abandoned injured animals that may be moved or taken to an available veterinarian should not be euthanized. With supervisor approval, abandoned injured animals (with the exception

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of dogs and cats) may only be euthanized after a reasonable search to locate the owner has been made. 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 (Penal Code § 597.1).

#### **312.7.3 WARNING AND OTHER SHOTS**

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

#### **312.8 BLUE TEAM GUIDELINES**

In any instance where a firearm is discharged, a Blue Team entry should be created by the supervisor as soon as possible, and must be completed before the end of the investigating supervisor's shift. Investigations held or assigned to a line level supervisor, will be completed within 10 calendar days from the date of the incident and forwarded to a lieutenant. The investigations should include the following items as applicable; BWC footage, interviews, photos, reports, other documents as appropriate. The lieutenant must complete his or her review within 10 calendar days from receiving the investigation from the investigating supervisor. The lieutenant then forwards the completed review to the Assistant Chief. The Assistant Chief will complete his or her review and provide a recommendation to the Chief of Police.

An employee must receive an extension from their supervisor in order to exceed the 10-day timeline.

In cases where a formal administrative investigation will be conducted by the Professional Standards Unit, the supervisor completing the initial entry will forward the completed entry to the Professional Standards Unit for further investigation. Please refer to Policy 310 Officer Involved Shootings and Deaths and Policy 1020 Personnel Complaints, regarding the investigation and routing process.

#### **312.9 RANGEMASTER DUTIES**

The range will be under the exclusive control of the Rangemaster. All members attending will follow the directions of the Rangemaster. The Rangemaster will maintain a roster of all members attending the range and will submit the roster to the Training Coordinator after each range date. Failure of any member 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 firearms carried by members of this department to verify proper operation. The Rangemaster has the authority to deem any department-issued or personally owned firearm unfit for service. The member will be responsible for all repairs to his/her personally owned firearm and it will not be returned to service until inspected by the Rangemaster.

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The Rangemaster has the responsibility for ensuring each member meets the minimum requirements during training shoots and, on at least a yearly basis, can demonstrate proficiency in the care, cleaning and safety of all firearms the member is authorized to carry.

The Rangemaster shall complete and submit to the Training Coordinator documentation of the training courses provided. Documentation shall include the qualifications of each instructor who provides the training, a description of the training provided and, on a form that has been approved by the Department, a list of each member who completes the training. The Rangemaster should keep accurate records of all training shoots, qualifications, repairs, maintenance or other records as directed by the Training Coordinator.

#### **312.10 FLYING WHILE ARMED**

The Transportation Security Administration (TSA) has imposed rules governing law enforcement officers flying armed on commercial aircraft. The following requirements apply to officers 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, and must have a need to have the firearm accessible, as determined by the Department based on the law and published TSA rules.
- (b) Officers must carry their Indio Police Department identification card, bearing the officer's name, a full-face photograph, identification number, 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 license, passport).
- (c) The Indio Police Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the Indio Police Department an NLETS message containing a unique alphanumeric identifier. The officer must present the message on the day of travel to airport personnel as authorization to travel while armed.
- (d) An official letter signed by the Chief of Police authorizing armed travel may also accompany the officer. The letter should outline the officer's need to fly armed, detail his/her itinerary, and include that the officer has completed the mandatory TSA training for a 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 should be accomplished by early check-in at the carrier's check-in counter.
- (g) Any officer flying while armed should discreetly contact the flight crew prior to take-off and notify them of his/her assigned seat.

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- (h) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The officer 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.
- (i) Officers should try to resolve any problems associated with flying armed through the flight captain, ground security manager, TSA representative or other management representative of the air carrier.
- (j) Officers shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

#### **312.11 CARRYING FIREARMS OUT OF STATE**

Qualified, active, full-time officers of this department are authorized to carry a concealed firearm in all other states subject to the following conditions (18 USC § 926B):

- (a) The officer shall carry his/her Indio Police Department identification card whenever carrying such firearm.
- (b) The officer is not the subject of any current disciplinary action.
- (c) The officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.
- (d) 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.

Active law enforcement officers from other states are subject to all requirements set forth in 18 USC § 926B.

## Vehicle Pursuits

### 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 will 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.

### 314.2 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.

#### 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 and they can articulate the public safety need to stop the eluding vehicle outweighs the inherent risk of the pursuit.

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Officers will not pursue solely for one or more of the following:

- (a) Vehicle code infractions
- (b) Civil code infractions
- (c) Misdemeanors
  - 1. Exception: Brandishing a firearm
  - 2. Exception: Officer, prior to initiating the pursuit, has good cause to believe the driving ability of the suspect is so impaired they may cause death or serious injury to another person. This exception is not intended to apply to every case where a driver is suspected of driving under the influence.
- (d) Property crimes
- (e) The act of reckless evading alone

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 suspects (e.g., whether the suspects represent a serious threat to public safety, such as having committed an occupied residential burglary or arson which presents an inherent risk of injury or death, which based upon the totality of the circumstances, could justify the pursuit).
- (d) The identity of the suspects has been verified and there is comparatively minimal risk in allowing the suspects 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.



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- (l) The police unit is carrying passengers other than police officers. Pursuits should not be undertaken with a prisoner, or citizen ride along, in the police vehicle.

#### 314.2.2 WHEN TO TERMINATE A PURSUIT

Pursuits will be discontinued by the pursuing officer or a supervisor 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 When to Initiate a Pursuit of this policy are expressly included herein and will apply equally to the decision to discontinue as well as the decision to initiate a pursuit. Officers and supervisors must objectively and continuously weigh the seriousness of the offense against the potential danger to innocent motorists and themselves when electing to continue a pursuit. In the context of this policy, the term "terminate" shall be construed to mean discontinue or to stop chasing the fleeing vehicle.

In addition to the factors listed in When to Initiate a Pursuit of this policy, the following factors will also be considered in deciding whether to terminate a pursuit:

- (a) Distance between the pursuing officers and the fleeing vehicle is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time and/or distance.
- (b) Pursued vehicle's location is no longer definitely known.
- (c) Officer's pursuit vehicle sustains any type of damage that renders it unsafe to drive.
- (d) There are hazards to uninvolved bystanders or motorists.
- (e) 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.
- (f) Pursuit is terminated by a supervisor.

#### 314.2.3 SPEED LIMITS

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

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.

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#### **314.3 PURSUIT UNITS**

Pursuit units should be limited to three vehicles (two units and a supervisor); 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 suspects. 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**

A distinctively marked patrol vehicle equipped with emergency overhead lighting shall replace a police motorcycle as primary and/or secondary pursuit unit as soon as practical.

##### **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. Officers in such vehicles, however, may become involved in emergency activities involving serious crimes or life threatening situations. Those officers will 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 suspects without unreasonable danger to him/herself or other persons.

Notify the Dispatch Center that a vehicle pursuit has been initiated and as soon as practicable 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

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relinquish the responsibility of broadcasting the progress of the pursuit to a secondary unit or aircraft joining the pursuit.

#### 314.3.4 SECONDARY UNITS RESPONSIBILITIES

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

- (a) The officer in the secondary unit will immediately notify the dispatcher of entry into the pursuit.
- (b) Remain a safe distance behind the primary unit unless directed to assume the role of primary officer, or if the primary unit is unable to continue the pursuit.
- (c) The secondary officer should be responsible for broadcasting the progress of the pursuit unless the situation indicates otherwise.

#### 314.3.5 PURSUIT DRIVING TACTICS

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

- (a) Officers, considering their driving skills and vehicle performance capabilities, will space themselves from other involved vehicles such that they are able to see and avoid hazards or react safely to maneuvers by the fleeing vehicle.
- (b) Because intersections can present increased risks, the following tactics should be considered:
  - 1. Available units not directly involved in the pursuit may proceed safely to controlled intersections ahead of the pursuit in an effort to warn cross traffic.
  - 2. Pursuing units should exercise due caution when proceeding through controlled intersections.
- (c) Officers will not drive left of center (wrong way) on a freeway. In the event that the pursued vehicle does so, the following tactics should be considered:
  - 1. Requesting assistance from an air unit.
  - 2. Maintaining visual contact with the pursued vehicle by paralleling it on the correct side of the roadway.
  - 3. Requesting other units to observe exits available to the suspects.
- (d) Notifying the California Highway Patrol (CHP) and/or other jurisdictional agency if it appears that the pursuit may enter their jurisdiction.
- (e) Officers involved in a pursuit will 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 will be no paralleling of the pursuit route. Officers are authorized to use emergency equipment at intersections along the pursuit path to clear intersections of vehicular and pedestrian

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traffic to protect the public. Officers should remain in their assigned area and should not become involved with the pursuit unless directed otherwise by a supervisor.

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

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

#### **314.3.7 PURSUIT TRAILING**

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

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

#### **314.3.8 AIRCRAFT ASSISTANCE**

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

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

### **314.4 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, acknowledge the pursuit on the radio and immediately begin 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.

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- (d) Ensuring that no more than the number of required police units needed are involved in the pursuit under the guidelines set forth in this policy.
- (e) Directing that the pursuit be terminated if, in his/her judgment, it is unjustified to continue the pursuit under the guidelines of this policy.
- (f) Ensuring that aircraft are requested if available.
- (g) Ensuring that the proper radio channel is being used.
- (h) Ensuring the notification and/or coordination of outside agencies if the pursuit either leaves or is likely to leave the jurisdiction of this agency.
- (i) Controlling and managing IPD 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 shall 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 Chief.

#### **314.5 COMMUNICATIONS**

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

#### 314.5.1 COMMUNICATION CENTER RESPONSIBILITIES

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

- (a) Notify the Watch Commander or Field Supervisor and receive an on-air acknowledgment.
- (b) Coordinate pursuit communications of the involved units and personnel.
- (c) Notify and coordinate with other involved or affected agencies as practicable.
- (d) Assign an incident number and log all pursuit activities.
- (e) Broadcast pursuit updates as well as other pertinent information as necessary.

#### 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.

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#### **314.6 INTER-JURISDICTIONAL CONSIDERATIONS**

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

##### **314.6.1 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY**

Units originally involved will discontinue the pursuit when advised that another agency has assumed the pursuit and assistance of the Indio 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 will be responsible for conducting the pursuit. Units from this department shall not join a pursuit unless specifically requested to do so by the agency whose officers are in pursuit. The exception to this is when a single unit from the initiating agency is in pursuit. Under this circumstance, a unit from this department may join the pursuit until sufficient units from the initiating agency join the pursuit.

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

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

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As soon as practicable, a supervisor or the Watch Commander shall 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 practicable.

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

Use of pursuit intervention tactics will 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.

**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.

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**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 shall not utilize firearms during an ongoing pursuit unless the conditions and circumstances dictate that such use reasonably appears necessary to protect life. Nothing in this section shall be construed to prohibit any officer from using a firearm to stop a suspect from using a vehicle as a deadly weapon.

#### 314.7.4 INTERVENTION STANDARDS

Any pursuit intervention tactic, depending upon the conditions and circumstances under which it is used, may present dangers to the officers, the public or anyone in or on the vehicle being pursued. Certain applications of intervention tactics may be construed to be a use of deadly force and subject to the requirements for such use. Officers will 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 will be reserved for situations where there does not appear to be another reasonable alternative method. This policy is an administrative guide to direct officers in their decision-making process before



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ramming another vehicle. When ramming is used as a means to stop a fleeing vehicle, one or more of the following factors should be present:

1. The suspect is an actual or suspected felon who reasonably appears to represent a serious threat to the public if not apprehended.
  2. The suspect is driving with willful or wanton disregard for the safety of other persons or is driving in a reckless and life-endangering manner.
  3. If there does not reasonably appear to be a present or immediately foreseeable serious threat to the public, the use of ramming is not authorized.
- (d) As with all intervention techniques, pursuing officers will 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 will 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 will 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 will not be deployed without prior approval of a supervisor and only then under extraordinary conditions when all other reasonable intervention techniques have failed or reasonably appear ineffective and the need to immediately stop the pursued vehicle substantially outweighs the risks of injury or death to occupants of the pursued vehicle, officers or other members of the public.

#### **314.7.5 CAPTURE OF SUSPECTS**

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

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

#### **314.8 REPORTING REQUIREMENTS**

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

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

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- (b) The Watch Commander shall ensure that an Allied Agency Vehicle Pursuit Report (form CHP 187A) is filed with the CHP not later than 30 days following the pursuit (Vehicle Code § 14602.1). The primary officer should complete as much of the required information on the form as is known and forward the report to the Watch Commander for review and distribution.
- (c) The Watch Commander will ensure a Blue Team entry is initiated prior to the conclusion of their shift.
- (d) Blue Team investigations will be completed within 10 calendar days from the date of the incident by line level supervisor and forwarded to a lieutenant or next level supervisor. The lieutenant/next level supervisor must complete their review within 10 calendar days from receiving the investigation from the investigating supervisor. The lieutenant/next level supervisor then forwards the completed review to their Assistant Chief. The Assistant Chief will complete his or her review and provide a recommendation to the Chief of Police. An employee must receive an extension from their supervisor in order to exceed the 10-day timeline.
- (e) The following information should be included in the completed Blue Team entry:
  - 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), including arrestee information if applicable
  - 7. Injuries and/or property damage
  - 8. Medical treatment
  - 9. Name of supervisor at scene
  - 10. What supervisory control they exercised over the pursuit
  - 11. A preliminary determination whether the pursuit appears to be in compliance with this policy and whether additional review or follow-up is warranted

#### 314.8.1 REGULAR AND PERIODIC PURSUIT TRAINING

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

#### 314.8.2 POLICY REVIEW

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

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equivalent form, may be used to document the compliance and should be retained in the member's training file.

#### **314.9 APPLICATION OF VEHICLE PURSUIT POLICY**

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

## Officer Response to Calls

### 316.1 PURPOSE AND SCOPE

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

### 316.2 RESPONSE TO CALLS

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

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

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

### 316.3 REQUESTING EMERGENCY ASSISTANCE

Requests for emergency assistance should be limited to those situations where the involved personnel reasonably believe that there is an immediate threat to the safety of officers, or assistance is needed to prevent imminent serious harm to a citizen. In any event, where a situation has stabilized and emergency response is not required, the requesting officer shall immediately notify the Dispatch 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 Dispatch Center. Generally, only one unit should respond Code-3 to any situation. Should another officer believe a Code-3 response is appropriate, the Dispatch 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 Dispatch 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,

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the circumstances require additional units to be assigned a Code-3 response, the supervisor may do so.

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

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

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

#### **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.

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## Burglary Alarm Response Tactic (B.A.R.T.)

### 317.1 PURPOSE AND SCOPE

The decision to implement a burglary / intrusion alarm response policy is based upon the immediate need to more efficiently use the limited resources we have in the Indio Police Department. Our situation in Indio requires that we implement an enhanced alarm response policy to be known as the Burglary Alarm Response Tactic (B.A.R.T.). It is anticipated that this policy change will cause a more rapid police response to those alarms that demand police attention, while removing thousands of false alarms from the response queues.

### 317.2 POLICY

Due to the high number of false burglary/property intrusion alarms, the Indio Police Department will no longer routinely respond to burglary alarms unless additional information is received to corroborate the validity of the alarm. Police response is mandated whenever the alarm company, or some other source, can corroborate the alarm was tripped as the result of criminal activity or other police emergency. This policy does not change the response to panic, duress, medical or robbery alarms.

### 317.3 DEFINITIONS

**Corroborated Alarm:** Means onsite corroboration by a responder to determine whether or not a police response to a property/intrusion/burglar alarm due to a crime, attempted crime, or other emergency occurring at the premises protected by an alarm is warranted. Corroboration of a crime or emergency may be done through the use of an audio and video combination system monitored by the alarm system monitoring company. Witness reports of glass breakage, suspicious persons in the area of the alarm, suspects observed entering the business/residence, or if an outside sensor activation, such as a door or window, coupled with an interior motion sensor activation, should be considered corroboration of the alarm.

There may also be any other events or circumstances that indicate the alarm may be valid which include, but are not limited to, recent criminal activity in the area and/or no history of false alarms.

Examples include:

- (a) Audio feedback alarms where the monitoring company has heard evidence of criminal activity.
- (b) If responsible party is at the scene and requests a walk through by police officers then 2 officers will be dispatched depending on current activity levels and if we are responding to priority three calls at the time of the request.
- (c) Video feedback alarm location showing evidence of possible criminal activity.
- (d) Verification that a crime has occurred by a guard service that has responded to the location.

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### *Burglary Alarm Response Tactic (B.A.R.T.)*

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#### **317.4 PROCEDURE**

When dispatch receives a call of a burglary or intrusion alarm, the Dispatcher shall obtain as much information as possible from the alarm monitoring company to determine if there is enough corroborating information meeting the requirements of a police response.

##### **317.4.1 COMMUNICATIONS**

- (a) If the information received fits the verification criteria, two officers or a K-9 Officer (if available) should be dispatched to respond.
- (b) If there is an outside sensor activation, such as a door or window, coupled with an interior motion sensor activation, the alarm shall be dispatched as priority 3 call and two officers or a K-9 Officer (if available) should be dispatched to respond.
- (c) If the information received does not fit the verification criteria, the call will be classified as a priority 3 call and dispatched as a BOLO and the dispatcher will advise the alarm company that the alarm will be broadcast only. The purpose of the BOLO for unverified alarms is to make officers aware of the activation of an alarm in their assigned beat.

##### **317.4.2 OFFICER'S CONSIDERATIONS**

- (a) Officers may, at their discretion, respond to the alarm, if time permits.
- (b) Officers should pay particular attention to uncorroborated alarms where the BOLO indicates that a responsible party from the business will be responding to the location and/or if the alarm is in a location that has a recent history or crimes related to theft, burglary, attempted burglary, or trespassing.
- (c) Officers should consider their knowledge and history of false alarms at the location, the current patterns of burglaries in the area, and other intelligence information when considering a response to check the location of the BOLO.

##### **317.4.3 ALARM DISPOSITIONS**

- (a) If the circumstances surrounding the alarm activation does not meet the criteria outlined in 317.4.1 and there is no response by an officer after approximately 15 to 30 minutes, the Dispatcher will enter a "No Officer Response" disposition to close out the call.
- (b) If an Officer responding on an alarm deems the alarm to be false, the Officer advises the Dispatcher to end the call with the disposition code "False Alarm" and no report is required.
- (c) If the call is a verified crime then Dispatch will enter the call under the type of crime, i.e. 459 PC, 594 PC.
- (d) If an outside party calls in an alarm which does not meet the B.A.R.T. protocol, then Dispatch will enter the call as a BOLO (Code 60 alarm).

#### **317.5 FALSELY REPORTING AN ALARM**

The Indio Police Department will file charges with the Riverside County District Attorney's Office against any alarm or monitoring company who falsely reports a burglary alarm as a panic, duress,



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### *Burglary Alarm Response Tactic (B.A.R.T.)*

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robbery alarm or interior motion for the sole purpose of circumventing our B.A.R.T. policy, in violation of section 148.3 of the California Penal Code.

## Canines

### 318.1 PURPOSE AND SCOPE

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

### 318.2 POLICY

It is the policy of the Indio Police Department that teams of handlers and canines meet and maintain the appropriate proficiency to effectively and reasonably carry out legitimate law enforcement objectives.

### 318.3 ASSIGNMENT

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

### 318.4 CANINE SERGEANT

The Canine Sergeant shall be appointed by and directly responsible to the Field Services Division Lieutenant or the authorized designee.

The responsibilities of the Canine Sergeant include, but are not limited to:

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

### 318.5 REQUESTS FOR CANINE TEAMS

Field Services Division members are encouraged to request the use of a canine. Requests for a canine team from department units outside of the Field Services Division shall be reviewed by the Watch Commander.

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#### 318.5.1 OUTSIDE AGENCY REQUEST

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

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

#### 318.5.2 PUBLIC DEMONSTRATIONS

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

#### 318.6 APPREHENSION GUIDELINES

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

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

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

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

Use of a canine to locate and apprehend a suspect wanted for a lesser criminal offense than those identified above requires approval from the Watch Commander. Absent a change in circumstances that presents an imminent threat to officers, the canine or the public, such canine use should

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be conducted on-leash or under conditions that minimize the likelihood the canine will bite or otherwise injure the individual.

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

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

#### 318.6.1 PREPARATION FOR DEPLOYMENT

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

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

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

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

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

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

#### 318.6.2 WARNINGS AND ANNOUNCEMENTS

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

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

#### **318.6.3 REPORTING DEPLOYMENTS, BITES AND INJURIES**

Whenever a canine deployment results in a bite or causes injury to an intended suspect, a supervisor should be promptly notified and the injuries documented in a canine use report. The canine handler will document their use of force on approved bite report forms. The Canine Sergeant will be responsible for completing a Blue Team entry within 5 days of the deployment incident. The injured person shall be promptly treated by emergency medical services personnel and, if appropriate, transported to an appropriate medical facility for further treatment. The deployment and injuries should also be included in any related incident or arrest report.

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

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

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

#### **318.7 NON-APPREHENSION GUIDELINES**

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

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

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- (c) Throughout the deployment, the handler should periodically give verbal assurances that the canine will not bite or hurt the individual and encourage the individual to make him/herself known.
- (d) Once the individual has been located, the handler should place the canine in a down-stay or otherwise secure it as soon as reasonably practicable.

#### 318.7.1 ARTICLE DETECTION

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

#### 318.7.2 NARCOTICS DETECTION

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

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

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

#### 318.7.3 BOMB/EXPLOSIVE DETECTION

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

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

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

### 318.8 HANDLER SELECTION

The minimum qualifications for the assignment of canine handler include:

- (a) An officer who is currently off probation.

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- (b) Residing in an adequately fenced, single-family residence (minimum 5-foot high fence with locking gates).
- (c) A garage or off street parking location that can accommodate a canine vehicle.
- (d) Living within 60 minutes travel time from the Indio City limits.
- (e) Agreeing to be assigned to the position for a minimum of five years or the service life of the dog.

#### **318.9 HANDLER RESPONSIBILITIES**

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

The canine handler will be responsible for the following:

- (a) Except as required during appropriate deployment, the handler shall not expose the canine to any foreseeable and unreasonable risk of harm.
- (b) The handler shall maintain all department equipment under his/her control in a clean and serviceable condition.
- (c) When not in service, the handler shall maintain the canine vehicle in accordance with IPD Vehicle Use Policy 706.
- (d) Handlers shall permit the canine coordinator to conduct spontaneous on-site inspections of affected areas of their homes as well as their canine vehicles to verify that conditions and equipment conform to this policy.
- (e) Any changes in the living status of the handler that may affect the lodging or environment of the canine shall be reported to the canine coordinator as soon as possible.
- (f) When off-duty, the canine shall be in a kennel provided by the City at the home of the handler. When a canine is kenneled at the handler's home, the kennel gate shall be secured with a lock. When off-duty, the canine may be let out of the kennel while under the direct control of the handler. The canine may reside in a crate inside the handler's residence when weather conditions do not allow for the canine to be kenneled outdoors.
- (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 canine coordinator or Watch Commander.
- (i) When off-duty, the handler shall not involve the canine in any law enforcement activity or official conduct unless approved in advance by the canine coordinator or Watch Commander.
- (j) Whenever a canine handler is off-duty for an extended number of days, it may be necessary to temporarily relocate the canine. In those situations, the handler shall

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give reasonable notice to the canine coordinator so that appropriate arrangements can be made.

#### **318.9.1 CANINE IN PUBLIC AREAS**

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

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

#### **318.10 HANDLER COMPENSATION**

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

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

#### **318.11 CANINE INJURY AND MEDICAL CARE**

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

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

#### **318.12 TRAINING**

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

The Canine Sergeant shall be responsible for scheduling periodic training for all department members in order to familiarize them with how to conduct themselves in the presence of department canines. Because canines may be exposed to dangerous substances such as opioids, as resources are available, the canine coordinator should also schedule periodic training for the canine handlers about the risks of exposure and treatment for it.

All canine training should be conducted while on-duty unless otherwise approved by the Canine Sergeant or Watch Commander.



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#### 318.12.1 CONTINUED TRAINING

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

- (a) Canine teams should receive training as defined in the current contract with the Indio Police Department canine training provider.
- (b) Canine handlers are encouraged to engage in additional training with approval of the Canine Sergeant.
- (c) To ensure that all training is consistent, no handler, trainer or outside vendor is authorized to train to a standard that is not reviewed and approved by this department.

#### 318.12.2 FAILURE TO SUCCESSFULLY COMPLETE TRAINING

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

#### 318.12.3 TRAINING RECORDS

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

#### 318.12.4 TRAINING AIDS

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

#### 318.12.5 CONTROLLED SUBSTANCE TRAINING AIDS

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

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

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

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

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#### 318.12.6 CONTROLLED SUBSTANCE PROCEDURES

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

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

#### 318.12.7 EXPLOSIVE TRAINING AIDS

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

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

- (a) All explosive training aids, when not in use, shall be properly stored in a secure facility appropriate for the type of materials.
- (b) An inventory ledger shall be maintained to document the type and quantity of explosive training aids that are stored.
- (c) The canine coordinator shall be responsible for verifying the explosive training aids on hand against the inventory ledger once each quarter.
- (d) Only members of the canine team shall have access to the explosive training aids storage facility.

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- (e) A primary and secondary custodian will be designated to minimize the possibility of loss of explosive training aids during and after the training. Generally, the handler will be designated as the primary custodian while the trainer or authorized second person on-scene will be designated as the secondary custodian.
- (f) Any lost or damaged explosive training aids shall be promptly reported to the canine coordinator, who will determine if any further action will be necessary. Any loss of explosives will be reported to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).

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## Domestic Violence

### 320.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic violence through vigorous enforcement and to address domestic violence as a serious crime against society. The policy specifically addresses the commitment of this department to take enforcement action when appropriate, to provide assistance to victims and to guide officers in the investigation of domestic violence. In addition, this policy shall establish procedures to be followed by law enforcement officers in response to domestic violence calls, to include when the subject is a police agency employee.

#### 320.1.1 DEFINITIONS

Definitions related to this policy include:

1. **Court order** - All forms of orders related to domestic violence that have been issued by a court of this state or another, whether civil or criminal, regardless of whether service has been made.
2. **Domestic Violence**: Abusive behavior in any relationship, as defined by law, that is used to gain or maintain power and control over an intimate partner or family or household member.
3. **Intimate Partners or Family or Household Members**: Persons who are married, were formerly married, in a domestic partnership, or are or were in a romantic or dating relationship; have a child in common; have been intimately involved in some way.
4. **Predominant Aggressor**: The individual who poses the most serious, ongoing threat, who might not necessarily be the initial aggressor in a specific incident.
5. **Preferred Arrest Response**: Law enforcement officers are expected to arrest any person who commits a crime related to domestic violence as defined by law, unless there is a clear and compelling reason not to arrest, such as self defense or lack of probable cause, after a comprehensive investigation to identify the predominant aggressor.

### 320.2 POLICY

The Indio Police Department's response to incidents of domestic violence and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is criminal behavior. It is also the policy of this department to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

### 320.3 OFFICER SAFETY

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

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#### **320.4 INVESTIGATIONS**

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

- (a) Calls of reported, threatened, imminent or ongoing domestic violence and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls.
- (b) When practicable, officers should obtain and document statements from the victim, the suspect and any witnesses, including children, in or around the household or location of occurrence.
- (c) Officers should list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other children who may not have been in the house at that particular time should also be obtained for follow-up.
- (d) When practicable and legally permitted, video or audio record all significant statements and observations.
- (e) All injuries shall be photographed, regardless of severity, taking care to preserve the victim's personal privacy. Where practicable, photographs should be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the Major Crimes Unit or Street Crimes Unit investigating officer the following day in the event that the injuries later become visible.
- (f) Officers should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.
- (g) If the suspect is no longer at the scene, officers should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement and make an arrest or seek an arrest warrant if appropriate.
- (h) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence. If the domestic violence involved threats of bodily harm, any firearm discovered in plain view or pursuant to consent or other lawful search must be taken into temporary custody (Penal Code § 18250).
- (i) When completing an incident or arrest report for violation of a court order, officers should include specific information that establishes that the offender has been served, including the date the offender was served, the name of the agency that served the order and the provision of the order that the subject is alleged to have violated. When reasonably available, the arresting officer should attach a copy of the order to the incident or arrest report.
- (j) Officers should take appropriate enforcement action when there is probable cause to believe an offense has occurred. Factors that should not be used as sole justification for declining to take enforcement action include:
  1. Marital status of suspect and victim.
  2. Whether the suspect lives on the premises with the victim.
  3. Claims by the suspect that the victim provoked or perpetuated the violence.
  4. The potential financial or child custody consequences of arrest.

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5. The physical or emotional state of either party.
  6. Use of drugs or alcohol by either party.
  7. Denial that the abuse occurred where evidence indicates otherwise.
  8. A request by the victim not to arrest the suspect.
  9. Location of the incident (public/private).
  10. Speculation that the complainant may not follow through with the prosecution.
  11. The racial, cultural, social, professional position or sexual orientation of the victim or suspect.
- (k) If the suspect is no longer at the scene, officers shall make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement and make an arrest or seek an arrest warrant if appropriate.

#### **320.4.1**

Investigating Officers shall;

1. Avoid parking law enforcement vehicles in front of the residence or other site of the disturbance when possible.
2. When initially approaching the scene, indicate that they are responding to a call for service, without revealing the name of the caller or the caller's whereabouts.
3. Request entry into the residence as a courtesy as it is a private residence. A warrantless entry is permissible if there is an objectively reasonable basis to believe that the safety of an occupant may be in jeopardy.
4. Make contact with all individuals present, including potential witnesses, victims, or perpetrator(s); separate all parties, keeping all individuals out of sight and hearing range of one another as safety permits.
5. Restrain and remove the suspect if necessary.
6. Assess for physical injuries, including inquiry about strangulation or possible internal, nonvisible injuries, and sexual violence; administer first aid; and request medical services as necessary.
7. Summon emergency medical services at the request of the victim or suspect, or if it appears that strangulation has occurred.
8. Inquire about weapons in the area or access to weapons; identify and take temporary custody of firearms or weapons in plain sight.
9. Determine whether there are any potential language barriers and request an interpreter where necessary.
10. Offer to contact a local advocate to provide support to the victim as available and provide a list of current contact information for local domestic violence victim advocacy organization

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11. Inform the victim in advance of actions to be taken.
12. Conduct victim interviews in a location away from others at the scene.
13. Take photographs of the victim and suspect whether or not there are any visible injuries.
14. Take photographs of injuries to all parties, including any healing or old injuries.
15. Collect evidence to establish the facts of the crime.
16. Check for the existence of a protection order or similar court orders through communications personnel or by whatever means available. If one is said to exist, ask the victim if they possess a copy. If not, verify the order through other means.
17. Obtain a comprehensive account of the events from all parties. Whenever reasonable and practical, interviews shall be recorded. However, if the victim or witness indicates that they do not wish to be recorded, this should be documented in the officer's report and the recording should stop if permitted by policy and law.
18. Interview children at the scene in a manner appropriate to their age. Document any signs of trauma and any apparent wounds or healing of wounds on the children and take appropriate action, in accordance with law, to prevent imminent harm to the children, such as notifying child protective services.
19. Assess for and document all actual and suspected incidents of violence, including physical and sexual abuse, elder or child abuse, property damage, and animal cruelty.

#### **320.4.2**

##### OFFICERS SHALL NOT DO THE FOLLOWING:

1. Make any statement that would discourage a victim from reporting an act of domestic violence.
2. Threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage future requests for intervention by law enforcement personnel.
3. Avoid taking action or writing a documentation report because the victim stated prosecution was not desired.

#### **320.4.3**

##### The on duty Supervisor should do the following:

1. Respond to assist officers investigating incidents of domestic violence when requested by an officer or whenever the incident appears to involve a law enforcement officer, prominent community member, or public official.
2. If responding, supervise the on-scene investigation, if not already completed, to ensure that appropriate action is taken.
3. Review all domestic violence reports for accuracy and consistency.

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4. Assess for co-occurring and interconnected crimes when responding to domestic violence, to include but not be limited to stalking, sexual violence, strangulation, firearms prohibitions, protection order violations, intimidation and threats, and abuse of children, elders, and animals to ensure appropriate criminal charges are documented and filed in criminal complaints.

#### **320.4.4**

Domestic Violence by police agency personnel:

- In cases where one (or more) party of a reported domestic violence incident is a law enforcement employee, responding officers shall follow standard domestic violence procedures as outlined in this policy, regardless of jurisdiction.
- In addition, the following procedures shall be followed:
  1. When communications personnel receive a call that involves or appears to involve a law enforcement employee, they shall immediately notify a dispatch supervisor, regardless of the involved individual's jurisdiction, and
  2. notify responding officers that the call involves a law enforcement officer.
  3. If previously unaware that the call for service involves a law enforcement employee, responding officer(s) shall immediately notify communications personnel and request that a watch commander report to the scene, regardless of the involved officer's jurisdiction.
  4. The on-scene supervisor shall notify the Field Services Division Chief.
  5. In the event that the reported incident involves the chief executive of a law enforcement agency, the appropriate prosecutors and the individual with direct oversight of the accused individual shall be notified.
  6. All notifications and attempts to notify shall be fully documented.
  7. Arrest warrants charging law enforcement officers with domestic violence and protective orders issued at a later time shall be served by no fewer than two officers with at least one being of senior rank to the officer being served.
  8. In cases where an accused officer is arrested and firearms have not previously been seized, firearms shall be seized with an appropriate court order.
  9. A supervisor shall relieve the accused officer of all service weapons regardless of whether the officer is a member of the responding agency.
  10. If the accused officer is a member of an agency in another jurisdiction, the service weapon shall be relinquished to officials at that agency.
  11. The agency policy regarding administrative investigations of alleged misconduct shall be followed.

#### **320.4.5 IF A SUSPECT IS ARRESTED**

- (a) If a suspect is arrested, officers should:
- (b) Advise the victim that there is no guarantee the suspect will remain in custody.



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- (c) Provide the victim's contact information to the jail staff to enable notification of the victim upon the suspect's release from jail.
- (d) Advise the victim whether any type of court order will be in effect when the suspect is released from jail.

#### **320.4.6 IF NO ARREST IS MADE**

If no arrest is made, the officer should:

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

#### **320.5 VICTIM ASSISTANCE**

Victims may be traumatized or confused. Officers should:

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

An officer shall advise an individual protected by a Canadian domestic violence protection order of available local victim services (Family Code § 6452).

#### **320.6 DISPATCH ASSISTANCE**

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

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

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When a caller reports a domestic violence incident, communications personnel should follow standard agency protocols. In addition, communications personnel shall do the following:

1. Dispatch a minimum of two officers whenever possible.
2. Assign a priority response whether or not the suspect is known to be on the premises.
3. Document the call and action taken for the call, including those that involve or appear to involve a law enforcement officer.
4. Attempt to elicit any and all information from the caller that may help the responding and investigating officer(s) assess the situation, including the following:
  - a. The immediate safety of the caller and those at the scene
  - b. Other persons involved or witnesses at the scene, including children
  - c. The suspect's relationship to the victim
  - d. Whether law enforcement has been called before because of this suspect and the number of times
  - e. Previous history of domestic violence
  - f. Presence of firearms or other weapons
5. Ascertain if either the suspect or victim has any outstanding warrants or is on probation or parole.
6. Determine whether there is a valid protection order against the suspect or whether there have been orders in the past.
7. Whenever possible and when it will not jeopardize the individual's safety, keep the caller on the line in order to relay ongoing information to the responding officer(s). An alternative may be to ask the caller to place the phone down but leave the line open if possible and safe to do so.
8. If a caller requests that law enforcement response be cancelled, advise the responding officer(s) of the second call. Officers should continue to respond, investigate, and assess the situation to ensure that all parties are safe.

#### **320.7 FOREIGN COURT ORDERS**

Various types of orders may be issued in domestic violence cases. Any foreign court order properly issued by a court of another state, Indian tribe, or territory shall be enforced by officers as if it were the order of a court in this state. An order should be considered properly issued when it reasonably appears that the issuing court has jurisdiction over the parties and reasonable notice and opportunity to respond was given to the party against whom the order was issued (18 USC § 2265). An otherwise valid out-of-state court or foreign order shall be enforced, regardless of whether the order has been properly registered with this state (Family Code § 6403).

Canadian domestic violence protection orders shall also be enforced in the same manner as if issued in this state (Family Code § 6452).

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#### **320.8 VERIFICATION OF COURT ORDERS**

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

- (a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.
  - 1. If a determination is made that a valid foreign order cannot be enforced because the subject has not been notified or served the order, the officer shall inform the subject of the order, make a reasonable effort to serve the order upon the subject, and allow the subject a reasonable opportunity to comply with the order before enforcing the order. Verbal notice of the terms of the order is sufficient notice (Family Code § 6403).
- (b) Check available records or databases that may show the status or conditions of the order.
  - 1. Registration or filing of an order in California is not required for the enforcement of a valid foreign order (Family Code § 6403).
- (c) Contact the issuing court to verify the validity of the order.
- (d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

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

#### **320.9 LEGAL MANDATES AND RELEVANT LAWS**

California law provides for the following:

##### **320.9.1 STANDARDS FOR ARRESTS**

Officers investigating a domestic violence report should consider the following:

- (a) An arrest should be made when there is probable cause to believe that a felony or misdemeanor domestic violence offense has been committed (Penal Code § 13701). Any decision to not arrest an adult when there is probable cause to do so requires supervisor approval.
  - 1. Officers are only authorized to make an arrest without a warrant for a misdemeanor domestic violence offense if the officer makes the arrest as soon as probable cause arises (Penal Code § 836).
- (b) An officer responding to a domestic violence call who cannot make an arrest will advise the victim of his/her right to make a private person's arrest. The advisement should be made out of the presence of the suspect and shall include advising the victim how to safely execute the arrest. Officers shall not dissuade victims from making a lawful private person's arrest. Officers should refer to the provisions in the Private Persons

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Arrests Policy for options regarding the disposition of private person's arrests (Penal Code § 836(b)).

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

### 320.9.2 COURT ORDERS

- (a) An officer who obtains an emergency protective order from the court shall serve it on the restrained person if the person can be reasonably located, and shall provide the person protected or the person's parent/guardian with a copy of the order. The officer shall file a copy with the court as soon as practicable and shall have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice (Family Code § 6271; Penal Code § 646.91).
- (b) At the request of the petitioner, an officer at the scene of a reported domestic violence incident shall serve a court order on a restrained person (Family Code § 6383; Penal Code § 13710).

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- (c) Any officer serving a protective order that indicates that the respondent possesses weapons or ammunition shall request that the firearm/ammunition be immediately surrendered (Family Code § 6389(c)(2)).
- (d) During the service of a protective order any firearm discovered in plain view or pursuant to consent or other lawful search shall be taken into temporary custody (Penal Code § 18250).
- (e) If a valid Canadian order cannot be enforced because the person subject to the order has not been notified or served with the order, the officer shall notify the protected individual that reasonable efforts shall be made to contact the person subject to the order. The officer shall make a reasonable effort to inform the person subject to the order of the existence and terms of the order and provide him/her with a record of the order, if available, and shall allow the person a reasonable opportunity to comply with the order before taking enforcement action (Family Code § 6452).

#### 320.9.3 PUBLIC ACCESS TO POLICY

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

#### 320.9.4 REPORTS AND RECORDS

- (a) A written report shall be completed on all incidents of domestic violence. All such reports should be documented on the appropriate form, which includes information and notations specific to domestic violence incidents as required by Penal Code § 13730.
- (b) Reporting officers should provide the victim with the case number of the report. The case number may be placed in the space provided on the domestic violence victim information handout provided to the victim. If the case number is not immediately available, an explanation should be given regarding how the victim can obtain the information at a later time.
- (c) Officers who seize any firearm or other deadly weapon in a domestic violence incident shall issue the individual possessing such weapon a receipt that includes the name and residential mailing address of the owner or person who possessed the weapon and notice of where the weapon may be recovered, along with the applicable time limit for recovery (Penal Code § 18250; Penal Code § 18255; Penal Code § 33800; Family Code § 6389(c)(2)).

#### 320.9.5 RECORD-KEEPING AND DATA COLLECTION

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

#### **320.9.5(a) Collaboration and Training**

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1. This agency will establish or maintain ongoing partnerships with local community stakeholders to included:

- (a) victim -witness services
- (b) Shelter from the Storm
- (c) Riverside County District Attorney's office and
- (d) any additional victim advocacy organizations to develop a holistic approach to responding to victims of domestic violence and ensure they are notified of all available resources.

2. The training division supervisor or their designee shall ensure that patrol personnel shall receive comprehensive mandatory instruction on this policy in addition to on going briefing training from (a) victim -witness services, (b) shelter from the storm, (c) Riverside County District Attorney's office and (d) any additional victim advocacy organizations an annual basis.

#### **320.9.6 DECLARATION IN SUPPORT OF BAIL INCREASE**

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

#### **320.10 STANDARDS FOR ARRESTS**

Officers investigating a domestic violence report should consider the following:

- (a) An arrest should be made when there is probable cause to believe that a felony or misdemeanor domestic violence offense has been committed (Penal Code § 13701). Any decision to not arrest an adult when there is probable cause to do so requires supervisor approval.
  - 1. Officers are only authorized to make an arrest without a warrant for a misdemeanor domestic violence offense if the officer makes the arrest as soon as probable cause arises (Penal Code § 836).
- (b) An officer responding to a domestic violence call who cannot make an arrest will advise the victim of the victim's right to make a private person's arrest. The advisement should be made out of the presence of the suspect and shall include advising the victim how to safely execute the arrest. Officers shall not dissuade victims from making a lawful private person's arrest. Officers should refer to the provisions in the Private Persons Arrests Policy for options regarding the disposition of private person's arrests (Penal Code § 836(b)).
- (c) Officers shall not cite and release a person for the following offenses (Penal Code § 853.6(a)(3)):
  - 1. Penal Code § 243(e)(1) (battery against spouse, cohabitant)

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2. Penal Code § 273.5 (corporal injury on spouse, cohabitant, fiancé/fiancée, person of a previous dating or engagement relationship, mother/father of the offender's child)
  3. Penal Code § 273.6 (violation of protective order) if violence or threats of violence have occurred or the suspect has gone to the workplace or residence of the protected party
  4. Penal Code § 646.9 (stalking)
  5. Other serious or violent felonies specified in Penal Code § 1270.1
- (d) In responding to domestic violence incidents, including mutual protective order violations, officers should generally be reluctant to make dual arrests. Officers shall make reasonable efforts to identify the dominant aggressor in any incident. The dominant aggressor is the person who has been determined to be the most significant, rather than the first, aggressor (Penal Code § 13701). In identifying the dominant aggressor, an officer shall consider:
1. The intent of the law to protect victims of domestic violence from continuing abuse.
  2. The threats creating fear of physical injury.
  3. The history of domestic violence between the persons involved.
  4. Whether either person acted in self-defense.
- (e) An arrest shall be made when there is probable cause to believe that a violation of a domestic violence court order has been committed (Penal Code § 13701; Penal Code § 836), regardless of whether the offense was committed in the officer's presence. After arrest, the officer shall confirm that a copy of the order has been registered, unless the victim provides a copy (Penal Code § 836).

#### **320.11 REPORTS AND RECORDS**

- (a) A written report shall be completed on all incidents of domestic violence. All such reports should be documented on the appropriate form, which includes information and notations specific to domestic violence incidents as required by Penal Code § 13730.
- (b) Reporting officers should provide the victim with the case number of the report. The case number may be placed in the space provided on the domestic violence victim information handout provided to the victim. If the case number is not immediately available, an explanation should be given regarding how the victim can obtain the information at a later time.
- (c) Officers who seize any firearm, ammunition, or other deadly weapon in a domestic violence incident shall issue the individual possessing such weapon a receipt that includes the name and residential mailing address of the owner or person who possessed the weapon and notice of where the weapon may be recovered, along with the applicable time limit for recovery (Penal Code § 18250; Penal Code § 18255; Penal Code § 33800; Family Code § 6389(c)).

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#### **320.12 RECORD-KEEPING AND DATA COLLECTION**

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

#### **320.13 SERVICE OF COURT ORDERS**

- (a) An officer who obtains an emergency protective order from the court shall serve it on the restrained person if the person can be reasonably located and shall provide the person protected or the person's parent/guardian with a copy of the order. The officer shall file a copy with the court as soon as practicable and shall have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice (Family Code § 6271; Penal Code § 646.91).
- (b) A temporary restraining order, emergency protective order, or an order issued after a hearing shall, at the request of the petitioner, be served on the restrained person by an officer who is present at the scene of a reported domestic violence incident or when the officer receives a request from the petitioner to provide service of the order (Family Code § 6383; Penal Code § 13710).
- (c) Any officer serving a protective order that indicates that the respondent possesses weapons or ammunition shall request that the firearm/ammunition be immediately surrendered (Family Code § 6389(c)).
- (d) During the service of a protective order any firearm discovered in plain view or pursuant to consent or other lawful search shall be taken into temporary custody (Penal Code § 18250).
  - 1. An officer should ensure that the Records Bureau is notified of any firearm obtained for entry into the Automated Firearms System (Family Code § 6383) (see the Records Bureau Policy for additional guidance).
- (e) If a valid Canadian order cannot be enforced because the person subject to the order has not been notified or served with the order, the officer shall notify the protected individual that reasonable efforts shall be made to contact the person subject to the order. The officer shall make a reasonable effort to inform the person subject to the order of the existence and terms of the order and provide the person with a record of the order, if available, and shall allow the person a reasonable opportunity to comply with the order before taking enforcement action (Family Code § 6452).

#### **320.14 PUBLIC ACCESS TO POLICY**

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



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#### **320.15 DECLARATION IN SUPPORT OF BAIL INCREASE**

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

#### **320.16 DOMESTIC VIOLENCE DEATH REVIEW TEAM**

This department should cooperate with any interagency domestic violence death review team investigation. Written and oral information relating to a domestic violence death that would otherwise be subject to release restrictions may be disclosed to the domestic violence death review team upon written request and approval of a supervisor (Penal Code § 11163.3).

## Search and Seizure

### 322.1 PURPOSE AND SCOPE

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

### 322.2 POLICY

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

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

### 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
- Parole / Probation compliance 4th amendment waiver

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

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

Whenever practicable, officers are encouraged to contact a supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.

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#### **322.4 SEARCH PROTOCOL**

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

- (a) Members of this department will strive to conduct searches with dignity, respect 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 unless there is an imminent and legitimate officer safety concern. 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 and you should record the search with your body worn camera.
  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
- If the search was recorded with a body worn camera

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.

#### **322.5 (a) TRAINING**

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- (a) Shift Supervisors in conjunction with the Police Training Specialist shall provide relevant training on search and seizure subjects to include but not limited to; (1) Legislative updates related to search and seizure and (2) Changes and updates in current relevant case law(s).
- (b) As part of the Police Training Specialist annual training-needs assessment of the Department (see Policy 208 & Policy 404), search and seizure applicable updates shall be incorporated to meet legal compliance and minimize any potential liability concerns to the department and its personnel. The needs assessment will be reviewed by training staff and the Investigative Services Lieutenant or their designee. Upon approval, the needs assessment will form the basis for the training plan for the fiscal year

#### **322.5 (b) SOURCES OF LEGAL UPDATES**

Personnel are encouraged to review the following sources for legal publications related to search and seizure but not limited to;

- (a) California Peace Officers' Legal Source book
- (b) California Peace Officers' Vehicle Code
- (c) California Peace Officers' Legal and Search & Seizure Field Source guide
- (d) [https://le.alcoda.org/publications/point\\_of\\_view/](https://le.alcoda.org/publications/point_of_view/)
- (e) <https://www.legalupdate.com/>

## Temporary Custody of Juveniles

### 324.1 PURPOSE AND SCOPE

This policy provides guidelines consistent with the Juvenile Justice and Delinquency Prevention Act for juveniles taken into temporary custody by members of the Indio Police Department (34 USC § 11133).

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

#### 324.1.1 DEFINITIONS

Definitions related to this policy include:

**Juvenile non-offender** - An abused, neglected, dependent, or alien juvenile who may be legally held for his/her own safety or welfare. This also includes any juvenile who may have initially been contacted for an offense that would not subject an adult to arrest (e.g., fine-only offense) but was taken into custody for his/her protection or for purposes of reuniting the juvenile with a parent, guardian, or other responsible person. Juveniles 11 years of age or younger are considered juvenile non-offenders even if they have committed an offense that would subject an adult to arrest.

**Juvenile offender** - A juvenile 12 to 17 years of age who is alleged to have committed an offense that would subject an adult to arrest (a non-status offense) (Welfare and Institutions Code § 602). It also includes an offense under Penal Code § 29610 for underage possession of a handgun or concealable firearm (28 CFR 31.303).

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

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

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

Examples of secure custody include:

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

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- (d) A juvenile being processed in a secure booking area when a non-secure booking area is available.
- (e) A juvenile left alone in a secure booking area after being photographed and fingerprinted.
- (f) A juvenile placed in a cell within the adult temporary holding area, whether or not the cell door is locked.
- (g) A juvenile placed in a room that is capable of being locked or contains a fixed object designed for cuffing or restricting movement.

**Sight and sound separation** - Located or arranged to prevent physical, visual, or auditory contact that is more than brief or inadvertent.

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

#### **324.2 POLICY**

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

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

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

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

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

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

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

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

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

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

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

#### **324.4 CUSTODY OF JUVENILES**

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

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

Any juvenile taken into custody shall be released to the care of the juvenile's parent or other responsible adult or transferred to a juvenile custody facility or to other authority as soon as practicable and in no event shall a juvenile be held beyond six hours from the time of his/her entry into the Indio Police Department (34 USC § 11133; Welfare and Institutions Code § 207.1).

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

Non-offenders taken into protective custody in compliance with the Child Abuse Policy should generally not be held at the Indio Police Department. Custodial arrangements should be made for non-offenders as soon as reasonably possible. Juvenile non-offenders shall not be held in secure custody (34 USC § 11133; Welfare and Institutions Code § 206).

Juveniles 11 years of age or younger who have committed an offense that would subject an adult to arrest may be held in non-secure custody for the offenses listed in Welfare and Institutions Code § 602(b) (murder and the sexual assault offenses) and should be referred to a probation officer for a placement determination (Welfare and Institutions Code § 602.1).

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

Status offenders should generally be released by citation or with a warning rather than taken into temporary custody. However, officers may take custody of a status offender if requested to do so by a parent or legal guardian in order to facilitate reunification (e.g., transported home or to

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the station to await a parent). Juvenile status offenders shall not be held in secure custody (34 USC § 11133).

#### **324.4.3 CUSTODY OF JUVENILE OFFENDERS**

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

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

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

A juvenile offender suspected of committing murder or a sex offense that may subject a juvenile to criminal jurisdiction under Welfare and Institutions Code § 707, or a serious or violent felony should be referred to a probation officer for a decision on further detention.

In all other cases the juvenile offender may be:

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

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

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

#### **324.4.4 TRANSPORTING A JUVENILE**

- (a) JUVENILE HALL - Arresting officers are responsible for transporting juveniles to juvenile hall, non-secure facilities, or foster homes.
- (b) Probation is responsible for issuing citations to juveniles taken to and released at Juvenile Hall to their family.
- (c) NON-SECURE FACILITY ("SAFE HOUSE") OR FOSTER HOME - When practicable, transportation to a non-secure facility ("SAFEHOUSE") or foster home shall be provided by the arresting officer.



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#### **324.4.5 INVESTIGATION OF STUDENT AT SCHOOL**

If an investigation involves the questioning or detention of a student under 18 years of age on school premises during school hours, the officer shall notify the Assigned School Resource Officer if there is one assigned, or Principal, Vice Principal or designee.

#### **324.4.6 INTERVIEWS AT SCHOOL**

During school hours and on school premises, officers have the legal right to interview suspects and witnesses who are students. Officers shall notify school officials of their intent prior to contacting the student. School officials are not required to be present.

#### **324.4.7 ARRESTS AT SCHOOL**

Whenever possible, school officials should be consulted before an arrest is made. Parental consent is not a prerequisite to arresting or questioning a minor, or removing him/her from school so as to accomplish these ends. The parents or guardians shall be notified of the arrest as soon as practicable.

#### **324.5 ADVISEMENTS**

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

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

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

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

#### **324.6 JUVENILE CUSTODY LOGS**

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

- (a) Identifying information about the juvenile.
- (b) Date and time of arrival and release from the Indio Police Department (15 CCR 1150).
- (c) Watch Commander notification and approval to temporarily hold the juvenile.

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- (d) Any charges for which the juvenile is being held and classification of the juvenile as a juvenile offender, status offender, or non-offender.
- (e) Any changes in status (e.g., emergency situations, unusual incidents).
- (f) Time of all safety checks.
- (g) Any medical and other screening requested and completed (15 CCR 1142).
- (h) Circumstances that justify any secure custody (Welfare and Institutions Code § 207.1; 15 CCR 1145).
- (i) Any other information that may be required by other authorities, such as compliance inspectors or a local juvenile court authority.

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

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

Sight and sound separation shall be maintained between all juveniles and adults while in custody at the Department (34 USC § 11133; Welfare and Institutions Code § 207.1; Welfare and Institutions Code § 208; 15 CCR 1144). There should also be sight and sound separation between non-offenders and juvenile and status offenders.

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

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

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

- (a) The Watch Commander should be notified if it is anticipated that a juvenile may need to remain at the Indio Police Department more than four hours. This will enable the Watch Commander to ensure no juvenile is held at the Indio Police Department more than six hours.
- (b) A staff member of the same sex shall supervise personal hygiene activities and care, such as changing clothing or using the restroom, without direct observation to allow for privacy.
- (c) Personal safety checks and significant incidents/activities shall be noted on the log.
- (d) Juveniles in custody are informed that they will be monitored at all times, except when using the toilet.
  1. There shall be no viewing devices, such as peep holes or mirrors, of which the juvenile is not aware.
  2. This does not apply to surreptitious and legally obtained recorded interrogations.

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- (e) Juveniles shall have reasonable access to toilets and wash basins (15 CCR 1143).
- (f) Food shall be provided if a juvenile has not eaten within the past four hours or is otherwise in need of nourishment, including any special diet required for the health of the juvenile (15 CCR 1143).
- (g) Juveniles shall have reasonable access to a drinking fountain or water (15 CCR 1143).
- (h) Juveniles shall have reasonable opportunities to stand and stretch, particularly if handcuffed or restrained in any way.
- (i) Juveniles shall have privacy during family, guardian and/or lawyer visits (15 CCR 1143).
- (j) Juveniles shall be permitted to remain in their personal clothing unless the clothing is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody (15 CCR 1143).
- (k) Blankets shall be provided as reasonably necessary (15 CCR 1143).
- (l) Adequate shelter, heat, light and ventilation should be provided without compromising security or enabling escape.
- (m) Juveniles shall have adequate furnishings, including suitable chairs or benches.
- (n) Juveniles shall have the right to the same number of telephone calls as an adult in temporary custody.
- (o) No discipline may be administered to any juvenile, nor may juveniles be subjected to corporal or unusual punishment, humiliation or mental abuse (15 CCR 1142).

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

Juvenile offenders may be handcuffed in accordance with the Handcuffing and Restraints Policy. A juvenile offender may be handcuffed at the Indio Police Department when the juvenile presents a heightened risk. However, non-offenders and status offenders should not be handcuffed unless they are combative or threatening (15 CCR 1142).

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

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

#### **324.10 PERSONAL PROPERTY**

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

The personal property of a juvenile should be placed in a property bag. The property should be inventoried in the juvenile's presence and sealed into the bag. The property should be kept in

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a monitored or secure location until the juvenile is released from the custody of the Indio Police Department.

#### **324.11 SECURE CUSTODY**

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

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

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

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

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

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

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

#### **324.11.1 LOCKED ENCLOSURES**

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

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

- (a) The juvenile shall constantly be monitored by an audio/video system during the entire custody.
- (b) Juveniles shall have constant auditory access to department members (15 CCR 1147).

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

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

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

The procedures will address:

- (a) Immediate notification of the on-duty supervisor, Chief of Police, and Investigative Services Division Supervisor.
- (b) Notification of the parent, guardian, or person standing in loco parentis of the juvenile.
- (c) Notification of the appropriate prosecutor.
- (d) Notification of the City attorney.
- (e) Notification to the coroner.
- (f) Notification of the juvenile court.
- (g) In the case of a death, providing a report to the Attorney General under Government Code § 12525 within 10 calendar days of the death, and forwarding the same report to the Board of State and Community Corrections within the same time frame (15 CCR 1046).
- (h) A medical and operational review of deaths and suicide attempts pursuant to 15 CCR 1046.
- (i) Evidence preservation.

#### **324.13 INTERVIEWING OR INTERROGATING JUVENILE SUSPECTS**

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

Prior to conducting a custodial interrogation, including the waiver of *Miranda* rights, an officer shall permit a juvenile 17 years of age or younger to consult with legal counsel in person, by

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telephone, or by video conference. The consultation may not be waived by the juvenile (Welfare and Institutions Code § 625.6).

Threats, physical harm, deception, or psychologically manipulative interrogation tactics shall not be used by an officer during a custodial interrogation of a juvenile (Welfare and Institutions Code § 625.7).

The requirements to consult with legal counsel or to refrain from the use of prohibited interrogation techniques do not apply when (Welfare and Institutions Code § 625.6; Welfare and Institutions Code § 625.7):

- (a) Information is necessary to protect life or property from an imminent threat.
  - 1. The questions are limited to what is reasonably necessary to obtain the information relating to the threat.

#### 324.13.1 MANDATORY RECORDINGS OF JUVENILES

Any interrogation of an individual under 18 years of age who is in custody and suspected of committing murder shall be audio and video recorded when the interview takes place at a department facility, jail, detention facility, or other fixed place of detention. The recording shall include the entire interview and a *Miranda* advisement preceding the interrogation (Penal Code § 859.5).

This recording is not mandatory when (Penal Code § 859.5):

- (a) Recording is not feasible because of exigent circumstances that are later documented in a report.
- (b) The individual refuses to have the interrogation recorded, including a refusal any time during the interrogation, and the refusal is documented in a report. If feasible, the refusal shall be electronically recorded.
- (c) The custodial interrogation occurred in another state by law enforcement officers of that state, unless the interrogation was conducted with the intent to avoid the requirements of Penal Code § 859.5.
- (d) The interrogation occurs when no member conducting the interrogation has a reason to believe that the individual may have committed murder. Continued custodial interrogation concerning that offense shall be electronically recorded if the interrogating member develops a reason to believe the individual committed murder.
- (e) The interrogation would disclose the identity of a confidential informant or would jeopardize the safety of an officer, the individual being interrogated, or another individual. Such circumstances shall be documented in a report.
- (f) A recording device fails despite reasonable maintenance and the timely repair or replacement is not feasible.
- (g) The questions are part of a routine processing or booking, and are not an interrogation.
- (h) The suspect is in custody for murder and the interrogation is unrelated to a murder. However, if any information concerning a murder is mentioned during the interrogation, the remainder of the interrogation shall be recorded.

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These recordings shall be retained until a conviction is final and all direct and habeas corpus appeals are exhausted, a court no longer has any jurisdiction over the individual, or the prosecution for that offense is barred (Penal Code § 859.5; Welfare and Institutions Code § 626.8).

#### **324.14 FORMAL BOOKING**

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

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

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

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

#### **324.15 RELEASE OF INFORMATION CONCERNING JUVENILES**

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

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

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

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

#### **324.17 RELIGIOUS ACCOMMODATION**

Juveniles have the right to the same religious accommodation as adults in temporary custody (see the Temporary Custody of Adults Policy).

## Senior and Disability Victimization

### 326.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation and reporting of suspected abuse of certain adults who may be more vulnerable than others. This policy also addresses mandatory notification for Indio Police Department members as required by law. All cases of abuse, neglect, or abandonment of elders, or dependent adults will be reported and coordinated with other agencies as required under Chapter 11 of the Welfare and Institutions Code.

#### 326.1(a) LAW

**Section 368 P.C.** - Elder or dependent adults; infliction of pain or mental suffering or endangering health; or embezzlement of property; penalties; definitions:

Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation such that his or her person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for two, three, four years.

#### 326.1.1 DEFINITIONS

Definitions related to this policy include:

**Abuse of an elder (age 65 or older) or dependent adult** - Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering; or the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering. Neglect includes self-neglect (Welfare and Institutions Code § 15610.05 et seq.; Penal Code § 368.5).

**Department protocols (or protocols)** - A procedure adopted by a local law enforcement agency consistent with the agency's organizational structure and stated in a policy adopted pursuant to this section, to effectively and accountably carry out a particular agency responsibility.

**Dependent adult** - An individual, regardless of whether the individual lives independently, between 18 and 64 years of age who has physical or mental limitations that restrict his/her ability to carry out normal activities or to protect his/her rights, including but not limited to persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. This also includes those admitted as inpatients to a 24-hour health facility, as defined in state law (Penal Code § 368; Welfare and Institutions Code § 15610.23).

**Elder and dependent adult abuse** - Any offense or attempted offense involving violence or neglect of an adult victim when committed by a person responsible for the adult's care, or any other



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act that would mandate reporting or notification to a social service agency or law enforcement (Penal Code § 368).

**Senior and disability victimization** - Means any of the following (Penal Code § 368.6):

- (a) Elder and dependent adult abuse
- (b) Unlawful interference with a mandated report
- (c) Homicide of an elder, dependent adult, or other adult or child with a disability
- (d) Sex crimes against elders, dependent adults, or other adults and children with disabilities
- (e) Child abuse of children with disabilities
- (f) Violation of relevant protective orders
- (g) Hate crimes against persons with actual or perceived disabilities, including but not limited to disabilities caused by advanced age, or those associated with them
- (h) Domestic violence against elders, dependent adults, and adults and children with disabilities, including disabilities caused by advanced age

#### **326.2 POLICY**

The Indio Police Department will investigate all reported incidents of alleged adult abuse and ensure proper reporting and notification as required by law.

##### **326.2.1 ARREST POLICY**

It is the department policy to make arrests or to seek arrest warrants for elder and dependent adult abuse in accordance with Penal Code § 836 and, in the case of domestic violence, as allowed by Penal Code § 13701 (Penal Code § 368.6) (see Law Enforcement Authority and Domestic Violence policies for additional guidance).

##### **326.2.2 ADHERENCE TO POLICY**

All officers are required to be familiar with the policy and carry out the policy at all times, except in the case of an unusual compelling circumstance as determined and approved by a supervisor (Penal Code § 368.6).

Any supervisor who determines and approves an officer's deviation from this policy shall provide a written report to the Chief of Police that states the unusual compelling circumstances regarding the deviation. A copy of this report will be made available to the alleged victim and reporting party pursuant to department protocols (Penal Code § 368.6(c)(27)).

The Chief of Police shall retain the report for a minimum of five years and shall make it available to the state protection and advocacy agency upon request (Penal Code § 368.6(c)(27)).

#### **326.3 INVESTIGATIONS AND REPORTING**

All reported or suspected cases of elder and dependent adult abuse require investigation and a report, even if the allegations appear unfounded or unsubstantiated (Penal Code § 368.6).

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Investigations and reports related to suspected cases of elder and dependent adult abuse should address, as applicable:

- (a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected elder and dependent adult abuse victim is contacted.
- (b) Any relevant statements the victim may have made and to whom he/she made the statements.
- (c) If a person is taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.
- (d) Documentation of any visible injuries or any injuries identified by the victim. This should include photographs of such injuries, if practicable.
- (e) Whether the victim was transported for medical treatment or a medical examination.
- (f) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other potential victims or witnesses who may reside in the residence.
- (g) Identification of any prior related reports or allegations of abuse, including other jurisdictions, as reasonably known.
- (h) Previous addresses of the victim and suspect.
- (i) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.
- (j) Witness and suspect statements if available.
- (k) Review of all portable audio/video recorders, devices, and other available video.
- (l) Call history related to the elder or dependent adult including calls from mandated reporters or other individuals.
- (m) Whether the abuse is related to a disability-bias hate crime and related bias motivations (Penal Code § 368.6) (see the Hate Crimes Policy for additional guidance).
- (n) Results of investigations shall be provided to those agencies (Adult Protective Services (APS), long-term ombudsman) that referred or reported the elder or dependent adult abuse (Welfare and Institutions Code § 15640(f)).
- (o) Whether a death involved the End of Life Option Act:
  1. Whether or not assistance was provided to the person beyond that allowed by law (Health and Safety Code § 443.14).
  2. Whether an individual knowingly altered or forged a request for an aid-in-dying drug to end a person's life without his/her authorization, or concealed or destroyed a withdrawal or rescission of a request for an aid-in-dying drug (Health and Safety Code § 443.17).
  3. Whether coercion or undue influence was exerted on the person to request or ingest an aid-in-dying drug or to destroy a withdrawal or rescission of a request for such medication (Health and Safety Code § 443.17).

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4. Whether an aid-in-dying drug was administered to a person without his/her knowledge or consent (Health and Safety Code § 443.17).

Any unexplained death of an adult who was in the care of a guardian or caretaker should be considered as potential elder or dependent adult abuse and investigated similarly.

An unexplained or suspicious death of an elder, dependent adult, or other adult or child with a disability should be treated as a potential homicide until a complete investigation including an autopsy is completed, and it should not be assumed that the death of an elder or person with a disability is natural simply because of the age or disability of the deceased (Penal Code § 368.6(c)(18)).

#### **326.3.1 ADDITIONAL INVESTIGATIVE CONSIDERATIONS**

The following factors as provided in Penal Code § 368.6 should be considered when investigating incidents of elder and dependent adult abuse:

- (a) Elder and dependent adult abuse, sex crimes, child abuse, domestic violence, and any other criminal act, when committed in whole or in part because of the victim's actual or perceived disability, including disability caused by advanced age, is also a hate crime (Penal Code § 368.6) (see the Hate Crimes Policy for additional guidance).
- (b) Senior and disability victimization crimes are also domestic violence subject to the mandatory arrest requirements of Penal Code § 836 if they meet the elements described in Penal Code § 273.5, including but not limited to a violation by a caretaker or other person who is or was a cohabitant of the victim, regardless of whether the cohabitant is or was a relative of, or in an intimate personal relationship with, the victim (Penal Code § 368.6(c)(10)).
- (c) Many victims of sexual assault and other sex crimes delay disclosing the crimes for reasons including but not limited to shame, embarrassment, self-doubt, fear of being disbelieved, and fear of retaliation by the perpetrator or others (Penal Code § 368.6(c)(11)).
- (d) Victims and witnesses with disabilities, including cognitive and communication disabilities, can be highly credible witnesses when interviewed appropriately by trained officers or other trained persons (Penal Code § 368.6(c)(14)).

#### **326.4 QUALIFIED INVESTIGATORS**

Qualified investigators should be available to investigate cases of adult abuse. These investigators should:

- (a) Conduct interviews in appropriate interview facilities.
- (b) Be familiar with forensic interview techniques specific to adult abuse investigations.
- (c) Present all cases of alleged adult abuse to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies and facility administrators as needed.

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- (e) Provide referrals to therapy services, victim advocates, guardians and support for the victim and family as appropriate.
- (f) Participate in or coordinate with multidisciplinary investigative teams as applicable (Welfare and Institutions Code § 15610.55).

#### **326.5 MANDATORY NOTIFICATION**

Members of the Indio Police Department shall notify the local office of the California Department of Social Services (CDSS) APS agency when they reasonably suspect, have observed, or have knowledge of an incident that reasonably appears to be abuse of an elder or dependent adult, or are told by an elder or dependent adult that he/she has experienced abuse (Welfare and Institutions Code § 15630(b)).

Notification shall be made by telephone as soon as practicable and a written report shall be provided within two working days as provided in Welfare and Institutions Code § 15630(b)(c).

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

- (a) If the abuse is physical abuse and occurred in a long-term care facility (not a state mental health hospital or a state developmental center), notification shall be made as follows (Welfare and Institutions Code § 15630(b)(1)):
  - 1. If there is serious bodily injury, notification shall be made by telephone and, within two hours, a written report shall be made to the local ombudsman and the corresponding licensing agency.
  - 2. If there is physical abuse and no serious bodily injury, notification shall be made by telephone and, within 24 hours, a written report shall be made to the local ombudsman and the corresponding licensing agency.
  - 3. If the abuse is allegedly caused by a resident with dementia and there is no serious bodily injury, notification shall be made by telephone and a written report to the local ombudsman within 24 hours.
  - 4. When a report of abuse is received by the Department, the local ombudsman shall be called to coordinate efforts to provide the most immediate and appropriate response (Welfare and Institutions Code § 15630(b)).
- (b) If the abuse is in a long-term care facility (not a state mental health or a state developmental center) and is other than physical abuse, a telephone report and a written report shall be made to the local ombudsman as soon as practicable (Welfare and Institutions Code § 15630(b)).
- (c) The California Department of Public Health (DPH) shall be notified of all known or suspected abuse in a long-term care facility.
- (d) The SDSS shall be notified of all known or suspected abuse occurring in a residential care facility for the elderly or in an adult day program.
- (e) If the abuse occurred in an adult day health care center, DPH and the California Department of Aging shall be notified.

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- (f) The Bureau of Medi-Cal Fraud and Elder Abuse shall be notified of all abuse that constitutes criminal activity in a long-term care facility.
- (g) The District Attorney's office shall be notified of all cases of physical abuse and financial abuse in a long-term care facility.
- (h) If the abuse occurred at a state mental hospital or a state developmental center, notification shall be made to the designated investigators of the California Department of State Hospitals or the California Department of Developmental Services as soon as practicable but no later than two hours after law enforcement becomes aware of the abuse (Welfare and Institutions Code § 15630(b)).
  - 1. When a report of abuse is received by the Department, investigation efforts shall be coordinated with the designated investigators of the California Department of State Hospitals or the California Department of Developmental Services (Welfare and Institutions Code § 15630(b)).
- (i) If during an investigation it is determined that the elder or dependent adult abuse is being committed by a licensed health practitioner as identified in Welfare and Institutions Code § 15640(b), the appropriate licensing agency shall be immediately notified (Welfare and Institutions Code 15640(b)).
- (j) When the Department receives a report of abuse, neglect, or abandonment of an elder or dependent adult alleged to have occurred in a long-term care facility, the licensing agency shall be notified by telephone as soon as practicable (Welfare and Institutions Code § 15640(e)).

The Major Crimes Unit or Street Crimes Unit supervisor is responsible for ensuring that proper notifications have occurred to the District Attorney's Office and any other regulatory agency that may be applicable based upon where the abuse took place (e.g., care facility, hospital) per Welfare and Institutions Code § 15630(b).

Notification is not required for a person who was merely present when a person self-administered a prescribed aid-in-dying drug or a person prepared an aid-in-dying drug so long as the person did not assist the individual in ingesting the aid-in-dying drug (Health and Safety Code § 443.14; Health and Safety Code § 443.18).

Failure to report, or impeding or inhibiting a report of abuse of an elder or dependent adult, is a misdemeanor (Welfare and Institutions Code §15630(h)).

#### 326.5.1 NOTIFICATION PROCEDURE

Notification should include the following information, if known (Welfare and Institutions Code § 15630(e)):

- (a) The name of the person making the report.
- (b) The name and age of the elder or dependent adult.
- (c) The present location of the elder or dependent adult.
- (d) The names and addresses of family members or any other adult responsible for the care of the elder or dependent adult.

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- (e) The nature and extent of the condition of the elder or dependent adult.
- (f) The date of incident.
- (g) Any other information, including information that led the person to suspect elder or dependent adult abuse.

#### **326.6 PROTECTIVE CUSTODY**

Before taking an adult abuse victim into protective custody when facts indicate the adult may not be able to care for him/herself, the officer should make reasonable attempts to contact APS. Generally, removal of an adult abuse victim from his/her family, guardian or other responsible adult should be left to the welfare authorities when they are present or have become involved in an investigation.

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

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

When adult abuse victims are under state control, have a state-appointed guardian or there are other legal holdings for guardianship, it may be necessary or reasonable to seek a court order on behalf of the adult victim to either remove the adult from a dangerous environment (protective custody) or restrain a person from contact with the adult.

##### **326.6.1 EMERGENCY PROTECTIVE ORDERS**

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

##### **326.6.2 VERIFICATION OF PROTECTIVE ORDER**

Whenever an officer verifies that a relevant protective order has been issued, the officer shall make reasonable efforts to determine if the order prohibits the person from possession of firearms or requires the relinquishment of firearms, and if the order does so, the officer shall make reasonable efforts to (Penal Code § 368.6(c)(19)):

- (a) Inquire whether the restrained person possesses firearms. The officer should make this effort by asking the restrained person and the protected person.

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- (b) Query the California Law Enforcement Telecommunications System to determine if any firearms are registered to the restrained person.
- (c) Receive or seize prohibited firearms located in plain view or pursuant to a consensual or other lawful search in compliance with Penal Code § 18250 et seq. and in accordance with department procedures.

#### **326.7 INITIAL OFFICER RESPONSIBILITY**

- (a) Personnel investigating cases involving the abuse of elder or dependent adults will handle the case in one of the following ways:
  - If all elements of a crime are clearly established, an arrest will be made and a crime report will be filed.
  - If at the end of an investigation, there is not a clear criminal violation, a documentation report setting out the circumstances and the persons involved will be completed. The report will be forwarded to investigations for review.
- (a) Investigations will coordinate all active investigations involving the abuse of elder or dependent adults.
- (b) Investigations will coordinate and refer cases to the below listed agencies as required by Chapter 11 of the Welfare and Institutions Code.
- (c) Ombudsman Programs, which are responsible to receive and investigate reports of alleged adult abuse in the following long-term care facilities:
  - Skilled Nursing Facilities (SNF's)
  - Swing beds in General Acute Care Hospitals
  - District Part SNF's in General Acute Care Hospitals
  - Intermediate Care Facilities (ICF's)
  - IFC/Developmentally Disabled (DD) / Habilitative
  - Adult Day Health Care Facilities (ADHC's)
  - Adult Residential Facilities (ARF's)
  - Residential Care Facilities for Elderly (RFCE's)
- (a) County Adult Protective Services Agencies, are responsible to receive and investigate reports of alleged adult abuse in all community settings including the following:
  - Private residences
  - Adult or Social Day Care Programs
  - Independent living centers
  - Sheltered workshops
  - Community Clinics
  - General Acute Care Hospitals

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- (a) Department of Health Services-Licensing Agencies, (Community Care Licensing, Licensing and Certification, Health Practitioner Licensing Agencies) are responsible to receive and investigate the following:
- Licensed facilities
  - Incidents perpetrated by Health Practitioners

#### 326.7.1 PRELIMINARY INTERVIEWS

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

#### 326.7.2 DETAINING VICTIMS FOR INTERVIEWS

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

- (a) Exigent circumstances exist, such as:
1. A reasonable belief that medical issues of the adult need to be addressed immediately.
  2. A reasonable belief that the adult is or will be in danger of harm if the interview or physical exam is not immediately completed.
  3. The alleged offender is a family member or guardian and there is reason to believe the adult may be in continued danger.
- (b) A court order or warrant has been issued.

#### 326.7.3 INTERVIEWS WITH A PERSON WITH DEAFNESS OR HEARING LOSS

An officer who is interviewing a victim or witness who reports or demonstrates deafness or hearing loss should secure the services of a qualified interpreter (as defined by Evidence Code § 754) prior to the start of the interview (Penal Code § 368.6) (see the Communications with Persons with Disabilities Policy for additional guidance).

### **326.8 MEDICAL EXAMINATIONS**

When an adult abuse investigation requires a medical examination, the investigating officer should obtain consent for such examination from the victim, guardian, agency or entity having legal custody of the adult. The officer should also arrange for the adult's transportation to the appropriate medical facility.

In cases where the alleged offender is a family member, guardian, agency or entity having legal custody and is refusing to give consent for the medical examination, officers should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide



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for officers to take the adult for a medical examination, the supervisor should consider other government agencies or services that may obtain a court order for such an examination.

#### **326.9 DRUG-ENDANGERED VICTIMS**

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of an adult abuse victim who has been exposed to the manufacturing, trafficking or use of narcotics.

##### **326.9.1 OFFICER RESPONSIBILITIES**

Officers responding to a drug lab or other narcotics crime scene where an elder or dependent adult abuse victim is present or where there is evidence that an elder or dependent adult abuse victim lives should:

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

##### **326.9.2 SUPERVISOR RESPONSIBILITIES**

The Major Crimes Unit or Street Crimes Unit supervisor should:

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

#### **326.10 RECORDS BUREAU RESPONSIBILITIES**

The Records Bureau is responsible for:

- (a) Providing a copy of the adult abuse report to the APS, ombudsman or other agency as applicable within two working days or as required by law (Welfare and Institutions Code § 15630; Welfare and Institutions Code § 15640(c)).
- (b) Retaining the original adult abuse report with the initial case file.

#### **326.11 JURISDICTION**

The Indio Police Department has concurrent jurisdiction with state law enforcement agencies when investigating elder and dependent adult abuse and all other crimes against elder victims and victims with disabilities (Penal Code § 368.5).

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Adult protective services agencies and local long-term care ombudsman programs also have jurisdiction within their statutory authority to investigate elder and dependent adult abuse and criminal neglect and may assist in criminal investigations upon request, if consistent with federal law, in such cases. However, this department will retain responsibility for the criminal investigations (Penal Code § 368.5).

Additional jurisdiction responsibilities for investigations of abuse involving various facilities and agencies may be found in Welfare and Institutions Code § 15650.

#### **326.12 RELEVANT STATUTES**

##### **Penal Code § 288 (a) and Penal Code § 288 (b)(2)**

(a) Except as provided in subdivision (i), a person who willfully and lewdly commits any lewd or lascivious act, including any of the acts constituting other crimes provided for in Part 1 (Of Crimes and Punishments of the Penal Code) upon or with the body, or any part or member thereof, of a child who is under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of that person or the child, is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years.

(b)(2) A person who is a caretaker and commits an act described in subdivision (a) upon a dependent person by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, with the intent described in subdivision (a), is guilty of a felony and shall be punished by imprisonment in the state prison for 5, 8, or 10 years.

##### **Penal Code § 368 (c)**

A person who knows or reasonably should know that a person is an elder or dependent adult and who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health may be endangered, is guilty of a misdemeanor.

##### **Penal Code § 368 (f)**

A person who commits the false imprisonment of an elder or a dependent adult by the use of violence, menace, fraud, or deceit is punishable by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years.

Protections provided by the above Penal Code § 288 and Penal Code § 368 protect many persons with disabilities regardless of the fact they live independently.

##### **Welfare and Institutions Code § 15610.05**

"Abandonment" means the desertion or willful forsaking of an elder or a dependent adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody.

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#### **Welfare and Institutions Code § 15610.06**

"Abduction" means the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, of any elder or dependent adult who does not have the capacity to consent to the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, as well as the removal from this state or the restraint from returning to this state, of any conservatee without the consent of the conservator or the court.

#### **Welfare and Institutions Code § 15610.30**

- (a) "Financial abuse" of an elder or dependent adult occurs when a person or entity does any of the following:
  - 1. Takes, secretes, appropriates, obtains, or retains real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.
  - 2. Assists in taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.
  - 3. Takes, secretes, appropriates, obtains, or retains, or assists in taking, secreting, appropriating, obtaining, or retaining, real or personal property of an elder or dependent adult by undue influence, as defined in Section 15610.70.
- (b) A person or entity shall be deemed to have taken, secreted, appropriated, obtained, or retained property for a wrongful use if, among other things, the person or entity takes, secretes, appropriates, obtains, or retains the property and the person or entity knew or should have known that this conduct is likely to be harmful to the elder or dependent adult.
- (c) For purposes of this section, a person or entity takes, secretes, appropriates, obtains, or retains real or personal property when an elder or dependent adult is deprived of any property right, including by means of an agreement, donative transfer, or testamentary bequest, regardless of whether the property is held directly or by a representative of an elder or dependent adult.
- (d) For purposes of this section, "representative" means a person or entity that is either of the following:
  - 1. A conservator, trustee, or other representative of the estate of an elder or dependent adult.
  - 2. An attorney-in-fact of an elder or dependent adult who acts within the authority of the power of attorney.

#### **Welfare and Institutions Code § 15610.43**

- (a) "Isolation" means any of the following:
  - 1. Acts intentionally committed for the purpose of preventing, and that do serve to prevent, an elder or dependent adult from receiving his or her mail or telephone calls.

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2. Telling a caller or prospective visitor that an elder or dependent adult is not present, or does not wish to talk with the caller, or does not wish to meet with the visitor where the statement is false, is contrary to the express wishes of the elder or the dependent adult, whether he or she is competent or not, and is made for the purpose of preventing the elder or dependent adult from having contact with family, friends, or concerned persons.
  3. False imprisonment, as defined in Section 236 of the Penal Code.
  4. Physical restraint of an elder or dependent adult, for the purpose of preventing the elder or dependent adult from meeting with visitors.
- (b) The acts set forth in subdivision (a) shall be subject to a rebuttable presumption that they do not constitute isolation if they are performed pursuant to the instructions of a physician and surgeon licensed to practice medicine in the state, who is caring for the elder or dependent adult at the time the instructions are given, and who gives the instructions as part of his or her medical care.
- (c) The acts set forth in subdivision (a) shall not constitute isolation if they are performed in response to a reasonably perceived threat of danger to property or physical safe.

#### **Welfare and Institutions Code § 15610.57**

- (a) "Neglect" means either of the following:
1. The negligent failure of any person having the care or custody of an elder or a dependent adult to exercise that degree of care that a reasonable person in a like position would exercise.
  2. The negligent failure of an elder or dependent adult to exercise that degree of self care that a reasonable person in a like position would exercise.
- (b) Neglect includes, but is not limited to, all of the following:
1. Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter.
  2. Failure to provide medical care for physical and mental health needs. A person shall not be deemed neglected or abused for the sole reason that the person voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.
  3. Failure to protect from health and safety hazards.
  4. Failure to prevent malnutrition or dehydration.
  5. Substantial inability or failure of an elder or dependent adult to manage personal finances.
  6. Failure of an elder or dependent adult to satisfy any of the needs specified in paragraphs (1) to (5), inclusive, for themselves as a result of poor cognitive functioning, mental limitation, substance abuse, or chronic poor health.
- (c) Neglect includes being homeless if the elder or dependent adult is also unable to meet any of the needs specified in paragraphs (1) to (5), inclusive, of subdivision (b).

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#### **Welfare and Institutions Code § 15610.63**

"Physical abuse" means any of the following:

- (a) Assault, as defined in Section 240 of the Penal Code.
- (b) Battery, as defined in Section 242 of the Penal Code.
- (c) Assault with a deadly weapon or force likely to produce great bodily injury, as defined in Section 245 of the Penal Code.
- (d) Unreasonable physical constraint, or prolonged or continual deprivation of food or water.
- (e) Sexual assault, that means any of the following:
  - 1. Sexual battery, as defined in Section 243.4 of the Penal Code.
  - 2. Rape, as defined in Section 261 of the Penal Code, or former Section 262 of the Penal Code.
  - 3. Rape in concert, as described in Section 264.1 of the Penal Code.
  - 4. Incest, as defined in Section 285 of the Penal Code.
  - 5. Sodomy, as defined in Section 286 of the Penal Code.
  - 6. Oral copulation, as defined in Section 287 or former Section 288a of the Penal Code.
  - 7. Sexual penetration, as defined in Section 289 of the Penal Code.
  - 8. Lewd or lascivious acts as defined in paragraph (2) of subdivision (b) of Section 288 of the Penal Code.
- (f) Use of a physical or chemical restraint or psychotropic medication under any of the following conditions:
  - 1. For punishment.
  - 2. For a period beyond that for which the medication was ordered pursuant to the instructions of a physician and surgeon licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the instructions are given.
  - 3. For any purpose not authorized by the physician and surgeon.

#### **326.13 TRAINING**

The Training Coordinator shall ensure that appropriate personnel receive the required training, including best practices in elder and dependent adult abuse investigations to members tasked with investigating these cases. The training should include::

- (a) Materials from POST as described in Penal Code § 368.6(c)(5)(A).
- (b) Advanced training on senior and disability victimization available from POST, the United States Department of Justice, the Disability and Abuse Project of the Spectrum Institute, or other sources as provided by Penal Code § 386.6(c)(16)(A).

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1. Training should include the following:

- (a) Information on the wide prevalence of elder and dependent adult abuse, sexual assault, other sex crimes, hate crimes, domestic violence, human trafficking, and homicide against adults and children with disabilities, including disabilities caused by advanced age, and including those crimes often committed by caretakers (Penal Code § 368.6(c)(1)).
- (b) Information on the history of elder and dependent adult abuse and crimes against individuals with disabilities (see the POST Senior and Disability Victimization Policy Guidelines).
- (c) Participating in multidisciplinary investigations, as appropriate.
- (d) Conducting interviews.
- (e) Availability of therapy services for adults and families.
- (f) Availability of specialized forensic medical exams.
- (g) Cultural competence (including interpretive services) related to elder and dependent adult abuse investigations.

The Training Coordinator shall also ensure that appropriate training is provided on this policy to dispatchers, community services officers, front desk personnel, and other civilian personnel who interact with the public (Penal Code § 368.6 (c)(7)).

## Discriminatory Harassment

### 328.1 PURPOSE AND SCOPE

The purpose of this policy is to prevent department members from being subjected to discriminatory harassment, including sexual harassment and retaliation. Nothing in this policy is intended to create a legal or employment right or duty that is not created by law.

### 328.2 POLICY

The Indio Police Department is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment and retaliation (Government Code § 12940(k); 2 CCR 11023). The Department will not tolerate discrimination against a member in hiring, promotion, discharge, compensation, fringe benefits and other privileges of employment. The Department will take preventive and corrective action to address any behavior that violates this policy or the rights it is designed to protect.

The nondiscrimination policies of the Department may be more comprehensive than state or federal law. Conduct that violates this policy may not violate state or federal law but still could subject a member to discipline.

### 328.3 DEFINITIONS

Definitions related to this policy include:

#### 328.3.1 DISCRIMINATION

The Department prohibits all forms of discrimination, including any employment-related action by a member that adversely affects an applicant or member and is based on the actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status and other classifications protected by law.

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

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

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#### 328.3.2 SEXUAL HARASSMENT

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

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

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

#### 328.3.3 ADDITIONAL CONSIDERATIONS

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

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

#### 328.3.4 RETALIATION

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

### **328.4 RESPONSIBILITIES**

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

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



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

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

#### 328.4.1 SUPERVISOR RESPONSIBILITIES

The responsibilities of each supervisor and manager shall include, but are not limited to:

- (a) Continually monitoring the work environment and strive to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.
- (b) Taking prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment or retaliation.
- (c) Ensuring that their subordinates understand their responsibilities under this policy.
- (d) Ensuring that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.
- (e) Making a timely determination regarding the substance of any allegation based upon all available facts.
- (f) Notifying the Chief of Police or Director of Human Resources and Risk Management in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment or retaliation no later than the next business day.

#### 328.4.2 SUPERVISOR'S ROLE

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

- (a) Behavior of supervisors and managers should represent the values of the Department and professional law enforcement standards.
- (b) False or mistaken accusations of discrimination, harassment or retaliation can have negative effects on the careers of innocent members.

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

#### 328.4.3 QUESTIONS OR CLARIFICATION

Members with questions regarding what constitutes discrimination, sexual harassment, or retaliation are encouraged to contact a supervisor, a manager, the Chief of Police, the Director of Human Resources and Risk Management, the City Manager, or the California Department of Fair

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Employment and Housing (DFEH) for further information, direction, or clarification (Government Code § 12950).

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

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

##### **328.5.1 SUPERVISORY RESOLUTION**

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

##### **328.5.2 FORMAL INVESTIGATION**

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

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

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

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

##### **328.5.3 ALTERNATIVE COMPLAINT PROCESS**

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

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#### **328.6 DOCUMENTATION OF COMPLAINTS**

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

- Approved by the Chief of Police, the City Manager or the Director of Human Resources and Risk Management, depending on the ranks of the involved parties.
- Maintained in accordance with the department's established records retention schedule.

##### **328.6.1 NOTIFICATION OF DISPOSITION**

The complainant and/or victim will be notified in writing of the disposition of the investigation and the actions taken to remedy or address the circumstances giving rise to the complaint.

#### **328.7 TRAINING**

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

All members shall receive annual training on the requirements of this policy and shall certify by signing the prescribed form that they have reviewed the policy, understand its contents and agree that they will continue to abide by its provisions. This should include training concerning the nature of unprofessional conduct, bullying, harassment, and discrimination in the workplace and prohibitions on such actions defined in the policy. Training should be tailored to specific sections within the agency, recognizing that middle- and first-line supervisors are of particular importance in preventing, identifying, and responding effectively to unprofessional conduct, bullying, harassment, and discrimination.

##### **328.7.1 STATE-REQUIRED TRAINING**

The Training Coordinator should ensure that employees receive the required state training and education regarding sexual harassment, prevention of abusive conduct, and harassment based on gender identity, gender expression, and sexual orientation as follows (Government Code § 12950.1; 2 CCR 11024):

- (a) Supervisory employees shall receive two hours of classroom or other effective interactive training and education within six months of assuming a supervisory position.
- (b) All other employees shall receive one hour of classroom or other effective interactive training and education within six months of their employment or sooner for seasonal or temporary employees as described in Government Code § 12950.1.
- (c) All employees shall receive refresher training every two years thereafter.

If the required training is to be provided by DFEH online training courses, the Training Coordinator should ensure that employees are provided the following website address to the training course: [www.dfeh.ca.gov/shpt/](http://www.dfeh.ca.gov/shpt/) (Government Code § 12950; 2 CCR 11023).

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#### **328.7.2 TRAINING RECORDS**

The Human resources department shall be responsible for maintaining records of all discriminatory harassment training provided to members. Records shall be retained in accordance with established records retention schedules and for a minimum of two years (2 CCR 11024).

#### **328.8 WORKING CONDITIONS**

The Support Services Division Chief or the authorized designee should be responsible for reviewing facility design and working conditions for discriminatory practices. This person should collaborate with other City employees who are similarly tasked (2 CCR 11034).

#### **328.9 REQUIRED POSTERS**

The Department shall display the required posters regarding discrimination, harassment and transgender rights in a prominent and accessible location for members (Government Code § 12950).

## Child Abuse

### 330.1 PURPOSE AND SCOPE

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

#### 330.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

### 330.2 POLICY

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

### 330.3 MANDATORY NOTIFICATION

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

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

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

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

For purposes of notification, the abuse or neglect includes physical injury or death inflicted by other than accidental means upon a child by another person; sexual abuse (Penal Code § 11165.1);

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neglect (Penal Code § 11165.2); the willful harming or injuring of a child or the endangering of the person or health of a child (Penal Code § 11165.3); and unlawful corporal punishment or injury (Penal Code § 11165.4). Child abuse or neglect does not include a mutual affray between minors, nor does it include an injury caused by the reasonable and necessary force used by a peace officer acting within the course and scope of his/her employment as a peace officer.

#### **330.3.1 NOTIFICATION PROCEDURE**

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

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

#### **330.4 QUALIFIED INVESTIGATORS**

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

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

#### **330.5 INVESTIGATIONS AND REPORTING**

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

Investigations and reports related to suspected cases of child abuse should address, as applicable:

- (a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected child abuse victim was contacted.
- (b) The exigent circumstances that existed if officers interviewed the child victim without the presence of a parent or guardian.
- (c) Any relevant statements the child may have made and to whom he/she made the statements.

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- (d) If a child was taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.
- (e) Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.
- (f) Whether the child victim was transported for medical treatment or a medical examination.
- (g) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other children who may reside in the residence.
- (h) Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.
- (i) Previous addresses of the victim and suspect.
- (j) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

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

#### **330.5.1 EXTRA JURISDICTIONAL REPORTS**

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

#### **330.5.2 INITIAL REPORTS OF ABUSE FROM A NONMANDATED REPORTER**

Members who receive a report of child abuse or neglect shall request the following information from the reporter (Penal Code § 11167):

- (a) Name and telephone number
- (b) Information and the source of information that gives rise to the knowledge or reasonable suspicion of child abuse or neglect

If the reporter refuses to provide their name and telephone number, the member should make a reasonable effort to determine the basis for the refusal and inform them that their information will remain confidential.

#### **330.6 PROTECTIVE CUSTODY**

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

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

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

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

- (a) The officer reasonably believes the child is a person described in Welfare and Institutions Code § 300, or a commercially exploited child under Penal Code § 647 and Penal Code § 653.22, and further has good cause to believe that any of the following conditions exist:
  1. The child has an immediate need for medical care.
  2. The child is in immediate danger of physical or sexual abuse.
  3. The physical environment or the fact that the child is left unattended poses an immediate threat to the child's health or safety. In the case of a child left unattended, the officer shall first attempt to locate and determine if a responsible parent or guardian is available and capable of assuming custody before taking the child into protective custody.
- (b) The officer reasonably believes the child requires protective custody under the provisions of Penal Code § 279.6, in one of the following circumstances:
  1. It reasonably appears to the officer that a person is likely to conceal the child, flee the jurisdiction with the child or, by flight or concealment, evade the authority of the court.
  2. There is no lawful custodian available to take custody of the child.
  3. There are conflicting custody orders or conflicting claims to custody and the parties cannot agree which party should take custody of the child.
  4. The child is an abducted child.
- (c) The child is in the company of, or under the control of, a person arrested for Penal Code § 278 (Detainment or concealment of child from legal custodian) or Penal Code § 278.5 (Deprivation of custody of a child or right to visitation) (Penal Code § 279.6).



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

#### 330.6.1 CALIFORNIA SAFELY SURRENDERED BABY LAW REPORTING PROTOCOL

An individual having lawful custody of an infant less than 72 hours old is not guilty of abandonment if the individual voluntarily surrenders physical custody of the infant to personnel on-duty at a safe-surrender site, such as a hospital or fire department (Penal Code § 271.5). The law requires the surrender site to notify CPS. It shall be the policy of the Indio Police Department to ensure the safety and welfare of a minor child 72 hours old or younger when taken to a safe-surrender site in accordance with Penal Code 271.5 and the **Safely Surrendered Baby Law (SSB)**.

The Safely Surrendered Baby Law (SSB) allows a parent or person with lawful custody to surrender a baby, who shows no signs of abuse, confidentially and without fear of arrest or prosecution for child abandonment or a violation of Sections 270, 270.5, 271, or 271a. This law allows up to a 14-day cooling off period, which begins the day the child is voluntarily surrendered. During this period, the person who surrendered the child can return to the safe surrender site to reclaim the child.

#### **330.6.1(a) RESPONDING OFFICER RESPONSIBILITIES**

Officers responding to a surrendered baby call shall place the infant in protective custody and perform the following procedures:

a. If the parent or surrendering person is still on site, officers shall contact him/her and attempt to obtain any **voluntary** identification information.

**NOTE:** The Safely Surrendered Baby Law does not preclude police officers from asking questions concerning a parent's or surrendering person's identity in the hopes of soliciting a voluntary response.

b. Conduct a thorough preliminary investigation to determine if a case of child abuse exists. If officers observe obvious signs of abuse or suspect a case of child abuse, he/she shall detain the parent or surrendering person and investigate further (**refer to IPD / Lexipol Policies 602, 330, and 378**). If signs of child abuse are present, the parent or surrendering person's personal information (e.g. name, contact information) is no longer confidential.

c. Absent obvious signs of abuse, and if the baby appears to be in good physical health, officers shall not prevent the parent or surrendering person from leaving the site. Any identifying information that pertains to a parent or person surrendering a child that is obtained as a result of the medical questionnaire or in any other manner (e.g. during a preliminary investigation), is confidential and shall be exempt from disclosure under the **California Public Records Act**.

d. From the moment the baby is left by the parent or surrendering person at a safe-surrender site, the baby is deemed abandoned for purposes of the Safely Surrendered Baby Law and **can only be released by Child Protective Services (CPS)**.

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1. Departmental employees will not perform mental evaluations of the parent or surrendering person to determine if a surrendered baby can be released back to him/her.
  2. Employees responding to calls for service at a safe-surrender site involving a dispute over the custody of a surrendered baby shall place the baby in protective custody and notify CPS.
- e. When a baby is surrendered to a location other than a hospital, officers shall ensure the baby is transported to John F. Kennedy Hospital located at [47111 Monroe St, Indio, CA 92201](#)).
- f. Confirm that CPS has been notified by the surrender-site personnel that a child has been accepted at the site. It is the responsibility of the surrender-site personnel to contact CPS as soon as possible, but in no event later than 48 hours after the physical custody of a child has been accepted. If this is not the case, immediately contact CPS and report the surrender and obtain a CPS case file number.
- g. Notify the on duty watch commander.
- h. Complete an Information Report to include that CPS has been notified and document the CPS case report.
- i. Photograph and or record the subject with your BWC.

#### 330.6.1(b) SURRENDERED BABY AT POLICE FACILITIES

In the event a parent or surrendering person who is unable or unwilling to care for an infant child attempts to surrender their baby at the Indio Police facility, employees shall:

- a. Immediately request (CDF) California Department of Forestry and Fire Protection respond for medical evaluation of the infant.
- b. Notify the Communications Center (if needed) to dispatch an officer for further investigation and to evaluate the baby for any visible signs of abuse or suspected child abuse. If a baby shows signs of abuse, or appears older than a 72-hour old baby, employees shall attempt to obtain any identifying information (e.g. name of the child or parent, vehicle description information) for follow-up investigation.
- c. If the baby reasonably appears to be 72 hours old or younger, and does not show signs of abuse, employees shall follow the protocol listed under 330.6.1(a) RESPONDING OFFICER RESPONSIBILITIES of this policy.

**For further guidance regarding the Safely Surrendered Baby Law (SSB) refer to the attached web links;**

[Safe Surrender Baby \(ca.gov\)](#)

[California Penal Code Section 271.5 - California Attorney Resources - California Laws \(onecle.com\)](#)

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#### 330.6.2 NEWBORNS TESTING POSITIVE FOR DRUGS

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

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

### **330.7 INTERVIEWS**

#### 330.7.1 PRELIMINARY INTERVIEWS

Absent extenuating circumstances or impracticality, officers should record the preliminary interview with suspected child abuse victims. Officers should avoid multiple interviews with a child victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating officers should defer interviews until a person who is specially trained in such interviews is available. Generally, child victims should not be interviewed in the home or location where the alleged abuse occurred.

#### 330.7.2 DETAINING SUSPECTED CHILD ABUSE VICTIMS FOR AN INTERVIEW

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

- (a) Exigent circumstances exist, such as:
  - 1. A reasonable belief that medical issues of the child need to be addressed immediately.
  - 2. A reasonable belief that the child is or will be in danger of harm if the interview or physical exam is not immediately completed.
  - 3. The alleged offender is the custodial parent or guardian and there is reason to believe the child may be in continued danger.
- (b) A court order or warrant has been issued.

#### 330.7.3 INTERVIEWS AT A SCHOOL

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

### **330.8 MEDICAL EXAMINATIONS**

If the child has been the victim of abuse that requires a medical examination, the investigating officer should obtain consent for such examination from the appropriate parent, guardian or agency

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having legal custody of the child. The officer should also arrange for the child's transportation to the appropriate medical facility.

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

#### **330.9 DRUG-ENDANGERED CHILDREN**

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

##### **330.9.1 SUPERVISOR RESPONSIBILITIES**

The Major Crimes Unit or Street Crimes Unit supervisor should:

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

##### **330.9.2 OFFICER RESPONSIBILITIES**

- (a) Officers shall become familiar with Sections 300, 305, and 625 of the Welfare and Institutions Code and Sections 273a(a)(1), 273a(b), 273d(a), 11166, and 11169 of the Penal Code.
- (b) Section 305 of the W&I Code gives Law Enforcement the authority to take into temporary custody any child who comes within Sections 300(a), 300(b), 300(c), 300(e), 300(f), 300(g), 300(i), 300(j), and 300(k) of the W&I Code, and section 279 of the Penal Code as it relates to child custody/visitation. Officers should assist CPS case workers when circumstances deem it necessary for CPS case workers to remove a child or children from a home.
- (c) Sections 11166 and 11169 of the Penal Code relate to reporting child abuse or suspected child abuse to the Department of Justice, District Attorney's Office, and Child Protective Services.

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- (d) It shall be each officer's responsibility to act on any 11166 PC report received.
- (e) All cases of suspected or actual child abuse/neglect shall be documented on a crime report. If the evidence or elements of the crime are not present, the investigation conducted shall be documented in an informational report.
- (f) Crime reports on actual or suspected child sexual abuse cases shall be referred to MCU / SCU for further investigation.
- (g) The initial investigating patrol officer shall ensure compliance with the mandates under Section 11166 of the Penal Code (CPS cross reporting).
- (h) An investigation of the crime scene will be conducted immediately and thoroughly to prevent the crime scene from being altered if it is determined an investigation is required.
- (i) A decision to remove a child from the home will be based upon the welfare of the child. It may also include removing siblings based on the investigative findings and welfare of the children. This shall be determined by CPS case workers and officers shall assist CPS case workers when doing so.
- (j) The R/P must be interviewed in detail to figure out why the victim disclosed the allegations at that particular time.
- (k) If the R/P provides sufficient information indicating a crime occurred and the child is 13 years and under, a forensic interview is needed. If the victim is 14 years and older a basic interview to confirm the crime occurred may be done. The interview "shall be" recorded.
- (l) When receiving a CPS fax report, a patrol officer must conduct a preliminary investigation to confirm a crime occurred. Based on the information gathered, the case may be sent to MCU/ SCU for follow up investigation if the investigation cannot be resolved at the patrol level.
- (m) Determine if a SART exam or CAN exam (Child abuse and neglect forensic exam) is needed. If needed contact CPS to assist with immediate cases, or make arrangements with parent to take victim to the exam, after the officer contacts the examiner for scheduling.
- (n) The following items will be considered when investigating a child abuse or child neglect case:
  - 1. Age of Victim.
  - 2. General health of the child. Does the health of the child indicate neglect?
  - 3. Location of the injury.
  - 4. History of previous episodes.
    - a. Suspicious family history.
    - b. Were new injuries received while the child was hospitalized?
  - 5. Types of Injuries:

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- a. Damage to skin and surface tissue, i.e., bruises, burns, bite marks, abrasions and lacerations.
  - b. Damage to brain, i.e., head injuries, "Whiplash: Shaken Infant Syndrome".
  - c. Damage to other internal organs, i.e., internal injuries (blunt blows).
  - d. Damage to skeleton, i.e., fractures.
6. Distribution and type of fractures and other injuries.
  7. Shape and amount of injury of soft tissue.
  8. Evidence injuries occurred at different times.
  9. What caused the recent trauma in question?
  10. Statements of parents, babysitters, relatives, etc.
  11. Reconstruction of scene and occurrence through witnesses, reporting parties, etc.
  12. Severe Neglect.
    - a. Negligent failure of a parent/caretaker to protect a child from severe malnutrition or medically diagnosed "nonorganic failure to thrive".
    - b. This includes the intentional failure to provide adequate food, clothing, shelter, or medical care.
  13. General Neglect.
    - a. Negligent failure of a parent/caretaker to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred.
  14. The investigating officer will obtain a verbal account of the injuries from the doctor who examines the child. This information will be stated in the crime report.
  15. Parents/guardians are to sign the "Authorization to Release or Receive Medical Information" form. Indio Police Department personnel can sign the release if no parent or guardian is available.
  16. The Medical Report/Suspected Child abuse form, Section I - General Information should be filled out by the investigating detective (DOJ 900).
  17. Determine where victim current doctors are located, for medical history.
  18. Record interviews with BWC.

### **330.9.3 PERSONS WHO SHOULD BE INTERVIEWED DURING INVESTIGATION**

- Reporting Party.
- Victim, if possible.

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- Parents or guardians.
- Suspect unless it involves a sex crime at which point a case detective will assume investigation.
- Persons who can contribute to the history of the child or family (physician, neighbors, relatives, school officials, minister, babysitter, Child Protective Services, etc.).
- Paramedics/ambulance personnel.

#### **330.9.4 COLOR PHOTOS SHOULD BE TAKEN OF:**

- Injuries to victim with facial photos, full-body photos, and close-ups of the individual injuries.
- Scene of occurrence and any evidence, including the weapon or instrument used, if such was used.
- If the suspect is known, obtain a photograph to identify the suspect.
- Child neglect cases - photograph child room, closet, bed, and toys. Photograph living room to determine if there are any victim photographs. Photograph food in refrigerator and cabinets. Photograph cleanings of the residence, interior and exterior.

#### **330.9.5 FORENSIC INTERVIEW IS NEEDED WHEN:**

- (a) When there are allegations of sexual abuse, physical abuse or severe neglect.
- (b) When a child has been a witness to a violent crime.
- (c) When a young child has been a witness to siblings abuse.
- (d) For developmentally disabled adult or child victims.
- (e) Where communication barriers including hearing, vision, verbal handicaps or language differences exist.

#### **330.9.6 PURPOSE OF THE FORENSIC INTERVIEW:**

- (a) The purpose of the forensic interview is to provide a safe, supportive and neutral environment, in which a child can share information regarding their experience.
- (b) Limiting the number of interviewers and the number of times a child is interviewed.
- (c) Minimize emotional trauma to child and family.
- (d) Recorded interview may be used for court purposes, to help and prevent the child from testifying at court hearings.

#### **330.9.7 SUPERVISOR RESPONSIBILITY**

- Supervisors shall insure case reports meeting the above criteria are completed by end of shift by the individual officers involved and forwarded to MCU / SCU prior to end of their shift.

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

California requires or permits the following:

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#### 330.10.1 RELEASE OF REPORTS

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

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

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

#### 330.10.3 CACI HEARING OFFICER

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

#### 330.10.4 CACI HEARING PROCEDURES

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

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

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

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

If, after considering the evidence, the hearing officer finds that the allegations are not substantiated, he/she shall cause a request to be completed and forwarded to the DOJ that the



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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.

#### **330.10.5 CHILD DEATH REVIEW TEAM**

This department should cooperate with any interagency child death review team investigation. Written and oral information relating to the death of a child that would otherwise be subject to release restrictions may be disclosed to the child death review team upon written request and approval of a supervisor (Penal Code § 11174.32).

#### **330.11 TRAINING**

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

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

## Missing Persons

### 332.1 PURPOSE AND SCOPE

This policy provides guidance for handling missing person investigations.

#### 332.1.1 DEFINITIONS

**At risk** - Includes, but is not limited to (Penal Code § 14215):

- 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, including cognitively impaired or developmentally disabled.

**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 § 14215).

**Missing person networks** - 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 Indio 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 an investigation reveals otherwise. The Indio 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 § 14211).

### 332.3 REQUIRED FORMS AND BIOLOGICAL SAMPLE COLLECTION KITS

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

- Department report form for use in missing person cases
- Missing person investigation checklist that provides investigation guidelines and resources that could be helpful in the early hours of a missing person investigation (Penal Code § 13519.07)
- Missing person school notification form

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- Medical records release form from the California Department of Justice
- California DOJ missing person forms as appropriate
- Biological sample collection kits

#### **332.4 ACCEPTANCE OF REPORTS**

Any member encountering a person who wishes to report a missing person or runaway shall render assistance without delay (Penal Code § 14211). This can be accomplished by accepting the report via telephone or in-person and initiating the investigation. Those members who do not take such reports or who are unable to render immediate assistance shall promptly notify dispatch or alert a member who can take the report.

A report shall be accepted in all cases and regardless of where the person was last seen, where the person resides or any other question of jurisdiction (Penal Code § 14211).

#### **332.5 INITIAL INVESTIGATION**

Officers or other members 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 party and any witnesses to determine whether the person qualifies as a missing person and, if so, whether the person may be at risk.
- (c) Notify a supervisor immediately if there is evidence that a missing person is either at risk or may qualify for a public alert, or both (see the Public Alerts Policy).
- (d) Broadcast a "Be on the Look-Out" (BOLO) bulletin if the person is under 21 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 21 years of age or may be at risk (Penal Code § 14211).
- (e) Ensure that entries are made into the appropriate missing person networks as follows:
  1. Immediately, when the missing person is at risk.
  2. In all other cases, as soon as practicable, but not later than two hours from the time of the initial report.
- (f) Complete the appropriate report forms accurately and completely and initiate a search as applicable under the facts.
- (g) Collect and/or review:
  1. A photograph and a fingerprint card of the missing person, if available.
  2. A voluntarily provided biological sample of the missing person, if available (e.g., toothbrush, hairbrush).
  3. Any documents that may assist in the investigation, such as court orders regarding custody.
  4. Any other evidence that may assist in the investigation, including personal electronic devices (e.g., cell phones, computers).

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- (h) When circumstances permit and if appropriate, attempt to determine the missing person's location through his/her telecommunications carrier.
- (i) Contact the appropriate agency if the report relates to a previously made missing person report and another agency is actively investigating that report. When this is not practical, the information should be documented in an appropriate report for transmission to the appropriate agency. If the information relates to an at-risk missing person, the member should notify a supervisor and proceed with reasonable steps to locate the missing person.

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

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

#### **332.6(a) RESPONDING OFFICER RESPONSIBILITIES**

1. Obtain description of the subject and a recent photograph.
2. Details of any physical or emotional problems identified.
3. Identity of the last person(s) to have seen the subject as well as friends, relatives, coworkers, or associates who were or may have been in contact with the subject prior to disappearance.
4. Plans, habits, routines and personal interests of the subject including places frequented or locations of particular personal significance.
5. Indications of missing personal belongings, particularly money and other valuables.
6. Any suggestions of foul play or accident.
7. In the case of missing children, officers shall be particularly cognizant of information that may suggest the potential for parental abduction or the possibility of stranger abduction, as well as;
  - (a) The presence of behavioral problems.
  - (b) Past instances of running away.
  - (c) Signs of an abusive home environment or dysfunctional family situation.
  - (d) Whether the child is believed to be with adults who may pose a danger.
  - (e) The name and location of the school attended by the child and any persons who may be responsible for private transportation to and from the location.
8. When possible, officers should gain permission to search a missing child's home and school locker, as appropriate.
9. Upon verification of a missing person, a missing person report shall be completed and appropriate entries made in state and national information databases in accordance with established procedures.
10. Contact hospitals and the coroner's office as appropriate for injured or deceased persons fitting the description of the missing person.

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11. Thoroughly check the location at which the missing person was last seen and conduct interviews as appropriate with persons who were with the individual or who may work in or frequent the area.

12. Conduct interviews with any additional family, friends, work associates, schoolmates and teachers as well as school counselors and social case workers, as appropriate, to explore the potential for foul play, voluntary flight, or, in the case of juveniles, parental kidnapping or running away.

13. Complete a DOJ missing person checklist form and an APR.

Provide the APR to dispatch for dissemination along with a copy of the DOJ missing person check list.

14. Complete the missing person report and submit to investigations for any potential follow up investigation.

15. Advise supervisor of any facts related to case prior to end of shift.

16. Complete report in a timely manner.

#### 332.6.1 PATROL SUPERVISOR RESPONSIBILITIES

The responsibilities of the supervisor shall include, but are not limited to:

- (a) Reviewing and approving missing person reports upon receipt.
- (b) The reports should be promptly sent to the Records Bureau and the Major Crimes Unit.
- (c) Ensuring resources are deployed as appropriate.
- (d) Initiating a command post as needed.
- (e) Ensuring applicable notifications and public alerts are made and documented.
- (f) Ensuring that records have been entered into the appropriate missing persons networks.
- (g) Taking reasonable steps to identify and address any jurisdictional issues to ensure cooperation among agencies.

#### 332.6.2 RECORDS BUREAU RESPONSIBILITIES

The receiving member 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 § 14211).
- (b) Notify and forward a copy of the report to the law enforcement agency in whose jurisdiction the missing person was last seen (Penal Code § 14211).
- (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.
- (d) Forward a copy of the report to the Major Crimes Unit or Street Crimes Unit.

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- (e) Coordinate with the NCIC Terminal Contractor for California to have the missing person record in the NCIC computer networks updated with additional information obtained from missing person investigations (34 USC § 41308).

#### **332.7 MAJOR CRIMES UNIT OR STREET CRIMES UNIT FOLLOW-UP**

In addition to completing or continuing any actions listed above, the investigator assigned to a missing person investigation:

- (a) Shall ensure that the missing person's school is notified within 10 days if the missing person is a juvenile.
  1. The notice shall be in writing and should also include a photograph (Education Code § 49068.6).
  2. The investigator should meet with school officials regarding the notice as appropriate to stress the importance of including the notice in the child's student file, along with contact information if the school receives a call requesting the transfer of the missing child's files to another school.
- (b) Should recontact the reporting person and/or other witnesses within 30 days of the initial report and within 30 days thereafter to determine if any additional information has become available via the reporting party.
- (c) Should consider contacting other agencies involved in the case to determine if any additional information is available.
- (d) Shall verify and update CLETS, NCIC, and any other applicable missing person networks within 30 days of the original entry into the networks and every 30 days thereafter until the missing person is located (34 USC § 41308).
- (e) Should continue to make reasonable efforts to locate the missing person and document these efforts at least every 30 days.
- (f) Shall maintain a close liaison with state and local child welfare systems and the National Center for Missing and Exploited Children® (NCMEC) if the missing person is under the age of 21 and shall promptly notify NCMEC when the person is missing from a foster care family home or childcare institution (34 USC § 41308).
- (g) Should make appropriate inquiry with the Coroner.
- (h) Should obtain and forward medical and dental records, photos, X-rays, and biological samples pursuant to Penal Code § 14212 and Penal Code § 14250.
- (i) Shall attempt to obtain the most recent photograph for persons under 18 years of age if it has not previously been obtained and forward the photograph to California DOJ (Penal Code § 14210) and enter the photograph into applicable missing person networks (34 USC § 41308).
- (j) Should consider making appropriate entries and searches in the National Missing and Unidentified Persons System (NamUs).
- (k) In the case of an at-risk missing person or a person who has been missing for an extended time, should consult with a supervisor regarding seeking federal assistance from the FBI and the U.S. Marshals Service (28 USC § 566).

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#### **332.7.1 Senate Bill (S) 388 COMPLIANCE**

Effective **January 1, 2021** Senate bill (SB) 388 (Stats. 2020, ch.288) mandates that if a missing person has not been found within **30 days** and is also determined to be **at-risk** (PC 14215(b)), and if the missing person's dental/or skeletal X-rays and treatment notes have not otherwise been obtained by investigators, the lead investigating agency "**shall**" **execute a written declaration**, stating that an active investigation seeking the location of the missing person is being conducted and that the dental or skeletal X-rays, or both, and treatment notes, are necessary for the exclusive purpose of furthering the investigation.

This declaration "**shall**" be taken to the dentist, physician, and surgeon, or medical facility in order to obtain the release of the dental or skeletal X-rays, or both, and treatment notes, to secure those records. Applicable records "**shall**" **be submitted to the Attorney General's office** to code and enter the dental or skeletal X-rays.

See attached documents;

- (a) Senate Bill 388
- (b) DOJ Missing & Unidentified Persons Investigations Requirements, Tips, & Resource Guide.
- (c) DOJ Reporting Reference Chart

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

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

The Records Supervisor shall ensure that, upon receipt of information that a missing person has been located, the following occurs (Penal Code § 14213):

- (a) Notification is made to California DOJ.
- (b) The missing person's school is notified.
- (c) Entries are made in the applicable missing person networks.
- (d) Immediately notify the Attorney General's Office.
- (e) Notification shall be made to any other law enforcement agency that took the initial report or participated in the investigation within 24 hours.

#### **332.8.1 UNIDENTIFIED PERSONS**

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

- (a) Obtain a complete description of the person.
- (b) Enter the unidentified person's description into the NCIC Unidentified Person File.

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- (c) Use available resources, such as those related to missing persons, to identify the person.

#### **332.9 CASE CLOSURE**

The Major Crimes Unit or Street Crimes Unit 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 is a resident of Indio or this department is the lead agency, the case should be kept under active investigation for as long as the person may still be alive. Exhaustion of leads in the investigation should not be a reason for closing a case.
- (c) If this department is not the lead agency, the case can be made inactive if all investigative leads have been exhausted, the lead agency has been notified and entries are made in the applicable missing person networks as appropriate.
- (d) A missing person case should not be closed or reclassified because the person would have reached a certain age or adulthood or because the person is now the subject of a criminal or civil warrant.

#### **332.10 TRAINING**

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

- (a) The initial investigation:
  - 1. Assessments and interviews
  - 2. Use of current resources
  - 3. Confirming missing status and custody status of minors
  - 4. Evaluating the need for a heightened response
  - 5. Identifying the zone of safety based on chronological age and developmental stage
- (b) Briefing of department members at the scene.
- (c) Identifying NCIC Missing Person File categories (e.g., disability, endangered, involuntary, juvenile and catastrophe).
- (d) Verifying the accuracy of all descriptive information.
- (e) Initiating a neighborhood investigation.
- (f) Investigating any relevant recent family dynamics.
- (g) Addressing conflicting information.



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- (h) Key investigative and coordination steps.
- (i) Managing a missing person case.
- (j) Additional resources and specialized services.
- (k) Update procedures for case information and descriptions.
- (l) Preserving scenes.
- (m) Internet and technology issues (e.g., Internet use, cell phone use).
- (n) Media relations.

## Public Alerts

### 334.1 PURPOSE AND SCOPE

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

### 334.2 POLICY

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

### 334.3 RESPONSIBILITIES

#### 334.3.1 EMPLOYEE RESPONSIBILITIES

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

#### 334.3.2 SUPERVISOR RESPONSIBILITIES

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

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

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

### 334.4 AMBER ALERTS

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

#### 334.4.1 CRITERIA FOR AMBER ALERT

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

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- (a) A child has been abducted or taken by anyone, including but not limited to a custodial parent or guardian.
- (b) The victim is 17 years of age or younger, or has a proven mental or physical disability.
- (c) The victim is in imminent danger of serious injury or death.
- (d) There is information available that, if provided to the public, could assist in the child's safe recovery.

#### **334.4.2 PROCEDURE FOR AMBER ALERT**

The supervisor in charge will ensure the following:

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

#### **334.5 BLUE ALERTS**

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

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#### 334.5.1 CRITERIA FOR BLUE ALERTS

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

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

#### 334.5.2 PROCEDURE FOR BLUE ALERT

The supervisor in charge should ensure the following:

- (a) An initial press release is prepared that includes all available information that might aid in locating the suspect:
  - 1. The license number and/or any other available description or photograph of the vehicle
  - 2. Photograph, description and/or identification of the suspect
  - 3. The suspect's identity, age and description, if known
  - 4. Detail regarding location of incident, direction of travel, potential destinations, if known
  - 5. Name and telephone number of the Public Information Officer or other authorized individual to handle media liaison
  - 6. A telephone number for the public to call with leads or information
- (b) The local California Highway Patrol communications center is contacted to initiate a multi-regional or statewide EAS broadcast.
- (c) The information in the press release is forwarded to the Sheriff's Department Emergency Communications Bureau so that general broadcasts can be made to local law enforcement agencies.
- (d) The following resources should be considered as circumstances dictate:
  - 1. Entry into the California Law Enforcement Telecommunication System (CLETS)
  - 2. The FBI local office

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#### **334.6 SILVER ALERTS**

Silver Alerts® is an emergency notification system for people who are 65 years of age or older, developmentally disabled or cognitively impaired and have been reported missing (Government Code § 8594.10).

##### **334.6.1 CRITERIA FOR SILVER ALERTS**

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

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

##### **334.6.2 PROCEDURE FOR SILVER ALERT**

Requests for a Silver Alert shall be made through the California Highway Patrol (Government Code § 8594.10).

#### **334.7 MUTUAL AID**

The experiences of other law enforcement jurisdictions that have implemented similar plans indicate a public alert will generate a high volume of telephone calls to the handling agency.

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

If the Watch Commander or Major Crimes Unit or Street Crimes Unit Supervisor elects to use the services of the Sheriff's Department, the following will apply:

- (a) Notify the Sheriff's Department Watch Commander of the incident and the request for assistance. He/she will provide you with a telephone number for the public to call.
- (b) In the press release, direct the public to the telephone number provided by the Sheriff's Department Watch Commander.
- (c) The Public 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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The Indio Police Department shall assign at least one liaison officer to coordinate with the Sheriff's Department emergency communications facility to screen and relay information and any clues received from incoming calls. As circumstances dictate, more staff resources from the handling law enforcement agency may be necessary to assist the staff at the emergency communications facility.

#### **334.8 ADDITIONAL ALERTS FOR PUBLIC SAFETY EMERGENCIES**

Additional public safety emergency alerts may be authorized that utilize wireless emergency alert system (WEA) and emergency alert system (EAS) equipment for alerting and warning the public to protect lives and save property (Government Code § 8593.7).

##### **334.8.1 PROCEDURE**

Public safety emergency alerts should be activated by following the guidelines issued by the Office of Emergency Services (Government Code § 8593.7).

##### **334.8.2 CRITERIA**

Public safety emergency alerts may be issued to alert or warn the public about events including but not limited to:

- (a) Evacuation orders (including evacuation routes, shelter information, key information).
- (b) Shelter-in-place guidance due to severe weather.
- (c) Terrorist threats.
- (d) HazMat incidents.

#### **334.9 YELLOW ALERT**

A Yellow Alert may be issued when a person is killed due to a hit-and-run incident and the department has specified information concerning the suspect or the suspect's vehicle (Government Code § 8594.15).

##### **334.9.1 CRITERIA FOR YELLOW ALERT**

All of the following conditions must be met before activating a Yellow Alert (Government Code § 8594.15):

- (a) A person has been killed due to a hit-and-run incident.
- (b) There is an indication that a suspect has fled the scene utilizing the state highway system or is likely to be observed by the public on the state highway system.
- (c) The department has additional information concerning the suspect or the suspect's vehicle including but not limited to the following:
  - 1. The complete license plate number of the suspect's vehicle.
  - 2. A partial license plate number and additional unique identifying characteristics, such as the make, model, and color of the suspect's vehicle, which could reasonably lead to the apprehension of a suspect.
  - 3. The identity of a suspect.

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4. Public dissemination of available information could either help avert further harm or accelerate apprehension of a suspect based on any factor, including but not limited to the time elapsed between a hit-and-run incident and the request or the likelihood that an activation would reasonably lead to the apprehension of a suspect.

#### **334.9.2 PROCEDURE FOR YELLOW ALERT**

Requests for a Yellow Alert shall be made through the California Highway Patrol (Government Code § 8594.15).

#### **334.10 FEATHER ALERT**

A Feather Alert may be issued when an indigenous person is reported missing under unexplained or suspicious circumstances (Government Code § 8594.13).

##### **334.10.1 CRITERIA FOR FEATHER ALERT**

All of the following conditions must be met before activating a Feather Alert (Government Code § 8594.13):

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

##### **334.10.2 PROCEDURE FOR FEATHER ALERT**

Requests for a Feather Alert shall be made through the California Highway Patrol (Government Code § 8594.13).

#### **334.11 ENDANGERED MISSING ADVISORY**

An Endangered Missing Advisory may be requested when a person is reported missing who is developmentally disabled, or cognitively impaired, or has been abducted, or is unable to otherwise care for themselves, placing their physical safety at risk (Government Code § 8594.11).

##### **334.11.1 CRITERIA FOR ENDANGERED MISSING ADVISORY**

All of the following conditions must be met before activating an Endangered Missing Advisory (Government Code § 8594.11):

- (a) The missing person is developmentally disabled, cognitively impaired, has been abducted or is otherwise unable to care for themselves, placing their physical safety at risk.

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

#### 334.11.2 PROCEDURE FOR ENDANGERED MISSING ADVISORIES

Requests for an endangered missing advisory shall be made through the California Highway Patrol (Government Code § 8594.11).

#### **334.12 EBONY ALERT**

An Ebony Alert may be requested when it is determined the alert would be an effective tool in the investigation of missing Black youth, including a young woman or girl (Government Code § 8594.14).

##### 334.12.1 CRITERIA FOR EBONY ALERT

The investigating officer may consider the following factors to make the determination that an Ebony Alert would be an effective tool (Government Code § 8594.14):

- (a) The missing person is between the ages of 12 and 25 years old, inclusive.
- (b) The missing person is missing under circumstances that indicate their physical safety is endangered or they have been subject to trafficking.
- (c) The missing person suffers from a mental or physical disability.
- (d) Determination that the person has gone missing under unexplained or suspicious circumstances.
- (e) Belief that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of a potentially dangerous person, or that there are other factors indicating that the person may be in peril.
- (f) The Department has utilized all available local resources.
- (g) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

##### 334.12.2 PROCEDURE FOR EBONY ALERT

Requests for an Ebony Alert shall be made through the California Highway Patrol (Government Code § 8594.14).



## Victim and Witness Assistance

### 336.1 PURPOSE AND SCOPE

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

### 336.2 POLICY

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

### 336.3 CRIME VICTIM LIAISON

The Administrative Officer will serve as the crime victim liaison (2 CCR 649.36). The crime victim liaison will be the point of contact for individuals requiring further assistance or information from the Indio Police Department regarding benefits from crime victim resources. This person will work in cooperation with the Riverside County District Attorney's Office Victim Services Unit to ensure the department is maintaining compliance with all legal mandates related to crime victims and/or witnesses.

#### 336.3.1 CRIME VICTIM LIAISON DUTIES

The crime victim liaison is specifically tasked with the following:

- (a) Developing and implementing written procedures for notifying and providing forms for filing with the California Victim Compensation Board (CalVCB) to crime victims, their dependents, or family. Access to information or an application for victim compensation shall not be denied based on the victim's or derivative victim's designation as a gang member, associate, or affiliate, or on the person's documentation or immigration status (Government Code § 13962; 2 CCR 649.35; 2 CCR 649.36).
- (b) Responding to inquiries concerning the procedures for filing a claim with CalVCB (2 CCR 649.36).
- (c) Providing copies of crime reports requested by CalVCB or victim witness assistance centers. Disclosure of reports must comply with the Records Maintenance and Release Policy.
- (d) Annually providing CalVCB with the crime victim liaison's contact information (Government Code § 13962).
- (e) Developing in consultation with sexual assault experts a sexual assault victim card explaining the rights of victims under California law (Penal Code § 680.2).
  1. Ensuring that sufficient copies of the rights of sexual assault victim card are provided to each provider of medical evidentiary examinations or physical examinations arising out of sexual assault in the Indio Police Department jurisdiction (Penal Code § 680.2).

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- (f) Providing information required by Penal Code § 679.09 of a deceased minor to a parent or guardian of the minor whose death is being investigated.
  - 1. In cases where the parent or guardian of the deceased minor cannot be located, information required by Penal Code § 679.09 shall be provided to the victim's immediate family, upon their request.
- (g) Providing notification to victims of human trafficking or abuse of their right to have a human trafficking advocate and a support person that the victim chooses present during an interview by the Department, prosecutor, or the suspect's defense attorney (Penal Code § 236.21).

#### **336.4 CRIME VICTIMS**

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

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

##### **336.4.1 VICTIMS OF HUMAN TRAFFICKING**

Officers investigating or receiving a report involving a victim of human trafficking shall inform the victim, or the victim's parent or guardian if the victim is a minor, that upon the request of the victim the names and images of the victim and his/her immediate family members may be withheld from becoming a matter of public record until the conclusion of the investigation or prosecution (Penal Code § 293).

#### **336.5 VICTIM INFORMATION**

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

- (a) Shelters and other community resources for victims of domestic violence.
- (b) Community resources for victims of sexual assault.
- (c) Assurance that sexual assault victims will not incur out-of-pocket expenses for forensic medical exams, and information about evidence collection, storage, and preservation in sexual assault cases (34 USC § 10449; 34 USC § 20109; Penal Code § 13823.95(a)).
- (d) An explanation that victims of sexual assault who seek a standardized medical evidentiary examination shall not be required to participate or agree to participate in the criminal justice system, either prior to the examination or at any other time (Penal Code § 13823.95(b)).
- (e) An advisement that a person who was arrested may be released on bond or some other form of release and that the victim should not rely upon an arrest as a guarantee of safety.
- (f) A clear explanation of relevant court orders and how they can be obtained.

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- (g) Information regarding available compensation for qualifying victims of crime (Government Code § 13962).
- (h) VINE® information (Victim Information and Notification Everyday), including the telephone number and whether this free service is available to allow victims to check on an offender's custody status and to register for automatic notification when a person is released from jail.
- (i) Notice regarding U visa and T visa application processes.
- (j) Resources available for victims of identity theft.
- (k) A place for the officer's name, badge number, and any applicable case or incident number.
- (l) The "Victims of Domestic Violence" card containing the names, phone numbers, or local county hotlines of local shelters for battered women and rape victim counseling centers within the county and their 24-hour counseling service telephone numbers (Penal Code § 264.2).
- (m) The rights of sexual assault victims card with the required information as provided in Penal Code § 680.2.
- (n) Any additional information required by state law (Penal Code § 13701; Penal Code § 679.02; Penal Code § 679.04; Penal Code § 679.05; Penal Code § 679.026).

#### **336.6 WITNESSES**

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

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

## Hate Crimes

### 338.1 POLICY

It is the policy of this department to safeguard the rights of all individuals irrespective of their disability, gender, nationality, race or ethnicity, religion, sexual orientation, and/or association with a person or group with one or more of these actual or perceived characteristics. Any acts or threats of violence, property damage, harassment, intimidation, or other crimes motivated by hate or bias should be viewed very seriously and given high priority.

This department will employ reasonably available resources and vigorous law enforcement action to identify and arrest hate crime perpetrators. Also, recognizing the particular fears and distress typically suffered by victims, the potential for reprisal and escalation of violence, and the far-reaching negative consequences of these crimes on the community, this department should take all reasonable steps to attend to the security and related concerns of the immediate victims and their families as feasible.

All officers are required to be familiar with the policy and use reasonable diligence to carry out the policy unless directed by the Chief of Police or other command-level officer to whom the Chief of Police formally delegates this responsibility.

### 338.1 PURPOSE AND SCOPE

The purpose of this policy is to meet or exceed the provisions of Penal Code § 13519.6(c) and provides members of this department with guidelines for identifying and investigating incidents and crimes that may be motivated by hatred or other bias. This policy is set forth to establish guidelines for identifying and investigating hate crimes and assisting victimized individuals and communities. A swift and strong response by law enforcement can help stabilize and calm the community as well as aid in a victim's recovery. Investigations Lieutenant shall designate a crime analyst to develop a standard system for collecting, analyzing, and reporting incidents of crime that are, in whole or in part, directed against individuals because of race, religion, ethnicity, gender, sexual orientation, gender identity, or disability.

### 338.2 DEFINITIONS

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

- (a) Disability
- (b) Gender
- (c) Nationality
- (d) Race or ethnicity
- (e) Religion
- (f) Sexual orientation

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

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

**Bias:** A preformed negative opinion or attitude toward a group of persons based on their race, religion, disability, sexual orientation, ethnicity, gender, or gender identity.

**Hate crime:** A crime in which the defendant intentionally selects a victim, or in the case of a property crime, the property that is the object of the crime, because of the actual or perceived race, color, religion, national origin, ethnicity, gender, gender identity, disability, or sexual orientation of any person.

**Hate incident:** Those actions by an individual or group that, while motivated by hate or bias, do not rise to the level of a criminal offense.

**Hate group:** An organization whose ideology is primarily or substantially based on antipathy, hostility, or hatred toward persons of a different race, ethnicity, national origin, religion, disability, sexual orientation, gender, and/ or gender identity.

**Race:** A group of persons who possess common physical characteristics, for example, color of skin, eyes, and/or hair; facial features, and so forth, which are genetically transmitted by descent and heredity and that distinguish them as a distinct division of humankind. Examples include Asians, blacks or African Americans, and whites.

**Ethnic group:** A group of persons whose members identify with each other through a common heritage, often consisting of a shared language, culture and/or ideology that stresses common ancestry.

**Religious group:** A group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being. Examples include Catholic, Jewish, Protestant, Muslim, Sikh, Hindu, and atheist.

**Sexual orientation:** A person's physical, romantic, and/or emotional attraction to members of the same and/or opposite sex. Examples include homosexual, bisexual, and heterosexual.

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**Gender:** Used synonymously with sex to denote whether an individual is male or female.

**Gender identity:** A person's internal sense of being male, female, or a combination of both; this internal sense of gender may be different from physical gender at birth.

**Disability:** A physical or mental impairment, whether temporary or permanent, that is due to conditions that are congenital or acquired by heredity, accident, injury, advanced age, or illness

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

### **338.3 PREVENTION AND PREPARATION**

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

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

### **338.4 INVESTIGATIONS**

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

- (a) Assigned officers should promptly contact the victim, witness or reporting party to investigate the matter further as circumstances may dictate
- (b) An immediate supervisor shall be notified of the circumstances and respond to the scene as soon as practical.
- (c) Once in-progress aspects of any such situation have been stabilized (e.g., treatment of victims, apprehension of suspects at the scene), the assigned officers should take all reasonable steps to preserve evidence that establishes a possible hate crime.
- (d) Based upon available information, officers should take appropriate action to mitigate further injury or damage to potential victims or the community.
  - (a) Officers shall contact the property owner to remove any evidence that cannot be physically removed (i.e., painted words or signs on a wall) by the officer once the offense is documented.

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- (e) The assigned officers shall interview available witnesses, victims and others to determine what circumstances, if any, indicate that the situation may involve a hate crime.
  - (a) 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))
  - (b) Statements of victims and witnesses should be audio or video recorded if practicable (see the Portable Audio/Video Recorders Policy).
- (f) Depending on the situation, the assigned officers or supervisor may request additional assistance from detectives or other resources.
- (g) The assigned officers should include all available evidence indicating the likelihood of a hate crime in the relevant reports. All related reports shall be, absent prior approval of a Lieutenant or above completed and submitted by the assigned officers before the end of the shift.
- (h) The assigned officers will provide the victims of any suspected hate crime with a brochure on hate crimes (Penal Code § 422.92). Such brochures will also be available to members of the general public upon request. The assigned officers should also make reasonable efforts to assist the victims by providing available information on local assistance programs and organizations.
- (i) The assigned officers and supervisor should take reasonable steps to ensure that any such situation does not escalate further and should provide information to the victim regarding legal aid (e.g., Possible Temporary Restraining Order through the District Attorney or City Attorney Penal Code § 136.2 or Civil Code § 52.1 as indicated).
- (j) A fact sheet related to victim services available to the public from the Department of Fair Employment and Housing has been attached.

[See attachment: DFEH\\_RalphPoster\\_ENG Hate violence informational poster.pdf](#)

#### **338.4.1 Major Crimes Unit or Street Crimes Unit Responsibility**

If a hate crime case is assigned to the Major Crimes Unit or Street Crimes Unit (MCU / SCU), the unit supervisor will ensure the assigned detective(s) will be responsible for:

- (a) Coordinating further investigation with the District Attorney and other appropriate law enforcement agencies.
- (b) Maintaining contact with the victims and other involved individuals, as needed.
- (c) Maintaining statistical data and tracking on suspected hate crimes as indicated for required reporting to the Attorney General (Penal Code § 13023). See the Records Bureau Policy.
- (d) Make reasonable efforts to identify additional witnesses.
- (e) Utilize available criminal intelligence systems as appropriate (see Criminal Organizations Policy).

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- (f) Provide the supervisor and the Public Information Officer (PIO) with information that can be responsibly reported to the media.
  - (a) When appropriate, the PIO shall reiterate that the hate crime will not be tolerated and will be taken seriously.
- (g) MCU or SCU shall follow up to ensure that that these steps are accomplished in a timely manner.
- (h) Coordinate the investigation with other units of this agency, as well as other local, state, and regional intelligence operations in order to identify any patterns, organized hate groups, and suspects potentially involved in the offense.
- (i) Make a final determination based on evidence and facts as to whether the incident should be classified as a hate crime.
- (j) Determine the primary elements of the crime and obtain the information necessary to complete the federal and state hate crime data collection requirements

#### **338.4.2 SUPERVISOR RESPONSIBILITY**

The supervisor shall respond to the scene and confer with the initial responding officers to identify reasonable and appropriate preliminary actions and shall notify and brief their Lieutenant or executive staff. The supervisor shall:

- (a) Review related reports to verify whether the incident is appropriately classified as a hate crime for federal and state bias crime-reporting purposes.
- (b) Notify the chief executive or his or her designee and other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.
- (c) Consider the need for further action to be taken for the protection of the victims or vulnerable sites, such as assigning an officer at specific locations that could become targets or increase neighborhood surveillance.
- (d) Provide updated information on the status of the investigation and the community impact within 48 hours.
- (e) Provide immediate assistance to the victim as outlined by this agency's policy on victim response.
- (f) Ensure that members who are responsible for the conduct and maintenance of information on criminal groups are notified and that they make appropriate inquiries and entries into criminal intelligence systems (see Criminal Organizations Policy).
- (g) Expressing the department's official position on the importance of these cases and the measures that will be taken to apprehend the perpetrators.
- (h) Expressing the department's interest in protecting victims' anonymity (confidentiality forms, Government Code § 6254) to the extent reasonably possible. Allow the victims to convey their immediate concerns and feelings.
- (i) Identifying individuals or agencies that may provide victim assistance and support. Local victim assistance resources may include family members or close



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acquaintances, clergy, or a department chaplain, as well as community service agencies that provide shelter, food, clothing, child care, or other related services (per Penal Code § 422.92).

- (j) Take reasonable steps to ensure that all relevant facts are documented on an incident and/or arrest report and make an initial determination as to whether the incident should be classified as a hate crime for federal and state bias-crimes reporting purposes.
- (k) Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.
- (l) In cases of large-scale hate crime waves, or in circumstances where the potential exists for subsequent hate crimes or incidents, consider directing resources to protect vulnerable sites (such as assigning an officer to specific locations that could become targets).
- (m) Verify hate crimes are being properly reported, including reporting to the Department of Justice, pursuant to Penal Code § 13023.
- (n) Verify adherence to Penal Code § 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law. Supervisors should also be aware of the immigration remedies available to victims of crime (e.g., U-Visa, T-Visa, S-Visa).
- (o) Respond to and properly initiate an investigation of any reports of hate crimes committed under the color of authority.
- (p) Provide appropriate assistance, including activating the California Department of Justice hate crime rapid response protocol if necessary. For additional information refer to the California Department of Justice website.
- (q) Verify reporting of any suspected multi-mission extremist crimes to the agency Hate Crimes Coordinator.
- (r) Make a final determination as to whether the incident should be classified as a hate crime and forward to the Investigations Division Lieutenant for approval.

### **338.5 TRAINING**

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

- (a) Recognition of bias motivators such as ranges of attitudes and perceptions toward a specific characteristic or group.
- (b) Accurate reporting by officers, including information on the general underreporting of hate crimes.
- (c) Distribution of hate crime brochures.
- (d) In addition, all Officers shall review the [Commission on Peace Officer Standards and Training Hate Crimes Model Policy 2019.pdf](https://post.ca.gov/) available on the Post website; <https://post.ca.gov/>.

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## Standards of Conduct

### 340.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Indio Police Department and are expected of all department members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions but they do identify many of the important matters concerning conduct. In addition to the provisions of this policy, members are subject to all other provisions contained in this manual, as well as any additional guidance on conduct that may be disseminated by this department or a member's supervisors.

### 340.2 POLICY

The continued employment or appointment of every member of the Indio Police Department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action.

### 340.3 DIRECTIVES AND ORDERS

Members shall comply with lawful directives and orders from any department supervisor or person in a position of authority, absent a reasonable and bona fide justification.

#### 340.3.1 UNLAWFUL OR CONFLICTING ORDERS

Supervisors shall not knowingly issue orders or directives that, if carried out, would result in a violation of any law or department policy. Supervisors should not issue orders that conflict with any previous order without making reasonable clarification that the new order is intended to countermand the earlier order.

No member is required to obey any order that appears to be in direct conflict with any federal law, state law or local ordinance. Following a known unlawful order is not a defense and does not relieve the member from criminal or civil prosecution or administrative discipline. If the legality of an order is in doubt, the affected member shall ask the issuing supervisor to clarify the order or shall confer with a higher authority. The responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

Unless it would jeopardize the safety of any individual, members who are presented with a lawful order that is in conflict with a previous lawful order, department policy or other directive shall respectfully inform the issuing supervisor of the conflict. The issuing supervisor is responsible for either resolving the conflict or clarifying that the lawful order is intended to countermand the previous lawful order or directive, in which case the member is obliged to comply. Members who are compelled to follow a conflicting lawful order after having given the issuing supervisor the opportunity to correct the conflict, will not be held accountable for disobedience of the lawful order or directive that was initially issued.

The person countermanding the original order shall notify, in writing, the person issuing the original order, indicating the action taken and the reason.

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#### 340.3.2 SUPERVISOR RESPONSIBILITIES

Supervisors and managers are required to follow all policies and procedures and may be subject to discipline for:

- (a) Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control.
- (b) Failure to promptly and fully report any known misconduct of a member to his/her immediate supervisor or to document such misconduct appropriately or as required by policy.
- (c) Directing a subordinate to violate a policy or directive, acquiesce to such a violation, or are indifferent to any such violation by a subordinate.
- (d) The unequal or disparate exercise of authority on the part of a supervisor toward any member for malicious or other improper purpose.

#### **340.4 GENERAL STANDARDS**

Members shall conduct themselves, whether on- or off-duty, in accordance with the United States and California constitutions and all applicable laws, ordinances, and rules enacted or established pursuant to legal authority.

Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

Discipline may be initiated for any good cause. It is not mandatory that a specific policy or rule violation be cited to sustain discipline. This policy is not intended to cover every possible type of misconduct.

#### **340.5 CAUSES FOR DISCIPLINE**

The following are illustrative of causes for disciplinary action. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for violation of other rules, standards, ethics and specific action or inaction that is detrimental to efficient department service:

##### 340.5.1 LAWS, RULES AND ORDERS

- (a) Violation of, or ordering or instructing a subordinate to violate any policy, procedure, rule, order, directive, requirement or failure to follow instructions contained in department or City manuals.
- (b) Disobedience of any legal directive or order issued by any department member of a higher rank.
- (c) Violation of federal, state, local or administrative laws, rules or regulations.

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#### 340.5.2 ETHICS

- (a) Using or disclosing one's status as a member of the Indio Police Department in any way that could reasonably be perceived as an attempt to gain influence or authority for nondepartment business or activity.
- (b) The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.
- (c) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties (lawful subpoena fees and authorized work permits excepted).
- (d) Acceptance of fees, gifts or money contrary to the rules of this department and/or laws of the state.
- (e) Offer or acceptance of a bribe or gratuity.
- (f) Misappropriation or misuse of public funds, property, personnel or services.
- (g) Any other failure to abide by the standards of ethical conduct.

#### 340.5.3 DISCRIMINATION, OPPRESSION, OR FAVORITISM

Unless required by law or policy, discriminating against, oppressing, or providing favoritism to any person because of actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, economic status, cultural group, veteran status, marital status, and any other classification or status protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing the conduct is unlawful.

#### 340.5.4 RELATIONSHIPS

- (a) Unwelcome solicitation of a personal or sexual relationship while on duty or through the use of one's official capacity.
- (b) Engaging in on-duty sexual activity, including but not limited to sexual intercourse, excessive displays of public affection, or other sexual contact.
- (c) Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with a known victim, witness, suspect, or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.
- (d) Associating with or joining a criminal gang, organized crime, and/or criminal syndicate when the member knows or reasonably should know of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by this department.
- (e) Associating on a personal, rather than official basis with persons who demonstrate recurring involvement in serious violations of state or federal laws after the member knows, or reasonably should know of such criminal activities, except as specifically directed and authorized by this department.
- (f) Participation in a law enforcement gang as defined by Penal Code § 13670. Participation is grounds for termination (Penal Code § 13670).

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#### 340.5.5 ATTENDANCE

- (a) Leaving the job to which the member is assigned during duty hours without reasonable excuse and proper permission and approval.
- (b) Unexcused or unauthorized absence or tardiness.
- (c) Excessive absenteeism or abuse of leave privileges.
- (d) Failure to report to work or to the place of assignment at the time specified and fully prepared to perform duties without reasonable excuse.

#### 340.5.6 UNAUTHORIZED ACCESS, DISCLOSURE, OR USE

- (a) Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms, or reports obtained as a result of the member's position with this department.
  - (a) Members of this department shall not disclose the name, address, or image of any victim of human trafficking except as authorized by law (Penal Code § 293).
- (b) Disclosing to any unauthorized person any active investigation information.
- (c) The use of any information, photograph, video, or other recording obtained or accessed as a result of employment or appointment to this department for personal or financial gain or without the express authorization of the Chief of Police or the authorized designee.
- (d) Loaning, selling, allowing unauthorized use, giving away, or appropriating any department property for personal use, personal gain, or any other improper or unauthorized use or purpose.
- (e) Using department resources in association with any portion of an independent civil action. These resources include but are not limited to personnel, vehicles, equipment, and nonsubpoenaed records.

#### 340.5.7 EFFICIENCY

- (a) Neglect of duty.
- (b) Unsatisfactory work performance including but not limited to failure, incompetence, inefficiency, or delay in performing and/or carrying out proper orders, work assignments, or the instructions of supervisors without a reasonable and bona fide excuse.
- (c) Failure to observe and remember basic events at a significant incident. This shall include the officer's ability to observe and recall events and situations occurring around them.
- (d) Concealing, attempting to conceal, removing, or destroying defective or incompetent work.
- (e) Sleeping while on-duty.
- (f) Failure to notify the Department within 24 hours of any change in residence address or contact numbers.

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- (g) Failure to notify the Department of Human Resources of changes in relevant personal information (e.g., information associated with benefits determination) in a timely fashion.

#### 340.5.8 PERFORMANCE

- (a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any workrelated investigation.
- (b) The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any department record, public record, book, paper or document.
- (c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department related business.
- (d) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this department or its members.
- (e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency and discipline of this department or that would tend to discredit any of its members.
- (f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:
  - 1. While on department premises.
  - 2. At any work site, while on duty or while in uniform, or while using any department equipment or system.
  - 3. Gambling activity undertaken as part of an officer official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
- (g) Improper political activity including:
  - 1. Unauthorized attendance while on duty at official legislative or political sessions.
  - 2. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on duty or, on department property except as expressly authorized by City policy, the memorandum of understanding, or the Chief of Police.
- (h) Engaging in political activities during assigned working hours except as expressly authorized by City policy, the memorandum of understanding, or the Chief of Police.
- (i) Any act on or off duty that brings discredit to this department.

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#### 340.5.9 CONDUCT

- (a) Failure of any member to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law enforcement agency or that may result in criminal prosecution or discipline under this policy.
- (b) Unreasonable and unwarranted force to a person encountered or a person under arrest.
- (c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.
- (e) Engaging in horseplay that reasonably could result in injury or property damage.
- (f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department or the City.
- (g) Use of obscene, indecent, profane or derogatory language while on duty or in uniform.
- (h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this department.
- (i) Unauthorized possession of, loss of, or damage to department property or the property of others, or endangering it through carelessness or maliciousness.
- (j) Attempted or actual theft of department property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of department property or the property of another person.
- (k) Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any memorandum of understanding or contract to include fraud in securing the appointment or hire.
- (l) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the Chief of Police of such action.
- (m) Any other on or off duty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.

#### 340.5.10 SAFETY

- (a) Failure to observe or violating department safety standards or safe working practices.
- (b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver license, first aid).
- (c) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.
- (d) Unsafe firearm or other dangerous weapon handling to include loading or unloading firearms in an unsafe manner, either on- or off- duty.

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- (e) Carrying, while on the premises of the work place, any firearm or other lethal weapon that is not authorized by the member's appointing authority.
- (f) Unsafe or improper driving habits or actions in the course of employment or appointment.
- (g) Any personal action contributing to a preventable traffic collision.
- (h) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.

#### 340.5.11 INTOXICANTS

- (a) Reporting for work or being at work while intoxicated or when the member's ability to perform assigned duties is impaired due to the use of alcohol, medication or drugs, whether legal, prescribed or illegal.
- (b) Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment. A member who is authorized to consume alcohol is not permitted to do so to such a degree that it may impair on-duty performance.
- (c) Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site.



## Indio Police Department Building Security

### 341.1 PURPOSE AND SCOPE

The purpose of this policy is to describe the appropriate police building security procedures, duties and responsibilities so as to ensure the safety of all employees of the Indio Police Department.

### 341.2 Restricted Areas

Non-public areas in the Department shall be identified with a sign at the entrance stating, "Restricted Non-Public Area - Visible Identification Required."

### 341.3 Identification within Restricted Areas

A. Non-uniformed employees shall exhibit their photo-identification card while in restricted areas of a Department facility.

B. Identification shall be conspicuously visible at all times and displayed on an outer garment.

1. Photo identification is to include,
2. City access cards
3. IPD issued identification cards.
4. Police Officer Badge for sworn personnel.

### 341.4 Employees

All employees of the Indio Police Department should use their RFID access card or manual door code to enter the building.

While inside the Indio Police Department buildings, all employees are required to wear visible identification both on- and off-duty. When employees are on duty, they should be in full issued uniform with name tag and department patches, department badge and / or appropriate attire with a photo identification card visible.

### 341.5 Visitors

At Indio Police Department buildings equipped with community rooms, which are open to the public, no identification will be required of visitors that are coming solely for the purpose of convening for a meeting at these community rooms.

All other visitors at the Indio Police Department buildings must be issued a Visitor Identification Badge, which they must wear on their outer most clothing visible to all. These visitors will be processed through the front counter / reception area when they arrive and leave the building. This visitor badge must be retained and returned upon the exit of the visitor.

Employees who enter the building with an accompanying visitor must present the visitor to the front counter / reception area for processing prior to entry. No one shall be on the premises without a visitor identification badge.

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The front counter / reception area will have the following responsibilities:

1. Front counter / area will maintain a "Visitors Log". All visitor will sign in stating the purpose of their visit, the name of the employee they will be visiting, and time of arrival and departure.
2. Determine that the individual is authorized to enter the police facility.
3. If feasible, assure the visitor will be escorted to and from the appropriate location by the contacted employee or a designated employee of that same bureau. Visitors must use the in house lobby telephone or receptionist to contact the employee they are visiting.
4. Once the visitor has completed their business, the visitor's identification badge will be collected.
5. A "Visitor Identification Badge" must be issued for entry / security purposes. A visitor will be categorized under one of the following four (4) categories and will be issued a distinct Badge type:

(A) City Employee (CE): A non-Indio Police Department city employee who is visiting an Indio Police Department building will be issued the (CE) type of identification badge and may be escorted by an employee if necessary. Exception: City employees who have been cleared through a background check process, granted access with a city ID card, and authorized by the Indio Police Department are exempt from the requirement to be escorted at all times. Examples include city employees from the Information Technology Department, janitorial staff and maintenance personnel who routinely perform work in Police facilities.

(B) Visitor (V): All other visitors will be issued and required to wear the "V" type identification badge on their most outermost garment, and MUST be escorted at all times by an employee.

(C) Training: Persons who are visiting a police facility for the purpose of conducting or attending training will be required to sign in and will be issued a training identification badge, which shall be worn on the outermost garment while inside the police facility. Those attending or providing training will retain their training badge until the conclusion of the training evolution. These individuals will not be required to sign in and out each time they enter and exit the facility. These individuals will only have access to training and restroom facilities.

#### **341.6 Unauthorized Personnel**

Employees shall contact individuals in the building who do not have proper identification and make a determination as to the nature of their business or bring the matter to the attention of a supervisor or sworn member of the Department.

Individuals not having any legitimate business in the building shall be courteously escorted to a public area of the facility after ascertaining the nature of their business at the department.

#### **341.7 Prisoner Escort**

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All suspects will be searched in accordance with Department policy prior to being escorted into a secure police facility.

If a suspect is brought into the building through the main entrance and or arrested in the lobby, as this occurs from time to time, the person must be searched by sworn personnel prior to being escorted into a holding cell.

#### **341.8 Loss of Assigned RFID Key Card**

In the event that an employee loses his/her RFID key card, notification to his/her supervisor must be made as soon as possible for security reasons. The immediate supervisor shall then notify his / her lieutenant. If the loss occurs after normal business hours, or on weekends or holidays, employees are to call the on-duty watch commander for notification. RFID gate key cards can be remotely de-activated. As soon as possible thereafter, during normal work hours, employees are to request issuance of a new RFID key card through their chain of command..

#### **341.9 Exterior Doors**

Exterior doors will not be propped open for any reason. This includes situations when an employee is outside and adjacent to the door. When a vendor is making a delivery at a building, a supervisor of the bureau the vendor is visiting will assign an employee to remain at the door and or escort the vendor. After the delivery or service has been completed, the doors shall be secured and the vendor shall be escorted off site.

#### **341.10 Parking In The Secured and Unsecured Parking Lot**

This policy applies to all Department employees when parking on IPD property.

The IPD secure area consists of the east parking lot reserved for police and city vehicles. Access to the secure rear parking lot is restricted by gates.

Some parking spaces in the secured area are reserved/restricted for assigned police and investigative division cars located at IPD, lieutenants and executive staff.

No parking of personal vehicles is allowed in the secured lot reserved only for police issued vehicles.

#### **341.11 Information Technology and Cyber Security**

(a) In addition, this policy applies to the use, storage, and maintenance of most Department video systems in locations such as holding cells, general facility, sally ports, and interior and exterior building security cameras.

(b) This policy does not apply to body-worn video which is covered by individual department policy.

(c) The Information Technology Department (ITD) will perform periodic status checks on camera equipment and facilitate any necessary hardware and/or software repair, replacement, or upgrades.

(d) If there are any malfunctions with information technology or security video systems, a sergeant will contact IT for repair and notify a lieutenant.

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(e) IT will also maintain user permissions in the back-office software for viewing recorded security videos. Employees requesting higher than basic-level access will submit the request via their supervisor.

(f) Employees will not interrupt or hinder holding cell or security video recordings.

(g) Video recordings may only be intentionally deactivated by approved personnel and maintenance staff with the pre-approval of executive staff or their designee for routine maintenance, upgrade, or troubleshooting if a malfunction occurs. If deactivation occurs in a holding cell, employees will make an effort to avoid using the affected areas until the system is recording again.

(h). Employees may review and download recorded holding cell and security videos for the purpose of investigations.

#### **341.12 General Physical Inspections**

On a daily basis, the on-duty watch commander shall make an inspection of the facilities to ensure there are no immediate deficiencies to the facility that require immediate attention and or maintenance to eliminate safety risk concerns.

Unannounced inspections of evidence storage areas can be directed by the Chief of Police or his designee.

#### **341.13 Changing Door Codes And Facility Access**

Upon the separation of an employee(s), the Chief of Police may designate the appropriate department supervisor to ensure the door codes are reset to enhance operational security and maintain a safe work environment for Indio Police Department personnel.

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# Information Technology Use

## 342.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the proper use of department information technology resources, including computers, electronic devices, hardware, software and systems.

### 342.1.1 DEFINITIONS

Definitions related to this policy include:

**Computer system** - All computers (on-site and portable), electronic devices, hardware, software, and resources owned, leased, rented or licensed by the Indio Police Department that are provided for official use by its members. This includes all access to, and use of, Internet Service Providers (ISP) or other service providers provided by or through the Department or department funding.

**Hardware** - Includes, but is not limited to, computers, computer terminals, network equipment, electronic devices, telephones, including cellular and satellite, pagers, modems or any other tangible computer device generally understood to comprise hardware.

**Software** - Includes, but is not limited to, all computer programs, systems and applications, including shareware. This does not include files created by the individual user.

**Temporary file, permanent file or file** - Any electronic document, information or data residing or located, in whole or in part, on the system including, but not limited to, spreadsheets, calendar entries, appointments, tasks, notes, letters, reports, messages, photographs or videos.

## 342.2 POLICY

It is the policy of the Indio Police Department that members shall use information technology resources, including computers, software and systems, that are issued or maintained by the Department in a professional manner and in accordance with this policy.

## 342.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to emails, texts, or anything published, shared, transmitted, or maintained through file-sharing software or any internet site that is accessed, transmitted, received, or reviewed on any department computer system.

The Department reserves the right to access, audit, and disclose, for whatever reason, any message, including attachments, and any information accessed, transmitted, received, or reviewed over any technology that is issued or maintained by the Department, including the department email system, computer network, and/or any information placed into storage on any department system or device. This includes records of all keystrokes 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 username or password will not create an expectation of privacy if it is accessed through department computers, electronic devices, or networks.

The Department shall not require a member to disclose a personal username or password for accessing personal social media or to open a personal social website; however, the Department

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may request access when it is reasonably believed to be relevant to the investigation of allegations of work-related misconduct (Labor Code § 980).

#### **342.4 RESTRICTED USE**

Members shall not access computers, devices, software or systems for which they have not received prior authorization or the required training. Members shall immediately report unauthorized access or use of computers, devices, software or systems by another member to their supervisors or Watch Commanders.

Members shall not use another person's access passwords, logon information and other individual security data, protocols and procedures unless directed to do so by a supervisor.

Each suspected incident of unauthorized or improper use of CLETS equipment or criminal justice information, or of failure to take physical security measures to protect CLETS equipment or criminal justice information, shall be investigated as prescribed by department policies related to personnel complaints.

##### **342.4.1 SOFTWARE**

Members 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 a computer virus or malicious software, members shall not install any unlicensed or unauthorized software on any department computer. Members shall not install personal copies of any software onto any department computer.

When related to criminal investigations, software program files may be downloaded only with the approval of the information systems technology (IT) staff and with the authorization of the Chief of Police or the authorized designee.

No member shall knowingly make, acquire or use unauthorized copies of computer software that is not licensed to the Department while on department premises, computer systems or electronic devices. Such unauthorized use of software exposes the Department and involved members to severe civil and criminal penalties.

Introduction of software by members should only occur as part of the automated maintenance or update process of department- or City-approved or installed programs by the original manufacturer, producer or developer of the software.

Any other introduction of software requires prior authorization from IT staff and a full scan for malicious attachments.

Regular maintenance: at a minimum, weekly antivirus scans of computer equipment shall be conducted.

Timely updates of all maintenance patches, configurations, or applications shall be conducted. Appropriate risk assessment procedures shall be in place in instances due to patch failure or system compatibility.

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Testing must be conducted prior to implementation of all application, system patches, service pack updates, or hot fixes.

Back-ups must be performed in a secure manner.

#### **342.4.2 HARDWARE**

Access to technology resources provided by or through the Department shall be strictly limited to department-related activities. Data stored on or available through department computer systems shall only be accessed by authorized members who are engaged in an active investigation or assisting in an active investigation, or who otherwise have a legitimate law enforcement or department-related purpose to access such data. Any exceptions to this policy must be approved by a supervisor.

#### **342.4.3 INTERNET USE**

Internet access provided by or through the Department shall be strictly limited to department-related activities. Internet sites containing information that is not appropriate or applicable to department use and which shall not be intentionally accessed include but are not limited to adult forums, pornography, gambling, chat rooms, and similar or related internet sites. Certain exceptions may be permitted with the express approval of a supervisor as a function of a member's assignment.

Downloaded information shall be limited to messages, mail, and data files.

#### **342.5 PROTECTION OF AGENCY SYSTEMS AND FILES**

All members have a duty to protect the computer system and related systems and devices from physical and environmental damage and are responsible for the correct use, operation, care, and maintenance of the computer system.

Members shall ensure department computers and access terminals are not viewable by persons who are not authorized users. Computers and terminals should be secured, users logged off and password protections enabled whenever the user is not present. Access passwords, logon information, and other individual security data, protocols, and procedures are confidential information and are not to be shared. Password length, format, structure, and content shall meet the prescribed standards required by the computer system or as directed by a supervisor and shall be changed at intervals as directed by IT staff or a supervisor.

It is prohibited for a member to allow an unauthorized user to access the computer system at any time or for any reason. Members shall promptly report any unauthorized access to the computer system or suspected intrusion from outside sources (including the internet) to a supervisor.

#### **342.6 INSPECTION OR REVIEW**

A supervisor or the authorized designee has the express authority to inspect or review the computer system, all temporary or permanent files, related electronic systems or devices, and any contents thereof, whether such inspection or review is in the ordinary course of his/her supervisory duties or based on cause.

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Reasons for inspection or review may include, but are not limited to, computer system malfunctions, problems or general computer system failure, a lawsuit against the Department involving one of its members or a member's duties, an alleged or suspected violation of any department policy, a request for disclosure of data, or a need to perform or provide a service.

The IT staff may extract, download or otherwise obtain any and all temporary or permanent files residing or located in or on the department computer system when requested by a supervisor or during the course of regular duties that require such information.



## 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. Reports requiring prompt follow-up action on active leads, or arrest reports where the suspect remains in custody shall be completed by the end of watch unless a supervisor has approved the delayed submission of the report. These reports will be reviewed and approved the same day by an on duty supervisor. If the officer's supervisor is not available, any sworn supervisor can review and approve the report.

All other reports shall be completed during the employee's work week before going off-duty for days off, unless a supervisor has approved the delayed submission of the report.

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.

#### 344.1.2 SUPERVISOR RESPONSIBILITY

Supervisors shall review and approve their employee's reports without delay and, in most cases, on the day of submission. When workload prevents the supervisor from clearing their approval queue, they should request another supervisor handle the review and approval.

### 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

When a member 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 member shall document the incident

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regardless of whether a victim desires prosecution. Activity to be documented in a written report includes:

- (a) All arrests
- (b) All felony crimes
- (c) Non-Felony incidents involving threats or stalking behavior
- (d) Situations covered by separate policy. These include:
  - 1. Use of Force Policy
  - 2. Domestic Violence Policy
  - 3. Child Abuse Policy
  - 4. Senior and Disability Victimization Policy
  - 5. Hate Crimes Policy
  - 6. Suspicious Activity Reporting Policy
  - 7. Arson Investigations Policy
- (e) All misdemeanor crimes where the victim desires a report

The requirement for written documentation for misdemeanor crimes may be satisfied by a Department approved alternative reporting method(e.g., Alliance event log entry) in cases where there is limited or no suspect information, no evidence and/or workable leads or in instances where the victim does not desire prosecution.

#### 344.2.2 NON-CRIMINAL ACTIVITY

The following incidents shall be documented using the appropriate approved report:

- (a) Anytime an officer points a firearm at any person
- (b) Any use of force against any person by a member of this department (see the Use of Force Policy)
- (c) Any firearm discharge (see the Firearms Policy)
- (d) Anytime a person is reported missing, regardless of jurisdiction (see the Missing Persons Policy)
- (e) Any found property or found evidence
- (f) Any traffic collisions above the minimum reporting level (see Traffic Collision Reporting Policy)
- (g) Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy
- (h) All protective custody detentions
- (i) Suspicious incidents that may place the public or others at risk

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- (j) Whenever the employee believes the circumstances should be documented or at the direction of a supervisor

#### **344.2.3 DEATH CASES**

Death investigations require specific investigation methods depending on circumstances and should be handled in accordance with the Death Investigations Policy. 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 MANDATORY REPORTING OF JUVENILE GUNSHOT INJURIES**

A report shall be taken when any incident in which a child under 18 years suffered an unintentional or self-inflicted gunshot wound. The Records Bureau shall notify the California Department of Public Health(CDPH) of the incident, on a form provided by the state. Forms may be obtained from the CDPH website (Penal Code § 23685).

### **344.3 GENERAL POLICY OF EXPEDITIOUS REPORTING**

In general, all officers and supervisors shall act with promptness and efficiency in the preparation and processing of all reports. An incomplete report, unorganized reports or reports delayed without supervisory approval are not acceptable. Reports shall be processed according to established priorities or according to special priority necessary under exceptional circumstances.

#### **344.3.1 GENERAL 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. Supervisors should make minor changes to correct for spelling and grammar errors. Any correction made by a supervisor, not related to grammar or spelling, that changes the overall substance of a report, should be reviewed with the originating officer. If a correction by the originating officer is necessary, the

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reviewing supervisor should electronically return the report to its author, stating the reasons for rejection. The original report 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 Records Bureau for filing and distribution shall not be modified or altered except by way of a supplemental report. Reviewed reports that have not yet been submitted to the Records Bureau may be corrected or modified by the authoring officer with the knowledge and authorization of the reviewing supervisor.

In rare circumstances, the approving supervisor may make corrections to reports that have already been approved and not yet submitted to the Records Bureau. In any case where a change is made to an already reviewed and approved report, an electronic message will be sent to the appropriate Division Chief notifying him/her of the reason for the change.

#### **344.6 ELECTRONIC SIGNATURES**

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

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

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## Online Reporting Policy

### 345.1 PURPOSE AND SCOPE

It is the policy of the Indio Police Department to provide Online Reporting Services to the community. The purpose of this policy is to establish guidelines and procedures to determine when the Online Reporting System (COPLOGIC) may be used by the public.

### 345.2 PROCEDURE

A. General Guidelines The Indio Police Department will respond to in-progress incidents and all crimes where evidence or information is present, which may lead to the identity of a suspect and his/her apprehension, or if the incident just occurred and there is a likelihood the suspect may still be in the area. In certain situations, a citizen may elect to file their police report through COPLOGIC. The following crimes and reports may be referred to the online reporting system: 1. All petty/grand thefts without suspect information when the property value is under \$5,000, excluding firearms and materials threatening to public safety, i.e., explosives or highly toxic substances. 2. Auto burglaries without suspect information. 3. Attempt stolen/tampering of vehicles without suspect information. 4. Vandalism without suspect information. 5. Annoying/harassing telephone calls without suspect information. 6. Lost property reports. 7. Hit and run accidents without a valid suspect license plate or current location of suspect vehicle. 8. Identity theft without a local suspect. 9. Non-injury traffic collisions. 10. Minor-injury traffic collisions that do not require hospitalization. 11. Disobey court order by failing to abide by child custody order. 12. Credit Card or check fraud when there is no credible suspect information and there are no investigative leads.

### 345.3 COMMUNICATIONS AND RECORDS PERSONNEL RESPONSIBILITIES

1. When Communications and Records personnel receive a call from a citizen wishing to report an incident, the Dispatcher/Records Personnel will determine if the call falls within the scope of an online report. If so, Communications and Records personnel shall:

- a. Determine if the citizen has internet access.
- b. Inform the caller the incident can be documented via an online report, which allows them to file the report immediately, as well as, print a copy of the temporary report for free.
- c. Advise the caller of the Indio Police Department website address: [www.IndioPD.org](http://www.IndioPD.org) which will guide them through filing an online report.
- d. If a citizen walks into the lobby of the police department and the incident falls within the scope of an online report, Records personnel will direct the citizen to the computer in the lobby area to fill out the online report.

2. If the call screener determines the report is not suitable for online reporting, they will forward the citizen to the appropriate person to generate a call for service and a CSO or Officer will be dispatched to take a report. The call screener will make a notation in the CAD event detail such as "no internet access" or "does not fit online reporting criteria" to document that the online reporting option was offered.

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### *Online Reporting Policy*

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3. Dispatchers shall ensure calls for service that meet the criteria for online are referred to online reporting to minimize dispatching officers to calls that can be documented via online.

#### **345.4 REPORT APPROVAL**

1. The on-duty patrol supervisor, or designee will review the reports and import approved reports in the Online Reporting System queue at least once a shift. Instructions for reviewing reports will be kept in the Watch Commander Office. If the citizen report is misclassified, such as vandalism, instead of an auto burglary, the supervisor will classify the report according to the elements of the offense described by the citizen author.

2. All traffic related online reports will be reviewed by the Traffic Sergeant, or designee.

3. The reviewer will refrain from making grammatical corrections to citizens' reports, unless they are minor in nature, such as, "California" spelled as "Calefournia," etc. If the Supervisor determines the report was misclassified, it may be modified to fit the most appropriate section.

4. If there is a question as to the report's content, the reviewer should attempt to contact the reporting citizen by telephone prior to rejecting the report and make the correction to the Online Report.

5. If the reviewer rejects a report, the reason for rejection will be appropriately and professionally noted in the rejection box, which is sent via e-mail to the citizen and a duplicate to a department storage mailbox.

6. The reviewing supervisor shall request a Patrol response when, in the reasonable judgment of the supervisor, circumstances indicate an investigation is warranted. In this circumstance, a rejection should be sent to the citizen and the officer will state in the rejection box that a response will be made.

## 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 Chiefs, Watch Commanders and designated Public Information Officer(s) may prepare and release information to the media in accordance with this policy and the applicable law.

(a) Public Information Officer: The Public Information Officer is responsible for maintaining close liaison with members of the news media and shall facilitate their obtaining accurate information in matters concerning the Department.

#### 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 on-duty member of this department make any comments 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

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be coordinated through the department Public Information Officer or other designated spokesperson.

2. Whenever the presence of media or other aircraft pose a threat to public or officer safety or significantly hampers incident operations, the field supervisor should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Watch Commander. The TFR 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.
  - (e) The media shall not be allowed access to private property without the authorization of the property owner.

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 Public 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 CRITICAL OPERATIONS

A critical incident or tactical operation should be handled in the same manner as a crime scene, except the media should not be permitted within the inner perimeter of the incident, subject to any restrictions as determined by the supervisor in charge. Department members shall not jeopardize a critical incident or tactical operation in order to accommodate the media. All comments to the media shall be coordinated through a supervisor or the PIO.



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#### 346.3.3 TEMPORARY FLIGHT RESTRICTIONS

Whenever the presence of media or other aircraft pose a threat to public or member safety or significantly hamper incident operations, the field supervisor should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Watch Commander. The TFR request should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate control tower. If the control tower is not known, the Federal Aviation Administration (FAA) should be contacted (14 CFR 91.137).

#### 346.4 SCOPE OF INFORMATION SUBJECT TO RELEASE

The Department will maintain a daily information log of significant law enforcement activities that shall be made available, upon request, to media representatives through the Watch Commander. This log will generally contain the following information:

- (a) The date, time, location, case number, type of crime, extent of injury or loss, and names of individuals (except confidential informants) involved in crimes occurring within this jurisdiction unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation
- (b) The date, time, location, case number, name, birth date and charges for each person arrested by this department unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation
- (c) The time and location of other significant law enforcement activities or requests for service with a brief summary of the incident subject to the restrictions of this policy and applicable law

At no time shall identifying information pertaining to a juvenile arrestee (13 years of age and under), victim or witness be publicly released without prior approval of a competent court. The identity of a minor 14 years of age or older shall not be publicly disclosed unless the minor has been arrested for a serious felony and the release of such information has been approved by the Watch Commander (Welfare and Institutions Code § 827.5).

Identifying information concerning deceased individuals shall not be released to the media until notification of next of kin or otherwise cleared through the Coroner's Office.

Any requests for copies of related reports or additional information not contained in this log shall be referred to the designated department media representative, the custodian of records, or if unavailable, to the Watch Commander. Such requests will generally be processed in accordance with the provisions of the Public Records Act (Government Code § 6250, et seq.).

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#### 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.

#### **346.5 SENATE BILL 98 - MEDIA ACCESS TO CLOSED AREAS COMPLIANCE**

##### **Senate Bill 98 - Media Access to Closed Areas**

In summary, **Penal Code 409.7** is now added to:

- Allow any “duly authorized media representative” (not defined) access to any closed area at any demonstration, march, protest or rally where individuals are engaging in constitutionally protected activities. [Presumably, but not expressly stated, this access will no longer be permitted if individuals are no longer “engaged in protected activities - e.g. unlawful assembly, riot, looting, etc.]
- Officer(s) may not intentionally interfere with or obstruct such media reps from gathering information for the public and they may not be cited for failure to disperse, curfew or PC 148. If they are detained, they must be allowed to immediately contact a supervisory officer to challenge the detention unless it would be “impossible” due to circumstances.
- For further details refer to attached copy of SB 98.

## Subpoenas and Court Appearances

### 348.1 PURPOSE AND SCOPE

This policy establishes the guidelines for department members who must appear in court. It will allow the Indio Police Department to cover any related work absences and keep the Department informed about relevant legal matters. It is the purpose of this policy to provide officers with guidelines for scheduling, preparing for, and testifying in criminal court cases.

### 348.2 POLICY

Indio Police Department members will respond appropriately to all subpoenas and any other court-ordered appearances. The success of a criminal prosecution is determined not solely by the quality and quantity of evidence but by the manner in which it is presented by law enforcement officers in a court of law. An officer's appearance, demeanor, attitude, and ability to accurately convey evidence in a fair and professional manner are essential in efforts to bring a criminal prosecution to a just conclusion. Therefore, it is the policy of this agency that officers adhere to court scheduling, preparation, appearance, and testimonial guidelines provided herein.

### 348.3 SUBPOENAS

Only department members authorized to receive a subpoena on behalf of this department or any of its members may do so. This may be accomplished by personal service to the officer or by delivery of two copies of the subpoena to the officer's supervisor or other authorized departmental agent (Government Code § 68097.1; Penal Code § 1328(c)).

The party that issues a civil subpoena to an officer to testify as a witness must tender the statutory fee of \$275 with the subpoena for each day that an appearance is required before service is accepted of the subpoena (Government Code § 68097.2).

An immediate supervisor or authorized individual may refuse to accept service for a criminal subpoena if (Penal Code § 1328(d)(e)):

- (a) He/she knows that he/she will be unable to deliver a copy of the subpoena to the named officer within sufficient time for the named officer to comply with the subpoena.
- (b) It is less than five working days prior to the date listed for an appearance and he/she is not reasonably certain that service can be completed.

If, after initially accepting service of a criminal subpoena, a supervisor or other authorized individual determines that he/she is unable to deliver a copy of the subpoena to the named officer within sufficient time for the named officer to comply with the subpoena, the supervisor or the subpoena clerk shall notify the server or the attorney named on the subpoena of such not less than 48 hours prior to the date listed for the appearance (Penal Code § 1328(f)).

#### 348.3.1 SPECIAL NOTIFICATION REQUIREMENTS

Any member who is subpoenaed to testify, agrees to testify or provides information on behalf of or at the request of any party other than the City Attorney or the prosecutor shall notify his/her immediate supervisor without delay regarding:

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- (a) Any civil case where the City or one of its members, as a result of his/her official capacity, is a party.
- (b) Any civil case where any other city, county, state or federal unit of government or a member of any such unit of government, as a result of his/her official capacity, is a party.
- (c) Any criminal proceeding where the member is called to testify or provide information on behalf of the defense.
- (d) Any civil action stemming from the member's on-duty activity or because of his/her association with the Indio Police Department.
- (e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the Indio Police Department.

The supervisor will then notify the Chief of Police and the appropriate prosecuting attorney as may be indicated by the case. The Chief of Police should determine if additional legal support is necessary.

No member shall be retaliated against for testifying in any matter.

#### **348.3.2 CIVIL SUBPOENA**

The Department will compensate members who appear in their official capacities on civil matters arising out of their official duties, as directed by the current memorandum of understanding or collective bargaining agreement.

The Department should seek reimbursement for the member's compensation through the civil attorney of record who subpoenaed the member.

#### **348.3.3 OFF-DUTY RELATED SUBPOENAS**

Members receiving valid subpoenas for off-duty actions not related to their employment or appointment will not be compensated for their appearance. Arrangements for time off shall be coordinated through their immediate supervisors.

#### **348.4 FAILURE TO APPEAR**

Any member who fails to comply with the terms of any properly served subpoena or court-ordered appearance may be subject to discipline. This includes properly served orders to appear that were issued by a state administrative agency.

#### **348.5 STANDBY**

To facilitate standby agreements, members are required to provide and maintain current information on their addresses and contact telephone numbers with the Department.

If a member on standby changes his/her location during the day, the member shall notify the designated department member of how he/she can be reached. Members are required to remain on standby until released by the court or the party that issued the subpoena.

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#### **348.6 COURTROOM PROTOCOL**

When appearing in court, members shall:

- (a) Be punctual and prepared to proceed immediately with the case for which they are scheduled to appear.
- (b) Dress in the department uniform or business attire.
- (c) Observe all rules of the court in which they are appearing and remain alert to changes in the assigned courtroom where their matter is to be heard.

##### **348.6.1 TESTIMONY**

Before the date of testifying, the subpoenaed member shall request a copy of relevant reports and become familiar with the content in order to be prepared for court.

#### **348.7 COURTNOTIFY**

CourtNotify™ is an internet based subpoena management system that shall be the Indio Police Department's primary system for the delivery and tracking of subpoenas to all employees of the Department via email.

CourtNotify™ shall follow the same general subpoena guidelines per Policy 348, except as otherwise noted. The District Attorney or the Department's subpoena clerk will deliver subpoenas via CourtNotify™ to the affected employees.

Officers served subpoenas via CourtNotify or given other official notice to appear before a criminal court by means other than the foregoing are responsible for complying with this directive and for providing agency notification as soon as possible of the need for appearance. Such subpoenas shall be recorded in a manner consistent with this policy.

##### **348.7.1 RESPONSIBILITIES OF EMPLOYEES**

Employees shall check their electronic email at least once during their workday when on duty to check for any e-subpoenas. Employees shall also check their email or CourtNotify™ account the day of and before a scheduled court appearance for disregard notifications on their cases.

All e-subpoena(s) received shall be opened and acknowledged in the CourtNotify™ account. The employee may print a copy of the subpoena for reference. The employee shall notify the Department's subpoena clerk as soon as possible should an e-subpoena be received in error.

All employees shall notify the Department's subpoena clerk of any pre-planned time off by completing the appropriate time off request and/or 1050 form. This also includes incidents of IOD and extended personal sick leave prohibiting a court appearance.

Any employee failing to make this notification and receiving an e-subpoena prior to or during such time will be responsible to make the appropriate arrangements with the court to include the completion and proper dissemination of any applicable court subpoena release form(s).

If an officer is subpoenaed while on 4850 time and is required to appear in court within their work restrictions, they shall not use 4850 time, but rather will be marked working during the court

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appearance. Once the court appearance concludes, they will be returned to 4850 time for payroll purposes.

#### **348.7.2 RESPONSIBILITIES OF SUPERVISORS**

All supervisors and Watch Commanders shall log on to the CourtNotify™ e-subpoena system during their workday. They shall check CourtNotify™ and identify their personnel who have received an e-subpoena but have not acknowledged the subpoena with the scheduled time frame.

All supervisors and Watch Commanders shall notify the Department's Subpoena Clerk if they identify an error or problem when reviewing e-subpoenas with CourtNotify™.

#### **348.7.3 RESPONSIBILITIES OF THE SUBPOENA CLERK**

The Department's Subpoena Clerk shall monitor CourtNotify™ throughout the workday. The Subpoena Clerk shall ensure the CourtNotify™ system has received subpoenas from the District Attorney and check to see that employees are accepting their subpoenas.

All time off shall be entered into the employee time off section of the program. All e-subpoenas received by the Subpoena Clerk via the CourtNotify™ system that have dates during an employee's previously scheduled time off shall be returned to the District Attorney with the appropriate comments.

#### **348.7.4 PREPARATION FOR COURT HEARINGS**

- (a) Officers shall cooperate with requests from the prosecutor in preparation for court hearings or cases for trial.
- (b) Officers shall be familiar with the basic rules of evidence and should seek clarification of any legal issues that may arise during the trial prior to court appearance.
- (c) Prior to trial, arresting or other officers designated for court appearance shall review case documentation to ensure that they are completely familiar with the facts involved.
- (d) Officers shall provide all reasonable assistance necessary to or requested by the prosecution to.
- (e) Officers shall ensure necessary evidence will be available at trial as requested by prosecution.
- (f) Officers shall ensure any legal questions of witnesses are referred to the prosecutor for clarification when appropriate.
- (g) In pretrial conferences with the prosecutor, officers are responsible for providing all information relevant to the case even though it may appear beneficial to the defendant. No detail should be considered too inconsequential to reveal or discuss.
- (h) There shall be no communication between officers and defense attorneys with regard to pending criminal cases without express approval of the prosecutor's office.

#### **348.7.5 APPEARANCE IN COURT**

- (a) Officers shall receive compensation for appearance in court during off-duty hours at the rate designated by this agency and in accordance with established means

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of calculation. Compensation shall be paid only when officers comply with MOU procedures established by this agency for court appearance, to include but not limited to supervisory notification/approval and adherence to documentation procedures for overtime pay.

- (b) Officers who are late for or unable to appear on a court date shall notify the appropriate court authority as soon as possible.
- (c) Officers' appearance, personal conduct, and manner shall conform to the highest professional police standards.
- (d) When testifying, officers shall restrict remarks to that which is known or believed to be the truth.
- (e) When testifying, officers shall respond directly to questions asked and avoid volunteering information or going beyond the scope of the question.
- (f) When testifying, officers should speak naturally and calmly in a clearly audible tone of voice.
- (g) When testifying, officers should use plain, clearly understood language and avoid using police terminology, slang, or technical terms and display a courteous attitude, maintain self-control and composure.
- (h) If an officer has a schedule conflict for a pending court date (i.e. vacation, scheduled training, scheduled medical appointment, etc.), the officer should submit a 1050 form to the court for a continuance request with ample advance time.

#### **348.8 OVERTIME APPEARANCES**

When a member appears in court on his/her off-duty time, he/she will be compensated in accordance with the current memorandum of understanding or collective bargaining agreement.

## Outside Agency Assistance

### 351.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members when requesting or responding to a request for mutual aid or when assisting another law enforcement agency.

### 351.2 POLICY

It is the policy of the Indio Police Department to promptly respond to requests for assistance by other law enforcement agencies, subject to available resources and consistent with the applicable laws and policies of this department.

#### 351.2(a) DEFINITIONS

**1. Emergency:** Any occurrence, or threat thereof, whether natural or caused by man, which results or may result in substantial injury or harm to the population, substantial damage to or loss of property, or substantial harm to the environment and is beyond the capacity of an individual department to effectively control.

**2. Mutual Aid:** As used herein, mutual aid refers to the provision and receipt of assistance between departments that are signatories to the mutual aid agreement in response to a formal request for assistance from an authorized departmental officer and dealing with an emergency as defined in the Agreement. It does not include assistance to other jurisdictions wherein officers are automatically dispatched under terms of a contract or informal agreement between jurisdictions.

### 351.3 ASSISTING OUTSIDE AGENCIES

Generally, requests for any type of assistance from another agency should be routed to the Watch Commander's office for approval. In some instances, a memorandum of understanding or other established protocol may exist that eliminates the need for approval of individual requests.

When another law enforcement agency requests assistance from this department, the Watch Commander may authorize, if available, an appropriate number of personnel to assist. Members are reminded that their actions when rendering assistance must conform with applicable laws and be consistent with the policies of this department.

Officers may respond to a request for emergency assistance, however, they shall notify a supervisor of their activity as soon as practicable.

Arrestees may be temporarily detained by this department until arrangements for transportation are made by the outside agency. Probation violators who are temporarily detained by this department will not ordinarily be booked at this department. Only in exceptional circumstances, and subject to supervisor approval, will this department provide transportation of arrestees to other facilities on behalf of another agency.

When transportation assistance is rendered, a report shall be prepared and submitted by the handling member unless otherwise directed by a supervisor.



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#### 351.3.1 INITIATED ACTIVITY

Any on-duty officer who engages in law enforcement activities of any type that are not part of a mutual aid request and take place outside the jurisdiction of the Indio Police Department shall notify his/her supervisor or the Watch Commander and the Dispatch Center as soon as practicable. This requirement does not apply to special enforcement details or multi-agency units that regularly work in multiple jurisdictions.

#### **351.4 REQUESTING OUTSIDE ASSISTANCE**

If assistance is needed from another agency, the member requesting assistance should, if practicable, first notify a supervisor. The handling member or supervisor should direct assisting personnel to where they are needed and to whom they should report when they arrive.

The requesting member should arrange for appropriate radio communication capabilities, if necessary and available, so that communication can be coordinated between assisting personnel.

#### **351.4(a) REQUESTS FOR ASSISTANCE SUPERVISOR RESPONSIBILITY**

1. Supervisors shall notify command staff of any mutual aid request for assistance as soon as safe and practical.
2. Before requesting assistance from another department, the supervisors shall ascertain the following:
  - a. Nature of the emergency.
  - b. Measures taken by officers to bring the situation under control and why they have proven insufficient.
  - c. Estimates of the amount of equipment, personnel, or special units that will be necessary to bring the situation under control.
3. Requests may be made by telephone or via police dispatch.
4. The requesting department is responsible for providing member departments with the information necessary to determine the type and amount of assistance required.
5. Each member department is only committed to providing assistance to the extent that it does not endanger primary operations and may, with proper notice, withdraw loaned personnel or equipment where circumstances require redeployment in their jurisdiction.

#### **351.4(b) EMERGENCY SCENE RESPONSIBILITIES DURING MUTUAL AID REQUEST**

1. The supervisor of the requesting department shall maintain command of the emergency site.
2. All loaned personnel shall follow his or her lawful orders.
3. Where the provided assistance involves the loan of a specialized SWAT, hostage negotiation, bomb disposal, or canine unit, the supervisors of that specialized unit shall be responsible for implementation of the mission, as determined by the incident commander of the requesting department.

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4. When taking law enforcement actions at the emergency site, including uses of force, officers from this department shall at all times adhere to this department's policies and procedures and utilize only those weapons and tactics that they have been trained and deemed qualified to use to maintain legal and policy compliance.

#### **351.5 REPORTING REQUIREMENTS**

Incidents of outside assistance or law enforcement activities that are not documented in a crime report shall be documented in a general case report or as directed by the Watch Commander.

## Registered Offender Information

### 355.1 PURPOSE AND SCOPE

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

### 355.2 POLICY

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

### 355.3 REGISTRATION

The Major Crimes Unit or Street Crimes Unit supervisor shall establish a process to reasonably accommodate registration of certain offenders. The process should rebut any allegation on the part of the offender that the registration process was too confusing, burdensome, or difficult for compliance. If it is reasonable to do so, an investigator assigned to related investigations should conduct the registration in order to best evaluate any threat the person may pose to the community. Those assigned to register offenders should receive appropriate training regarding the registration process.

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

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

#### 355.3.1 CONTENTS OF REGISTRATION

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

### 355.4 MONITORING OF REGISTERED OFFENDERS

The Major Crimes Unit or Street Crimes Unit supervisor should establish a system to periodically, and at least once annually, verify that a registrant remains in compliance with his/her registration requirements after the initial registration. This verification should include:

- (a) Efforts to confirm residence using an unobtrusive method, such as an internet search or drive-by of the declared residence.
- (b) Review of information on the California DOJ website for sex offenders.
- (c) Contact with a registrant's parole or probation officer.

Any discrepancies should be reported to the California DOJ.

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The Major Crimes Unit or Street Crimes Unit supervisor should also establish a procedure to routinely disseminate information regarding registered offenders to Indio Police Department personnel, including timely updates regarding new or relocated registrants.

#### **355.5 DISSEMINATION OF PUBLIC INFORMATION**

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

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

The Records Supervisor may release local registered offender information to residents only in accordance with applicable law and in compliance with a California Public Records Act request (Government Code § 7920.000 et seq.; Penal Code § 290.45; Penal Code § 290.46; Penal Code § 457.1).

##### **355.5.1 LIMITED RELEASE WITHIN COLLEGE CAMPUS COMMUNITY**

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

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

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

##### **355.5.2 RELEASE NOTIFICATIONS**

Registrant information that is released should include notification that:

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

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## Major Incident Notification

### 357.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of this department in determining when, how and to whom notification of major incidents should be made.

### 357.2 POLICY

The Indio Police Department recognizes that certain incidents should be brought to the attention of supervisors or other specified personnel of this department to facilitate the coordination of activities and ensure that inquiries from the media and the public may be properly addressed.

### 357.3 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 Chief. The following list of incident types is provided as a guide for notification and is not intended to be all inclusive:

- Homicides
- Incident involving a minor sustaining a significant or life threatening injury
- Traffic accidents with fatalities
- Traffic accidents involving a city employee/volunteer resulting in a significant injury to an involved party
- Officer-involved shooting - on or off duty (see Officer-Involved Shootings and Deaths Policy for special notifications)
- Significant injury or death to employee - on or off duty
- Death of a prominent Indio official
- Arrest of a department employee or prominent Indio official, or an incident in which they are considered a suspect in a crime
- Incident where a law enforcement employee is a suspect in a crime (not including traffic infractions)
- Aircraft crash with major damage and/or injury or death
- In-custody deaths
- Industrial death
- SWAT call out
- Barricade/hostage situation not resolved in one hour
- Any use of force resulting in serious bodily injury (e.g. substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member or organ), as defined in Government Code §12525.2(d).

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### *Major Incident Notification*

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- Any incident a supervisor feels notification is advisable.
- Arsons with injury, death, or significant damage.

#### **357.4 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 practicable. Notification should be made by calling the cell phone number first and then by any other available contact numbers. If appropriate, the watch commander or designee shall notify the social media team to disseminate a social media public announcement if needed.

##### **357.4.1 STAFF NOTIFICATION**

In the event an incident occurs described in the Major Incident Notification Policy, the appropriate Assistant Chief of Police should be notified via the chain of command.

##### **357.4.2 DETECTIVE NOTIFICATION**

If the incident requires that a detective respond from home, the immediate supervisor of the appropriate detail shall be contacted who will then contact the appropriate detective.

##### **357.4.3 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 Field Services' Division Chief.

##### **357.4.4 PUBLIC INFORMATION OFFICER (PIO)**

The Public Information Officer shall be called after members of staff have been notified that it appears the media may have a significant interest in the incident.

## Advanced Officer Training - Release Time

### 358.1 PURPOSE AND SCOPE

The Indio Police Department is committed to providing its personnel with the training necessary to acquire and improve their skills and knowledge. This will allow our personnel to provide the highest level of service to our community and satisfy the requirements set forth by the California Commission on Peace Officer Standards and Training.

The Department is also committed to providing opportunities for its personnel to explore and take advantage of career enhancement training and academic courses which will benefit their promotion and career objectives. The following policy will set forth the Department's position on mandated training and self-development training.

#### 358.1.1 DEFINITIONS

**State Mandated Training** - Any training that is required by the State of California or the Commission on Peace Officer Standards and Training.

**Department Sponsored Training** - Any approved training that the department feels will increase an employee's job performance and/or will give the employee the knowledge necessary to successfully perform in an assignment. The department will pay for all associated costs with department sponsored training.

**Non-Department Sponsored Training** - Any law enforcement/job related training that an employee elects to attend. Employees are encouraged to attend training that promotes career development and enhancement. Employees can attend non-department-sponsored training on regularly scheduled days off, on release time (if approved) or may elect to take vacation / compensatory leave.

**Release Time** - Approved and authorized time off to attend advanced officer training that has been pre-approved. Employees will be considered on-duty assigned to a work site other than their regular work site. The employee shall be responsible for all costs incurred while attending training on "release time".

### 358.2 POLICY - STATE MANDATED TRAINING

- (a) The Department retains the right to assign any member of the department to state mandated training.
- (b) It shall be the policy of the department to pay the necessary per diem, hotel, meals, travel, and registration expenses directly related to any mandatory training that a member of the department is assigned to.
- (c) Personnel assigned to mandatory training shall provide all required receipts and the completed City of Indio Expense Reporting Claim Form to the (PDU) Professional Development Unit within ten (10) working days after the training is completed.



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- (d) Copies of workshop attendance or training certificates must be turned in to the Professional Development Unit within ten (10) working days after returning from the class.
- (e) Failure to comply with any of the provisions of this policy may lead to disciplinary procedures and demand for immediate re-payment from the employee of any funds advanced to the employee for tuition and/or expenses.

#### **358.3 POLICY - NON-MANDATED DEPARTMENT SPONSORED TRAINING**

Employees requesting authorization to attend non-mandated training courses or workshops should submit their requests in writing on the department approved request form. These requests shall be forwarded to the their Division Lieutenant or his/her designee via the chain of command at least forty five (45) days prior to the date the course is scheduled to begin to allow sufficient time to complete the logistics associated with accomodating the training.

- (a) The supervisor will review all requests for personnel under his/her command prior to the request being forwarded up the chain of command to the Division Lieutenant for review.
- (b) The Division Lieutenant will review and evaluate the request as to its relevance in relation to the department's mission statement, goals and objectives, as well as to the employee's current assignment.
- (c) The authorization for attendance at non-mandated training will be returned to the employee within ten (10) working days after submission to the Division Lieutenant or his/her designee and a copy will be retained by the Professional Development Unit.
- (d) Upon approval, Section 358.2 of this policy shall then apply.

#### **358.4 RELEASE TIME**

Personnel requesting authorization to attend non-mandated and/or non-sponsored training on release time.

- (a) It shall be the policy of the Department to authorize release time, not to exceed forty eight (48) hours annually, for its employees to attend approved advanced officer training. Annually shall refer to the fiscal budget year.
- (b) It shall be the responsibility of the individual employee to pay all applicable tuition or fees for courses authorized under this policy section.
- (c) No department reimbursement will be authorized, which includes but is not limited to, parking fees, mileage reimbursement, equipment purchases, lodging and meal allowances.
- (d) A certificate of completion and/or a receipt for attendance must be submitted to the department training coordinator to receive pay for the authorized absence under this policy section within five (5) working days of completion of the class. If no certificate or receipt for attendance is submitted. the employe shall be considered to have been absent on unpaid leave.

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#### **358.5 PROCEDURE**

A. The employee shall complete and submit an Advanced Training Release Time Request Form to his/her immediate supervisor for review and approval by the supervisor. The course outline and/or flyer must accompany the request form or the request will be automatically denied. The request form should be submitted to the supervisor not less than forty five (45) working days prior to the scheduled starting date of the course.

B. If the employee's supervisor approves the class subject matter and the employee's absence will not result in deficient staffing levels, the supervisor shall sign the form and forward it to the Division Lieutenant for review via the chain of command. It is ultimately the responsibility of the employee's supervisor to ensure vital services are not interrupted in any way by approval of the employee's request. Supervisors shall not backfill the employee's shift. Supervisors approving release time for an officer to attend advanced officer training may only do so if he/she can spare the manpower on the assigned shift.

C. The Division Lieutenant will review all requests for personnel under his/her command. The Division Lieutenant will review the request for relevancy in relation to the Department's mission statement, goals and objectives, as well as the employee's personal/professional development.

D. The Division Lieutenant or his/her designee will review the request and either approve or deny it based on the criteria stated in 358.5C. The Division Lieutenant or designee will then forward the request form back to the requesting employee along with copies to his/her immediate supervisor, the Professional Development Unit and the employee's division file.

E. If approved, the employee shall attend the class in lieu of his/her normal workday. The class must be attended on a normally assigned workday to be considered for release time. Any attendance to a class on a day off is not compensable in any form.

F. The employee shall provide a copy of the certificate or a completed receipt of attendance form to the Professional Development Unit within five (5) working days of completion of the course.

G. The employee shall complete and turn in an Advanced Officer Training Shared Information Form to the Professional Development Unit within fourteen (14) working days of completion of the course. The form shall be completed by the employee and signed by the employee's supervisor. The completed Advanced Officer Training Shared Information form shall be forwarded to the Professional Development Unit for filing after the employee has shared the information with his/her shift.

H. The Professional Development Unit shall track and record all training release time used. The Professional Development Unit shall file a quarterly report with the Chief of Police documenting each employee's use of training release time and document the use of training release time in each employee's training record.

## Death Investigation

### 359.1 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. The purpose of this policy is to provide initial responding officers with guidelines for conducting preliminary investigations of deceased persons.

#### 359.1.1 POLICY

Reported deaths of persons, other than those under the immediate care of a physician at a hospital or similar health care facility, shall be responded to by officers of this department for investigation and for purposes of providing basic assistance to survivors. It is the responsibility of responding officers in cooperation with homicide investigators, emergency medical responders, physicians, and the medical examiner to establish the manner of death whether naturally, by accident, suicide, homicide, or unknown causes.

In so doing, officers shall approach the investigation of any death that is not attended by a physician in a health care setting as a potential homicide, regardless of how it is reported, and shall follow procedures as detailed in this policy to assist in determining the cause and manner of death.

### 359.2 INVESTIGATION CONSIDERATIONS

Death investigation cases require certain actions be taken. Paramedics shall be called in all suspected death cases unless the death is obvious (e.g., decapitated, decomposed). A supervisor shall be notified in all death investigations. When responding to death cases officers shall, based on the circumstances, perform the following:

- (a) Identify and arrest any perpetrator(s) if present.
- (b) Ensure officer safety and the safety of others by safeguarding any weapons at the scene.
- (c) Administer emergency first aid if necessary and/or summon emergency medical personnel.
- (d) Death can only be determined in an official capacity by a physician. However, in cases involving unmistakable evidence of death (e.g., the presence of lividity or rigor mortis), emergency medical personnel need not be summoned.
- (e) If the officer determines that the person is dead, the factors surrounding that determination shall be entered into the officer's report.
- (f) Officers shall resolve any doubt concerning the life or death of a subject by summoning appropriate medical assistance.
- (g) Where emergency medical personnel are on the scene or have been summoned, provide such personnel with as much latitude as possible to deliver emergency

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medical services notwithstanding officers' responsibility to protect the crime or incident scene.

- (h) Isolate and protect the crime scene from any intrusion by non-essential personnel including officers not directly involved in the crime scene investigation.
- (i) Notify communications of the circumstances and request the response of a supervisor and any additional personnel as needed. If the death is perceived to be a homicide or potential homicide or the result of accident or suicide, the watch commander shall be notified and Street Crimes Unit / Major Crimes Unit shall be notified.
- (j) Observe and note pertinent circumstances at the scene.
- (k) Record the nature of any physical modifications to the crime scene as the result of intervention by emergency medical personnel or others.
- (l) Record in a crime scene log the identity of any persons who were present at or who entered the crime scene, to include police personnel.
- (m) Identify witnesses and record basic information regarding the event.
- (n) Ask witnesses to remain, if possible. If not possible, determine their identity and how they can be contacted by investigators.
- (o) Identify and ensure that any suspects do not leave. Responding officers may conduct basic, preliminary questioning of a suspect or witness, but should normally defer interviews to investigators.
- (p) Ascertain if the deceased was under a physician's care for a potentially life-threatening health problem, and note the name, telephone number, and address of the physician.
- (q) In deaths apparently resulting from natural causes, determine, to the degree possible, the deceased's physical condition before death.
- (r) Do not release any information concerning the deceased to the press or the public without agency authorization and until next-of-kin have been notified as established by policy of this agency.

#### **359.2(a) SUPERVISOR RESPONSIBILITIES**

A supervisory officer shall respond to any reported death that is not attended by a physician in a health care setting. Responsibilities of the supervisory officer include but are not necessarily limited to the following:

- a. Verify that appropriate requests have been made for assistance by crime scene technicians, homicide investigators, and command personnel and request any additional personnel to protect the crime scene or conduct the investigation as necessary.
- b. Receive a verbal report from initial responding officers regarding pertinent conditions at the scene upon their arrival, circumstances surrounding the death, the presence of witnesses and/or suspects, disposition of the body, and related details.
- c. Ensure completion of preliminary information collection and the protection and integrity of the crime or incident scene.

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#### **359.2(b) ASSISTANCE TO SURVIVORS**

Providing basic support and crisis assistance to survivors is the responsibility of both responding officers and investigators. The nature of such assistance must be dictated by the circumstances, but officers should use the following as a guide in these instances.

1. Officers should not leave the scene of a death where survivors are present until reasonably assured that the survivors have adequate personal control and/or family or close friends readily available to provide support. In gauging the need for assistance, officers shall also consider the following;
  - a. The emotional reactions and physical condition of the survivors.
  - b. Availability of other adults in the home or immediate area.
  - c. Responsibility of the survivors for infants or small children.
  - d. Home environment, if apparent, (e.g. evidence of excessive alcohol use or drug use, lack of means of financial support, shortage of food, problem with shelter, etc.).
  - e. Availability of a support system (e.g. including friends, family, close neighbors, access to clergy, means of transportation, I.P.D. chaplain, etc.).
  - f. Officers should remain alert to the need of survivors for emergency medical assistance, for example, in cases of physical or emotional collapse or related problems.
  - g. Officers should be aware of confusion on the part of survivors. They should speak slowly and deliberately, and write down any pertinent information that survivors may need.
  - h. Officers should assess the physical and emotional well-being of survivors before departing. Officers should be reasonably assured that survivors can take care of themselves and those for whom they may be responsible.

#### **359.2.1 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 Health and Safety Code § 1746 in the 20 days prior to death.
- (c) Physician unable to state the cause of death. Unwillingness does not apply. Includes all sudden, unexpected and unusual deaths and fetal deaths when the underlying cause is unknown.
- (d) Known or suspected homicide.

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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.

#### 359.2.2 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.

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#### 359.2.3 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 or I.P.D. chaplain if available. If the next-of-kin lives in another jurisdiction, a law enforcement official from that jurisdiction shall be requested to make the personal notification. If the relatives live outside this county, the Coroner may be requested to make the notification. The Coroner needs to know if notification has been made. Assigned detectives may need to talk to the next-of-kin.

#### 359.2.4 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.

#### 359.2.5 DEATH INVESTIGATION REPORTING

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

#### 359.2.6 SUSPECTED HOMICIDE

If the initially assigned officer suspects that the death involves a homicide or other suspicious circumstances, the Investigative Services Division shall be notified to determine the possible need for a detective to respond to the scene for further immediate investigation.

#### 359.2.6(a) DEATH INVOLVING JUVENILES

If the victim / decedent is under the age of 16, MCU detectives shall respond and assume the investigation for all homicides, suicides, suspicious deaths, as well as when ordered by a watch commander..

#### 359.2.7 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 immediately or as soon as practicable with all pertinent information (8 CCR 342(b)).

# Identity Theft

## 361.1 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.

### 361.1(a) POLICY

It is the policy of this agency to assist identity theft victims in regaining their pre-crime status. This may include recording identity theft complaints via online reporting; providing victims with necessary information; and working with other federal, state, and local law enforcement and reporting agencies, as well as financial institutions to solve identity theft cases.

### 361.1(b) DEFINITIONS

**Identity Theft:** The misuse of another individual's personal information with the intent to facilitate other criminal activities; obtain credit, goods, or services without the victim's consent; or conceal one's identity from others, such as the government, law enforcement, or those who perform background checks, such as employers. No financial loss is necessary.

**Fair Credit Reporting Act (FCRA):** A federal law designed to ensure the accuracy, fairness, and privacy of information in consumer reports, sometimes informally called "credit reports." The FCRA includes consumer protections to help identity theft victims clear their credit reports of negative information that results from fraudulent transactions.

**Identity Theft Report:** A law enforcement report that contains specific details of an identity theft and complies with the requirements of Section 603(q)(4) of the FCRA. An identity theft report entitles an identity theft victim to certain protections that will help him or her clear fraudulent transactions from credit reports and aid in restoring his or her pre-crime status.

**Personal Information:** Individually identifiable information from or about a person, such as name, address, driver's license number, passport number, legal resident card number, date of birth, social security number, health insurance number, financial account number (e.g., credit or debit card, savings, checking, or other account number, PIN or password), mother's maiden name, employee identification number, or biometric data, such as fingerprints, facial scan identifiers, retina or iris image, or other unique physical representation.

## 361.2 REPORTING

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, the victim should be encouraged to promptly report the identity theft to the law enforcement agency where he or she resides.

- (a) 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



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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) if there is sufficient suspect information to allow for further follow up investigation. If there are no investigative leads or suspect information is lacking, the reporting parties shall be referred to the department's on line reporting web portal for documentation purposes.

- (b) 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) if a report is taken and an investigation is initiated.
- (c) 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 if a report is taken and an investigation is initiated.
- (d) 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.
- (e) Following supervisory review and departmental processing, the initial on line or investigative report should be forwarded to the appropriate detective for follow up investigation if any credible suspect information is available, coordination with other agencies and prosecution as circumstances dictate.

## Private Persons Arrests

### 363.1 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.

#### 363.1(a) RELATED LAWS

Officers shall become familiar with the following Penal Code Sections:

1. Penal Code 142 Refusing to receive or arrest person charged with a crime
2. Penal Code 837 Arrests by private persons
3. Penal Code 839 Summoning assistance to make arrest
4. Penal Code 847 Deliver arrested person to Peace Officer/liability of Peace Officer
5. Penal Code 849(b)(1) Release from custody

### 363.2 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.

### 363.3 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.

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#### **363.4 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), fill out a detention certificate and give a copy to the detainee. The officer must include the basis of such a determination in a related report and attach the detention certificate to it.
  2. Absent reasonable cause to support a private person's arrest or other lawful grounds to support an independent arrest by the officer, the officer should advise the parties that no arrest will be made and that the circumstances will be documented in a related report.
- (b) Whenever an officer determines that there is reasonable cause to believe that a private person's arrest is lawful, the officer may exercise any of the following options:
  1. Take the individual into physical custody for booking
  2. Release the individual pursuant to a Notice to Appear
  3. Release the individual pursuant to Penal Code § 849
  4. In a private person arrest involving an adult violator, officers will advise the private person making the arrest that the District Attorney's Office will notify them if they are needed.
  5. In a private person arrest involving adult violators on city code violations, officers will advise the private person making the arrest that the City Attorney's Office will notify them if they are needed.
  6. In a private person arrest involving a juvenile violator, officers will advise the private person making the arrest that they will be notified when they are needed for court purposes.

#### **363.5 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.

# Anti-Reproductive Rights Crimes Reporting

## 365.1 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.).

## 365.2 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

## 365.3 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 Investigative Services Division Chief.
- (c) By the tenth day of each month, it shall be the responsibility of the Investigative Services Division Chief to ensure that a Summary Worksheet (BCIA 8370) is submitted to the Department of Justice Criminal Justice Statistics Center.
  - 1. In the event that no ARRC(s) were reported during the previous month, a Summary Worksheet shall be submitted to Department of Justice with an indication that no such crimes were reported.

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2. Any ARRC(s) reported in the Summary Worksheet shall be accompanied by a copy of the related Data Collection Worksheet(s).

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## Limited English Proficiency Services

### 367.1 PURPOSE AND SCOPE

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

#### 367.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

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

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

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

### 367.2 POLICY

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

The Department will not discriminate against or deny any individual access to services, rights or programs based upon national origin or any other protected interest or right. All Indio Police Department sworn personnel shall utilize interpreters, when necessary, during investigations requiring interpretation. Non-English languages which are eligible for bilingual pay shall be determined by the Chief of Police, based upon demographic need.

### 367.3 FOUR-FACTOR ANALYSIS

Since there are many different languages that members could encounter, the Department will utilize the four-factor analysis outlined in the U.S. Department of Justice (DOJ) Guidance to Federal Financial Assistance Recipients, available at the DOJ website, to determine which

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measures will provide meaningful access to its services and programs. It is recognized that law enforcement contacts and circumstances will vary considerably. This analysis, therefore, must remain flexible and will require an ongoing balance of four factors, which are:

- (a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by department members, or who may benefit from programs or services within the jurisdiction of the Department or a particular geographic area.
- (b) The frequency with which LEP individuals are likely to come in contact with department members, programs or services.
- (c) The nature and importance of the contact, program, information or service provided.
- (d) The cost of providing LEP assistance and the resources available.

#### **367.4 TYPES OF LEP ASSISTANCE AVAILABLE**

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

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

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

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

#### **367.5 WRITTEN FORMS AND GUIDELINES**

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

#### **367.6 AUDIO RECORDINGS**

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

#### **367.7 QUALIFIED BILINGUAL MEMBERS**

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

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non-English language to perform complicated tasks, such as conducting interrogations, taking statements, collecting evidence or conveying rights or responsibilities.

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

#### **367.8 AUTHORIZED INTERPRETERS**

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

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

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

##### **367.8.1 SOURCES OF AUTHORIZED INTERPRETERS**

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

Other sources may include:

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



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#### **367.8.2 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF LANGUAGE ASSISTANCE**

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

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

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

#### **367.9 CONTACT AND REPORTING**

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

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

#### **367.9 (a) PERSONNEL RESPONSIBILITIES**

- (a) Personnel in need of an interpreter during an emergency situation will attempt to locate a citizen, at the scene, to assist.
- (b) If a citizen interpreter is not available, the officer will utilize on-duty sworn personnel and civilian personnel if feasible.
- (c) When an outside interpreter is needed, the officer will get approval from the Watch Commander before requesting the Telecommunications Center to call an interpreter.
- (d) The Telecommunications Center will then make attempts to contact the requested interpreter.
- (e) Civilian personnel assigned to work inside the police facility may be used for translation while at the facility when reasonable.
- (f) Personnel using outside interpreters will document the incident.

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#### **367.10 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE**

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

##### **367.10.1 EMERGENCY CALLS TO 9-1-1**

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

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

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

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

#### **367.11 FIELD ENFORCEMENT**

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

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

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

#### **367.12 INVESTIGATIVE FIELD INTERVIEWS**

In any situation where an interview may reveal information that could be used as the basis for arrest or prosecution of an LEP individual and a qualified bilingual member is unavailable or lacks the skills to directly communicate with the LEP individual, an authorized interpreter should be used. This includes interviews conducted during an investigation with victims, witnesses and suspects. In such situations, audio recordings of the interviews should be made when reasonably

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possible. Identification and contact information for the interpreter (e.g., name, address) should be documented so that the person can be subpoenaed for trial if necessary.

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

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

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

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

#### **367.13 CUSTODIAL INTERROGATIONS**

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

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

#### **367.14 BOOKINGS**

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

#### **367.15 COMPLAINTS**

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

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

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

#### **367.16 COMMUNITY OUTREACH**

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

#### **367.17 TRAINING**

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

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

##### **367.17.1 TRAINING FOR AUTHORIZED INTERPRETERS**

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

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

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

Employees who want to participate in the bilingual pay certification, if allowed by the applicable M.O.U. must pass a proficiency examination established by the Human Resources department at the City of Indio.

Bilingual Certification does not certify department members as court interpreters.

# Communications with Persons with Disabilities

## 369.1 PURPOSE AND SCOPE

It is the purpose of this policy to provide Indio Police Officers with guidelines for appropriately accommodating, interacting, and communicating with individuals with disabilities including those who are deaf or hard of hearing, have impaired speech or vision, or are blind, and have intellectual or developmental disabilities during the course of their official duties.

### 369.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

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

**Developmental disabilities (DDs)** are long-term disabilities attributable to a physical, mental, or a combination of impairments that result in functional limitations in major life activities, such as understanding and expressing language, learning, moving, self-direction, self-care, independent living, and economic self-sufficiency.

**Intellectual disabilities (IDs)** are a subset of DDs characterized by limited or diminished intellectual functioning and difficulty with adaptive behaviors such as managing money, schedules and routines, or social interactions. Examples of Intellectual / developmental disabilities include autism spectrum disorder, Down syndrome, and fetal alcohol spectrum disorder. Severity of intellectual disabilities can range from mild to severe. These individuals might be high-functioning, active members of the community; they can also be non-verbal and require higher levels of supports and services.

### 369.1.2 RESPONDING PERSONNEL RECOMMENDATIONS

- (a) Common law enforcement interactions with individuals with intellectual disabilities might include manipulation by criminals without disabilities, victimization, disruptive or suspicious behavior, domestic disturbances, wandering, and medical emergencies,

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including seizures. Utilize de-escalation techniques during encounters with individuals believed to have developmental disabilities.

- (b) Exercise patience when interacting with individuals with intellectual developmental disabilities. The person with intellectual / developmental disabilities might become easily upset, engage in self-harming behaviors, or may even become aggressive. However, an officer's calm response can assist in minimizing such behaviors.
- (c) When available, consult a family member or other support system / person if unable to effectively communicate or interact with the person himself or herself. A support person or family member should be familiar with the individual's disability and may be able to provide suggestions on how to more effectively communicate with the individual. Officers might also wish to request the assistance of a disability advocacy organization if such are available. If possible, consider alternatives to taking custody of the individual. However, if an arrest is necessary, make every effort to minimize the possibility of associated trauma.
- (d) Miranda or other custodial rights warnings given to suspects with intellectual / developmental disabilities are best accomplished with an attorney or other advocate present who can ensure the person's rights are protected. Officers should check for understanding of the Miranda or other custodial rights warning by asking the person in custody to repeat back his or her rights using their own words.

#### **369.2 POLICY**

It is the policy of the Indio Police Department to reasonably ensure that people with disabilities, intellectual disabilities, developmental disabilities, including victims, witnesses, suspects and arrestees have equal access to law enforcement services, programs and activities. Members must make efforts to communicate effectively with individuals with disabilities. It is the policy of this department that personnel will be trained to recognize persons with disabilities, intellectual and developmental disabilities, treat people with such disabilities with dignity and respect, utilize de-escalation protocols when appropriate, and seek alternatives to physical custody whenever possible.

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

#### **369.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR**

Indio Human Resources serves as the ADA coordinator.

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

- (a) Working with the City ADA coordinator regarding the Indio Police Department's efforts to ensure equal access to services, programs and activities.
- (b) Developing reports, new procedures, or recommending modifications to this policy.
- (c) Acting as a liaison with local disability advocacy groups or other disability groups regarding access to department services, programs and activities.

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

#### **369.4 FACTORS TO CONSIDER**

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

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

#### **369.5 INITIAL AND IMMEDIATE CONSIDERATIONS**

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

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

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

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

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

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

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

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

#### **369.5.1 RESPONDING OFFICERS RESPONSIBILITIES**

Some people with disabilities might become easily upset and can engage in self-harming behaviors or act in aggressive ways. Fear, including fear of law enforcement, frustration, and changes in their daily routines and surroundings can trigger such behavior. The mere presence of an officer can also be a source of stress. People with I/DD often have impairments that make it difficult for them to process incoming sensory information. Therefore, when interacting with individuals with I/DD, officers should consider the following:

- (a) Use de-escalation techniques.
- (b) Speak calmly.
- (c) Repeat short, direct phrases in a calm voice.
- (d) Avoid slang or euphemisms.
- (e) Use nonthreatening body language, soft gestures, and avoid abrupt movements or actions.
- (f) Whenever reasonable and practical, avoid touching the person unless there is an emergency situation.



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- (g) Maintain a safe distance, providing the person with a zone of comfort that will also serve as a buffer for officer safety.
- (h) Eliminate, to the degree possible, loud sounds, bright lights, and other sources of overstimulation by turning off sirens and flashing lights; asking others to move away; or, if possible, moving the person to quieter surroundings.
- (i) Keep canines in the law enforcement vehicle and preferably away from the area. However, be aware that the person might have a service animal. Do not separate a person from his or her service animal if at all possible.
- (j) If safe to do so, avoid taking mobility devices, such as canes, scooters, or wheelchairs away from the person. If necessary to move or transport such items, ask the person the best way to do so.
- (k) Look for medical identification tags on wrists, necks, shoes, belts, or other apparel. Some persons, both verbal and non-verbal, carry wallet cards noting that they have I/DD and that provide a contact name and telephone number of a family member or other information.
- (l) If desired by the person with a disability, call his or her support person, when such information is available, or a disability advocacy organization for assistance if available.
- (m) Be prepared for a potentially long encounter, as dealings with such individuals should not be rushed unless there is an emergency situation. Officers should inform their dispatchers or supervisors if a prolonged encounter is expected.
- (n) Do not interpret odd behavior as belligerent or aggressive. In a tense or unfamiliar situation, some people with I/DD might shut down and close off unwelcome stimuli (e.g., cover ears or eyes, lie down, shake or rock, repeat questions, sing, hum, make noises, or repeat information in a robotic way). This behavior is a protective mechanism for dealing with troubling or frightening situations.
- (o) Do not stop the person from repetitive behavior unless it is harmful to him or her or others.

#### **369.6 TYPES OF ASSISTANCE AVAILABLE**

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

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

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

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#### **369.7 AUDIO RECORDINGS AND ENLARGED PRINT**

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

#### **369.8 QUALIFIED INTERPRETERS**

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

Qualified interpreters should be:

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

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

#### **369.9 TTY AND RELAY SERVICES**

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

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

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

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#### **369.10 COMMUNITY VOLUNTEERS**

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

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

#### **369.11 FAMILY AND FRIENDS**

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

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

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

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

#### **369.12 REPORTING**

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

#### **369.13 FIELD ENFORCEMENT**

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

The Department recognizes that it would be virtually impossible to provide immediate access to complete communication services to every member of this department. Members and/or supervisors must assess each situation and consider the length, complexity and importance of the

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communication, as well as the individual's preferred method of communication, when determining the type of resources to use and whether a qualified interpreter is needed.

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

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

#### **369.13.1 FIELD RESOURCES**

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

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

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

#### **369.14 CUSTODIAL INTERROGATIONS**

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

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

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#### **369.15 ARREST AND BOOKINGS**

If an individual with speech or hearing disabilities is arrested, the arresting officer shall use department-approved procedures to provide a qualified interpreter at the place of arrest or booking as soon as reasonably practicable, unless the individual indicates that he/she prefers a different auxiliary aid or service or the officer reasonably determines another effective method of communication exists under the circumstances.

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

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

#### **369.16 COMPLAINTS**

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

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Qualified interpreters used during the investigation of a complaint should not be members of this Department.

#### **369.17 COMMUNITY OUTREACH**

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

#### **369.18 TRAINING**

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

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

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

#### 369.18.1 CALL-TAKER TRAINING

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

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

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

## Mandatory Employer Notification

### 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 offense enumerated below, the Chief of Police or his/her designee is required to report the arrest as follows.

#### 372.2.1 ARREST OF PUBLIC SCHOOL TEACHER

In the event a public school teacher is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290, Penal Code § 261(a), or Education Code § 44010, the Chief of Police or his/her designee is mandated to immediately notify by telephone the superintendent of the school district employing the teacher and to immediately give written notice of the arrest to the Commission on Teacher Credentialing and to the superintendent of schools in the county where the person is employed (Health and Safety Code § 11591; Penal Code § 291).

#### 372.2.2 ARREST OF PUBLIC SCHOOL NON-TEACHER EMPLOYEE

In the event a public school non-teacher employee is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290, Penal Code § 261(a), or Education Code § 44010, the Chief of Police or his/her designee is mandated to immediately notify by telephone the superintendent of the school district employing the non-teacher and to immediately give written notice of the arrest to the governing board of the school district employing the person (Health and Safety Code § 11591; Penal Code § 291).

#### 372.2.3 ARREST OF PRIVATE SCHOOL TEACHER

In the event a private school teacher is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290 or Education Code § 44010, the Chief of Police or his/her designee is mandated to immediately notify by telephone the private school authority employing the teacher and to immediately give written notice of the arrest to the private school authority employing the teacher (Health and Safety Code § 11591; Penal Code § 291.1).

#### 372.2.4 ARREST OF COMMUNITY COLLEGE INSTRUCTOR

In the event a teacher or instructor employed in a community college district school is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591.5 or Health

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and Safety § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(9), or for any of the offenses enumerated in Penal Code § 290 or in Penal Code § 261(a)(1), the Chief of Police or the authorized designee is mandated to immediately notify by telephone the superintendent of the community college district employing the person, and shall immediately give written notice of the arrest to the California Community Colleges Chancellor's Office (Health and Safety Code § 11591.5; Penal Code § 291.5).

#### **372.3 POLICY**

The Indio Police Department will meet the reporting requirements of California law to minimize the risks to children and others.

#### **372.4 ARREST OF PERSONS EMPLOYED IN COMMUNITY CARE FACILITIES**

In the event an employee of a community treatment facility, a day treatment facility, a group home, a short-term residential therapeutic program or a foster family agency is arrested for child abuse (as defined in Penal Code § 11165.6) and the employee is free to return to work where children are present, the investigating member shall notify the licensee of the charge of abuse (Health and Safety Code § 1522.2).

#### **372.5 ARREST OR CONTACT WITH OUTSIDE AGENCY LAW ENFORCEMENT PERSONNEL**

In the event that IPD Officers detain or arrest an outside agency law enforcement employee, the initial responding officer(s) shall notify the on duty watch commander. In addition, if an outside agency employee is listed or named as a suspect in an IPD investigation, the watch commander shall be notified. The watch commander shall then notify executive staff and the designated PSU representative who shall notify the respective employee's parent agency and provide the agency with any available body worn camera video and any subsequent investigative reports generated by IPD officers.



## Chaplains

### 375.1 PURPOSE AND SCOPE

The Indio Police Department Chaplain Program is established for the purposes of providing spiritual and emotional support to all members of the Department, their families and members of the public. The primary role of a law enforcement Chaplain is to support sworn and civilian Law Enforcement personnel and their families. Chaplains will provide non-denominational physical, mental and spiritual support to the Indio Police Department personnel and immediate family, to assist law enforcement officers on the scenes of crimes/tragedies within the City of Indio on a 24-hour basis if available.

### 375.2 POLICY

It is the policy of this department that the Chaplain Program shall be a non-denominational, ecumenical ministry provided by volunteer clergy without financial compensation. The Police Chaplains will serve the Department as volunteers donating available time. The appointment of qualified persons to the position of Police Chaplain is at the discretion of the Chief of Police.

### 375.3 GOALS

Members of the Chaplain Program shall fulfill the program's purpose in the following manner:

- (a) By serving as a resource for department personnel when dealing with the public in such incidents as accidental deaths, suicides, suicidal subjects, serious accidents, drug and alcohol abuse, and other such situations that may arise.
- (b) By providing an additional link between the community, other chaplain programs and the Department.
- (c) By providing counseling, spiritual guidance and insight for department personnel and their families.
- (d) By being alert to the spiritual and emotional needs of department personnel and their families.
- (e) By familiarizing themselves with the role of law enforcement in the community.

### 375.4 REQUIREMENTS

Candidates for the Chaplain Program shall meet the following requirements:

- (a) Must be above reproach, temperate, prudent, respectable, hospitable, able to teach, not be addicted to alcohol or other drugs, not contentious, and free from excessive debt. Must manage their household, family, and personal affairs well. Must have a good reputation with those outside the church.
- (b) Must be ecclesiastically certified and/or endorsed, ordained, licensed, or commissioned by a recognized religious body.
- (c) Must successfully complete an appropriate level background investigation.

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- (d) Must have at least five years of successful ministry experience within a recognized church or religious denomination.
- (e) Possess a valid California Drivers License.

#### **375.4.1 SELECTION AND APPOINTMENT**

Chaplain candidates shall successfully complete the following process prior to appointment as a chaplain:

- (a) Submit the appropriate written application.
- (b) Include a recommendation from employers or volunteer programs.
- (c) Interview with the Chief of Police and the chaplain coordinator.
- (d) Successfully complete an appropriate-level background investigation.
- (e) Complete an appropriate probationary period as designated by the Chief of Police.

Chaplains are volunteers and serve at the discretion of the Chief of Police. Chaplains shall have no property interest in continued appointment. However, if a chaplain is removed for alleged misconduct, the chaplain 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 the authorized designee.

#### **375.5 DUTIES AND RESPONSIBILITIES**

The primary role of a Law Enforcement Chaplain is to support sworn and civilian law enforcement personnel and their families. Their role is not one of providing long term support to victims. Chaplains may make initial contact with victims to help facilitate follow-up assistance. Riverside County Victim/Witness maintains the role of both short and long-term victim support of individuals within their program guidelines. The Chaplain duties will not replace or interfere with the duties of the Riverside County Victim/Witness Program. A Chaplain may be requested to assist with the following types of incidents and special events, with approval of supervisory personnel:

- (a) Assisting in making notification to families of department members who have been seriously injured or killed.
- (b) After notification, responding to the hospital or home of the department member.
- (c) Visiting sick or injured law enforcement personnel in the hospital or at home.
- (d) Attending and participating, when requested, in funerals of active or retired members of the Department.
- (e) Assisting sworn personnel in the diffusion of a conflict or incident, when requested.
- (f) Responding to natural and accidental deaths, suicides and attempted suicides, family disturbances and any other incident that in the judgment of the Watch Commander or supervisor aids in accomplishing the Department's mission.
- (g) Being on-call and if possible, on-duty during major demonstrations or any public function that requires the presence of a large number of department personnel.
- (h) Counseling officers and other personnel with personal problems, when requested.

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- (i) Attending department and academy graduations, ceremonies and social events and offering invocations and benedictions, as requested.
- (j) Being responsible for the organization and development of spiritual organizations in the Department.
- (k) Responding to all major disasters such as earthquakes, bombings and similar critical incidents.
- (l) Providing liaison with various religious leaders of the community.
- (m) Assisting public safety personnel and the community in any other function of the clergy profession, as requested.
- (n) Participating in in-service training classes.
- (o) Willing to train to enhance effectiveness.
- (p) Promptly facilitating requests for representatives or ministers of various denominations.
- (q) Making referrals in cases where specialized attention is needed or in cases that are beyond the chaplain's ability to assist.
- (r) Attend and participate in funerals of active as well as retired members and employees of the Indio Police Department,
- (s) Assist in Critical Incident Stress Debriefings.
- (t) Enhance public relations.
- (u) Major disasters within the County.
- (v) Special duties requested by the Chief of Police or his/her designated representative.

#### **375.5.1 REQUEST FOR CHAPLAINS**

- (a) Requests for Chaplains regarding on-duty incidents shall be via police dispatch with prior approval from the Watch Commander.
- (b) Employees wishing to contact a Chaplain for personal reasons may do so at their discretion.

Chaplains may not proselytize or attempt to recruit members of the department or the public into a religious affiliation while on-duty unless the receiving person has solicited spiritual guidance or teaching. If there is any question as to the receiving person's intent, chaplains should verify that the person is desirous of spiritual counseling or guidance before engaging in such discussion.

Chaplains may not accept gratuities for any service or follow-up contacts that was provided while functioning as a chaplain for the Indio Police Department.

#### **375.6 CLERGY-PENITENT CONFIDENTIALITY**

No person who provides chaplain services to members of the department may work or volunteer for the Indio Police Department in any capacity other than that of chaplain.

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Department chaplains shall be familiar with state evidentiary laws and rules pertaining to the limits of the clergy-penitent privilege and shall inform department members when it appears reasonably likely that the member is discussing matters that are not subject to the clergy-penitent privilege. In such cases, the chaplain should consider referring the member to a non-department counseling resource.

No chaplain shall provide counsel to or receive confidential communications from any Indio Police Department employees concerning an incident personally witnessed by the chaplain or concerning an incident involving the chaplain.

#### **375.6.1 COMPLIANCE**

Chaplains are volunteer members of this department, and except as otherwise specified within this policy, are required to comply with the Volunteer Program Policy and other applicable policies.

#### **375.6.2 ASSISTING DEPARTMENT MEMBERS**

The responsibilities of a chaplain related to department members include, but are not limited to:

- (a) Assisting in making notification to families of members who have been seriously injured or killed and, after notification, responding to the hospital or home of the member.
- (b) Visiting sick or injured members in the hospital or at home.
- (c) Attending and participating, when requested, in funerals of active or retired members.
- (d) Serving as a resource for members when dealing with the public in incidents, such as accidental deaths, suicides, suicidal subjects, serious accidents, drug and alcohol abuse and other such situations that may arise.
- (e) Providing counseling and support for members and their families.
- (f) Being alert to the needs of members and their families.

#### **375.6.2(a) CHAPLAIN RESPONSIBILITIES**

- (a) Volunteer Police Chaplains are not law enforcement officers, but are experienced representatives of their denomination, duly ordained or licensed. The Indio Police Chaplains' responsibility is to assist all employees, upon request, in matters within the Chaplain's realm. They shall not, in any way, interfere with an officer in the performance of his/her duties.
- (b) The Chaplain shall have a basic knowledge of the duties of law enforcement officers, be aware of new procedures, and be required to attend training sessions and programs conducted by the Police Department, as assigned.
- (c) The on-call Chaplain shall normally be available to the dispatcher at all times, either by email or telephone. If the Chaplain is out of town, they will designate a Chaplain to act in their behalf and will notify the dispatch supervisor of any changes.
- (d) It should be understood that members and employees of the Indio Police Department who request counseling sessions with the Chaplain are entitled to a privileged communication (Evidence Code Section 1032) which will not be reported to a

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supervisor or have any bearing on job status. Confidentiality will be strictly maintained except in the following circumstances:

- (e) A Chaplain who, as a consequence of obtaining any information from a member or employee, believes that the member/employee is an immediate danger to himself/herself or others shall first notify the duty supervisor directly.

#### **375.6.3 ASSISTING THE DEPARTMENT**

The responsibilities of a chaplain related to this department include, but are not limited to:

- (a) Assisting members in the diffusion of a conflict or incident, when requested.
- (b) Responding to natural and accidental deaths, suicides and attempted suicides, family disturbances and any other incident that in the judgment of the Watch Commander or supervisor aids in accomplishing the mission of the Department.
- (c) Responding to all major disasters, such as natural disasters, bombings and similar critical incidents.
- (d) Being on-call and, if possible, on-duty during major demonstrations or any public function that requires the presence of a large number of department members.
- (e) Attending department and academy graduations, ceremonies and social events and offering invocations and benedictions, as requested.
- (f) Participating in in-service training classes.
- (g) Willingness to train others to enhance the effectiveness of the Department.

#### **375.6.4 ASSISTING THE COMMUNITY**

The duties of a chaplain related to the community include, but are not limited to:

- (a) Fostering familiarity with the role of law enforcement in the community.
- (b) Providing an additional link between the community, other chaplain coordinators and the Department.
- (c) Providing liaison with various civic, business and religious organizations.
- (d) Promptly facilitating requests for representatives or leaders of various denominations.
- (e) Assisting the community in any other function as needed or requested.
- (f) Making referrals in cases where specialized attention is needed or in cases that are beyond the chaplain's ability to assist.

#### **375.6.5 CHAPLAIN MEETINGS**

All chaplains are required to attend scheduled meetings. Any absences must be satisfactorily explained to the chaplain coordinator.

#### **375.7 COMMAND STRUCTURE**

- (a) Under the general direction of the Chief of Police or his/her designee, chaplains shall report to the Watch Commander.

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### *Chaplains*

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- (b) The Chief of Police shall make all appointments to the Chaplain Program and will designate a Senior Chaplain/Chaplain Commander.
- (c) The Senior Chaplain shall serve as the liaison between the Chaplain Unit and the Chief of Police. He/she will arrange for regular monthly meetings, act as chairman of all chaplain meetings, prepare monthly schedules, maintain records on all activities of the Chaplain Unit, coordinate activities that may concern the members of the Chaplain Unit and arrange for training classes for chaplains.

#### **375.8 OPERATIONAL GUIDELINES**

- (a) Chaplains will be scheduled to be on-call for a period of seven days at a time during each month, beginning on Monday and ending on the following Sunday.
- (b) Generally, each chaplain will serve with Indio Police Department personnel a minimum of eight hours per month.
- (c) At the end of each watch the chaplain will complete a Chaplain Shift Report and submit it to the Chief of Police or his designee.
- (d) Chaplains shall be permitted to ride with officers during any shift and observe Indio Police Department operations, provided the Watch Commander has been notified and approved of the activity.
- (e) Chaplains shall not be evaluators of employees and shall not be required to report on an employee's performance or conduct.
- (f) In responding to incidents, a chaplain shall never function as an officer.
- (g) When responding to in-progress calls for service, chaplains may be required to stand-by in a secure area until the situation has been deemed safe.
- (h) Chaplains shall serve only within the jurisdiction of the Indio Police Department unless otherwise authorized by the Chief of Police or his designee.
- (i) Each chaplain shall have access to current personnel rosters, addresses, telephone numbers, duty assignments and other information that may assist in their duties. Such Information will be considered confidential and each chaplain will exercise appropriate security measures to prevent distribution of the information.

#### **375.9 TRAINING**

The Department will establish a minimum number of training hours and standards for department chaplains. The training may include stress management, death notifications, post-traumatic stress syndrome, burnout for officers and chaplains, legal liability and confidentiality, ethics, responding to crisis situations, the law enforcement family, substance abuse, suicide, officer injury or death, and sensitivity and diversity, as approved by the Police Training Specialist or their designee. The Police Training Specialist shall ensure the Chaplains obtain said established training within (1) one year of hiring and maintain the Chaplains' personnel training files in addition to ensure each

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Chaplain's license, ordination or ministerial status is reviewed annually for compliance. A current copy will be kept in the Chaplain's personnel file.

#### **375.9.1 UNIFORM REQUIREMENT**

When in an on-duty status, all Chaplains shall wear appropriate on-duty Chaplain's uniform clothing (see uniform policy 1046).

- (a) Uniforms are to be approved by the Chief of Police.
- (b) Each Chaplain will be issued an official City of Indio Police Chaplain picture identification card.
- (c) Upon resignation or dismissal from the program, the identification card and any department issued uniforms/equipment must be surrendered to the Chief of Police or his designee.

## Temporary Return to Work Program

### 377.1 PURPOSE AND SCOPE

The City of Indio is committed to providing a work environment that is free from discrimination. In keeping with this commitment, the City maintains a strict policy prohibiting discrimination and harassment of injured employees.

The purpose of the Return to Work (RTW) Program (see City Administrative Policy Manual, Policy # A-27 & IPD Policy # 1056) is to return injured employees, who are **temporarily** precluded from performing their normal duties, to work in a RTW assignment. The Police Department reserves the right to establish RTW assignments on a case by case, temporary basis as the individual circumstances allow. RTW assignments are based on the employee's medical condition, job classification, work restrictions and other applicable factors. This policy is not intended to affect the rights or benefits of employees under federal or state law, City rules, current memorandums of understanding or collective bargaining agreements. For example, nothing in this policy affects the obligation of the Department to engage in a good faith, interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability that is protected under federal or state law.

RTW program assignments are a management prerogative and not an employee right. The availability of RTW assignments will be determined on a case-by-case basis, consistent with the operational needs of the department. RTW assignments are subject to continuous reassessment, with consideration given to operational needs and the employee's ability to perform in a RTW assignment.

### 377.2 RESPONSIBILITY

The Human Resource Coordinator will act as the Return to Work Program Coordinator. This individual will function as the liaison with the Workers' Compensation Claims Administrator if there is an industrial claim.

### 377.3 PROCEDURES

An employee may be placed on a RTW program only after their attending physician recommends restricted duties and when an assignment is available.

- (a) If the employee has work restrictions, the work restrictions will be listed on a Physician's Report as provided by the attending physician.
- (b) If the Department is able to accommodate the restrictions with meaningful projects and assignments, the Chief of Police or their designee will notify the RTW Coordinator (Human Resources Coordinator) who will give an Offer of Modified or Alternative Work (exhibit A) to the employee.
- (c) A Physical Job Description form describing the parameters of the RTW and employees work restrictions (exhibit B) as well as an Early Return to Work Planner (exhibit C) shall be completed by the (Human Resources) RTW Coordinator and discussed with



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the employee. The employee will be given copies of these documents and a copy set will be maintained in the employee's division file and in Human Resources.

- (d) The employee's supervisor will ensure that the employee is complying with and working within the work restrictions imposed by the treating physician as documented on the Job Description form.
- (e) The Department has established a maximum time frame of ninety (90) calendar days for employee participation in a RTW program. However, RTW assignments may be extended upon approval by the Director of Human Resources or his/her designee, in consultation with the department head, City Attorney, and/or the City Manager, as needed, at ninety (**90**) calendar day intervals if working is supporting the employee to recover and the employee continues to medically improve as evidenced by reduced work restrictions. If the employee has not sufficiently recovered to return to his/her position within this period, then a leave of absence will be considered. If a leave is no longer reasonable to provide, then reasonable accommodation discussions will continue and may involve an exploration of alternative work placement.

#### 377.3.1 INABILITY TO ACCOMMODATE RESTRICTIONS

If the police department is unable to accommodate the restrictions, the Police Department will notify Human Resources to see if an assignment exists within other City departments which can accommodate the employee's restrictions. The employee may be temporarily assigned to perform this assignment with the consent of the department head of the involved City department. Salary and fringe benefit costs will continue to be paid by the police department.

The RTW Coordinator will instruct the employee where to report if an assignment in another City department is located.

#### 377.3.2 UNAVAILABILITY OF TRANSITIONAL ASSIGNMENTS

If no transitional assignment is available, the employee will be put off work. An employee in an off work status shall advise his or her supervisor immediately following a change in work restrictions or medical condition as determined by his/her treating physician. Employees who fail to contact their supervisor within twenty four (24) hours may be subject to disciplinary action.

#### 377.3.3 COMPLETION OF RTW ASSIGNMENT

If an employee completes a temporary assignment and there is no additional transitional work available, the employee will be put off work. In cases of injuries which are industrial related, the RTW Coordinator must immediately notify the Workers' Compensation Claims Administrator that the employee is no longer working.

#### 377.3.4 EXHIBIT A

See attachment: [th\\_Exhibit A.jpg](#)

#### 377.3.5 EXHIBIT B

See attachment: [th\\_Exhibit B.jpg](#)

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### *Temporary Return to Work Program*

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#### 377.3.6 EXHIBIT C

See attachment: [th\\_Exhibit C.jpg](#)

## Child and Dependent Adult Safety

### 378.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that children and senior & disabled victimization adults are not left without appropriate care in the event their caregiver or guardian is arrested or otherwise prevented from providing care due to actions taken by members of this department (Penal Code § 833.2(a)).

This policy does not address the actions to be taken during the course of a child abuse or senior & disabled victimization adult investigation. These are covered in the Child Abuse and Senior and Disability Victimization policies.

### 378.2 POLICY

It is the policy of this department to mitigate, to the extent reasonably possible, the stressful experience individuals may have when their parent or caregiver is arrested. The Indio Police Department will endeavor to create a strong, cooperative relationship with local, state and community-based social services to ensure an effective, collaborative response that addresses the needs of those affected, including call-out availability and follow-up responsibilities.

### 378.3 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation, officers should make reasonable attempts to determine if the arrestee is responsible for children or dependent adults. In some cases this may be obvious, such as when children or dependent adults are present. However, officers should inquire if the arrestee has caregiver responsibilities for any children or dependent adults who are without appropriate supervision. The following steps should be taken (Penal Code § 13517.7(b)(1)):

- (a) Inquire about and confirm the location of any children or dependent adults.
- (b) Look for evidence of children and dependent adults. Officers should be mindful that some arrestees may conceal the fact that they have a dependent for fear the individual may be taken from them.
- (c) Consider inquiring of witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a child or dependent adult.

Whenever reasonably possible, officers should take reasonable steps to accomplish the arrest of a parent, guardian or caregiver out of the presence of his/her child or dependent adult. Removing children or dependent adults from the scene in advance of the arrest will generally ensure the best outcome for the individual.

Whenever it is safe to do so, officers should allow the parent or caregiver to assure children or dependent adults that they will be provided care. If this is not safe or if the demeanor of the parent or caregiver suggests this conversation would be non-productive, the officer at the scene should

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### *Child and Dependent Adult Safety*

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explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

#### 378.3.1 AFTER AN ARREST

Whenever an arrest is made, the officer should take all reasonable steps to ensure the safety of the arrestee's disclosed or discovered children or dependent adults.

Officers should allow the arrestee reasonable time to arrange for care of children and dependent adults. Temporary placement with family or friends may be appropriate. However, any decision should give priority to a care solution that is in the best interest of the child or dependent adult. In such cases the following guidelines should be followed:

- (a) Allow the person reasonable time to arrange for the care of children and dependent adults with a responsible party, as appropriate.
  - 1. Officers should consider allowing the person to use his/her cell phone to facilitate arrangements through access to contact phone numbers, and to lessen the likelihood of call screening by the recipients due to calls from unknown sources.
- (b) Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), officers should respect the parent or caregiver's judgment regarding arrangements for care. It is generally best if the child or dependent adult remains with relatives or family friends that he/she knows and trusts because familiarity with surroundings and consideration for comfort, emotional state and safety are important.
  - 1. Except when a court order exists limiting contact, the officer should attempt to locate and place children or dependent adults with the non-arrested parent, guardian or caregiver.
- (c) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.
- (d) Notify Child Protective Services or the Division of Aging and Adult Services, if appropriate.
- (e) Notify the field supervisor or Watch Commander of the disposition of children or dependent adults.

If children or dependent adults are at school or another known location outside the household at the time of arrest, the arresting officer should attempt to contact the school or other known location and inform the principal or appropriate responsible adult of the caregiver's arrest and of the arrangements being made for the care of the arrestee's dependent. The result of such actions should be documented in the associated report.

#### 378.3.2 DURING THE BOOKING PROCESS

During the booking process the arrestee shall be allowed to make additional telephone calls to relatives or other responsible individuals as is reasonably necessary to arrange for the care of any

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child or dependent adult. These telephone calls should be given as soon as practicable and are in addition to any other telephone calls allowed by law (Penal Code § 851.5(c)).

If an arrestee is unable to resolve the care of any child or dependent adult through this process, a supervisor should be contacted to determine the appropriate steps to arrange for care. These steps may include additional telephone calls or contacting a local, county or state services agency.

#### 378.3.3 REPORTING

- (a) For all arrests where children are present or living in the household, the reporting member will document the following information:
  - 1. Name
  - 2. Sex
  - 3. Age
  - 4. Special needs (e.g., medical, mental health)
  - 5. How, where and with whom or which agency the child was placed
  - 6. Identities and contact information for other potential caregivers
  - 7. Notifications made to other adults (e.g., schools, relatives)
- (b) For all arrests where dependent adults are present or living in the household, the reporting member will document the following information:
  - 1. Name
  - 2. Sex
  - 3. Age
  - 4. Whether he/she reasonably appears able to care for him/herself
  - 5. Disposition or placement information if he/she is unable to care for him/herself

#### 378.3.4 SUPPORT AND COUNSELING REFERRAL

If, in the judgment of the handling officers, the child or dependent adult would benefit from additional assistance, such as counseling services, contact with a victim advocate or a crisis telephone number, the appropriate referral information may be provided.

#### **378.4 DEPENDENT WELFARE SERVICES**

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any child or dependent adult, the handling officer should contact the appropriate welfare service or other department-approved social service to determine whether protective custody is appropriate (Welfare and Institutions Code § 305).

Under no circumstances should a child or dependent adult be left unattended or without appropriate care.

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### *Child and Dependent Adult Safety*

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#### **378.5 TRAINING**

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

## Service Animals

### 380.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to ensure the rights of individuals who use service animals to assist with disabilities are protected in accordance with Title II of the Americans with Disabilities Act of 1990 (ADA).

#### 380.1.1 DEFINITIONS

Definitions related to this policy include:

**Service animal** - A dog that is trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. The work or tasks performed by a service animal must be directly related to the individual's disability (28 CFR 35.104; Health and Safety Code § 113903).

Service animal also includes a miniature horse if the horse is trained to do work or perform tasks for people with disabilities, provided the horse is housebroken, is under the handler's control, the facility can accommodate the horse's type, size and weight, and the horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility (28 CFR 35.136(i)).

**(ESA) Emotional support animal** - is an animal companion that offers some type of benefit to an individual with some form of disability. The animal is intended to provide companionship and support that will help alleviate at least one aspect of the disability. Dogs are the most common type of emotional support animal, but cats are quite common as well. Other types of animals, such as miniature horses, can also serve as ESAs. Emotional support animals (a) do not require specialized training and (b) are covered under the Federal Fair Housing Act.

### 380.2 POLICY

It is the policy of the Indio Police Department to provide services and access to persons with service animals in the same manner as those without service animals. Department members shall protect the rights of persons assisted by service animals in accordance with state and federal law.

### 380.3 IDENTIFICATION AND USE OF SERVICE ANIMALS

Some service animals may be readily identifiable. However, many do not have a distinctive symbol, harness or collar.

Service animals may be used in a number of ways to provide assistance, including:

- Guiding people who are blind or have low vision.
- Alerting people who are deaf or hard of hearing.
- Retrieving or picking up items, opening doors or flipping switches for people who have limited use of their hands, arms or legs.
- Pulling wheelchairs.

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### *Service Animals*

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- Providing physical support and assisting with stability and balance.
- Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities or psychiatric disabilities, such as reminding a person with depression to take medication.
- Alerting a person with anxiety to the onset of panic attacks, providing tactile stimulation to calm a person with post-traumatic stress disorder, assisting people with schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.
- Providing comfort and support for individuals on the autism spectrum disorder (ASD).

#### **380.4 MEMBER RESPONSIBILITIES**

Service animals that are assisting individuals with disabilities are permitted in all public facilities and areas where the general public is allowed. Department members are expected to treat individuals with service animals with the same courtesy and respect that the Indio Police Department affords to all members of the public (28 CFR 35.136).

##### **380.4.1 INQUIRY**

If it is apparent or if a member is aware that an animal is a service animal, the individual generally 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 member should ask the individual only the following questions (28 CFR 35.136(f)):

- Is the animal required because of a disability?
- What task or service has the service animal been trained to perform?

If the individual explains that the animal is required because of a disability and has been trained to work or perform at least one task, the animal meets the definition of a service animal and no further questions as to the animal's status should be asked. The individual should not be questioned about his/her disability nor should the person be asked to provide any license, certification or identification card for the service animal.

##### **380.4.2 CONTACT**

Service animals are not pets. Department members should not interfere with the important work performed by a service animal by talking to, petting or otherwise initiating contact with a service animal.

##### **380.4.3 REMOVAL**

If a service animal is not housebroken or exhibits vicious behavior, poses a direct threat to the health of others, or unreasonably disrupts or interferes with normal business operations, an officer may direct the handler to remove the animal from the premises. Barking alone is not a threat nor does a direct threat exist if the person takes prompt, effective action to control the service animal (28 CFR 35.136(b)).



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Each incident must be considered individually and past incidents alone are not cause for excluding a service animal. Removal of a service animal may not be used as a reason to refuse service to an individual with disabilities. Members of this department are expected to provide all services as are reasonably available to an individual with a disability, with or without a service animal.

#### 380.4.4 COMPLAINTS

When handling calls of a complaint regarding a service animal, members of this department should remain neutral and should be prepared to explain the ADA requirements concerning service animals to the concerned parties. Businesses are required to allow service animals to accompany their handlers into the same areas that other customers or members of the public are allowed (28 CFR 36.302).

Absent a violation of law independent of the ADA, officers should take no enforcement action beyond keeping the peace. Individuals who believe they have been discriminated against as a result of a disability should be referred to the Civil Rights Division of the U.S. Department of Justice (DOJ).

## Volunteer Program

### 382.1 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.

#### 382.1.1 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, interns, persons providing administrative support and youth involved in a law enforcement Explorer Post, among others.

### 382.2 VOLUNTEER MANAGEMENT

#### 382.2.1 VOLUNTEER COORDINATOR

The Volunteer Coordinator shall be appointed by the Support Services Division Chief. 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.

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### *Volunteer Program*

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- (j) Maintaining liaison with other volunteer-utilizing programs in the community and assisting in community-wide efforts to recognize and promote volunteering.

#### 382.2.2 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.

#### 382.2.3 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.

#### 382.2.4 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.

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#### 382.2.5 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.

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.

#### 382.2.6 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.

#### 382.2.7 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.

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### *Volunteer Program*

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#### **382.3 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.
- (c) Make sure the work is challenging. Do not hesitate to give them an assignment or task that will tap these valuable resources.

#### **382.4 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.

#### **382.5 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.

##### **382.5.1 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:

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- (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.

#### **382.5.2 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.

#### **382.6 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.

##### **382.6.1 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.

#### **382.7 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

### 384.1 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 physical and legal risk and must be done with careful consideration. This policy is intended to provide guidelines for officers of the Indio Police Department with respect to taking law enforcement action while off-duty.

### 384.2 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. When engaged in off-duty enforcement of this type, nonuniformed officers risk being mistaken as criminal suspects by responding officers and therefore should exercise caution if engaging in such off duty enforcement actions.

#### 384.2 (a) DEFINITIONS

**Personally Involved:** An off-duty officer is deemed personally involved when assisting a family member or a friend who becomes engaged in a personal dispute or incident. This does not apply to situations where the police officer, family member, or friend is a crime victim.

**Out-of-uniform/Non-Uniformed:** Officers wearing clothes commonly worn while off duty; also referred to as civilian attire or street clothes.

### 384.3 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 officer who has consumed an amount of an alcoholic beverage or taken any drugs or medications or any combination thereof that would tend to adversely affect the officer's senses or judgment.

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#### **384.4 DECISION TO INTERVENE**

There is no legal requirement for off-duty officers to take law enforcement action. However, should officers decide to intervene, they must evaluate whether the action is necessary or desirable, and should take into consideration the following:

- (a) The tactical disadvantage of being alone and the fact there may be multiple or hidden suspects.
- (b) The inability to communicate with responding units.
- (c) The lack of equipment, such as handcuffs, OC or baton.
- (d) The lack of cover.
- (e) The potential for increased risk to bystanders if the off-duty officer were to intervene.
- (f) Unfamiliarity with the surroundings.
- (g) The potential for the off-duty officer to be misidentified by other peace officers or members of the public.

Officers should consider waiting for on-duty uniformed officers to arrive, and gather as much accurate intelligence as possible instead of immediately intervening.

##### **384.4.1 INTERVENTION PROCEDURE**

If involvement is reasonably necessary the officer should attempt to call or have someone else call 9-1-1 to request immediate assistance. The dispatcher should be informed that an off-duty officer is on-scene and should be provided a description of the officer if possible.

Whenever practicable, the officer should loudly and repeatedly identify him/herself as an Indio Police Department officer until acknowledged. Official identification should also be displayed.

##### **384.4.2 INCIDENTS OF PERSONAL INTEREST**

Officers should refrain from handling incidents of personal interest, (e.g., family or neighbor disputes) and should remain neutral. In such circumstances officers should call the responsible agency to handle the matter.

##### **384.4.3 NON-SWORN RESPONSIBILITIES**

Non-sworn personnel should not become involved in any law enforcement actions while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and practicable.

##### **384.4.4 OTHER CONSIDERATIONS**

When encountering a non-uniformed officer in public, uniformed officers should wait for acknowledgement by the non-uniformed officer in case he/she needs to maintain an undercover capability.



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#### **384.5 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.

## Department Use of Social Media

### 385.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that any use of social media on behalf of the Department is consistent with the Department's mission, vision and values. This policy establishes this Department's position on the utility and management of social media and provides guidance on its management, administration, and oversight. This policy is not meant to address one particular form of social media, rather social media in general, as advances in technology will occur and new tools emerge.

This policy does not address all aspects of social media use. Specifically, it does not address:

- Personal use of social media by department members (see the Employee Speech, Expression and Social Networking Policy number 1060).
- Use of social media in personnel processes (see the Recruitment and Selection Policy number 1000).
- Use of social media as part of a criminal investigation, other than disseminating information to the public on behalf of this department (see the Investigation and Prosecution Policy number 600).

#### 385.1.1 DEFINITIONS

Definitions related to this policy include:

**Social media** - Any of a wide array of Internet-based tools and platforms that allow for the sharing of information, such as the department website or social networking services.

**Blog:** A self-published diary or commentary on a particular topic that may allow visitors to post responses, reactions, or comments. The term is short for "Web log."

**Page:** The specific portion of a social media website where content is displayed, and managed by an individual or individuals with administrator rights.

**Post:** Content an individual shares on a social media site or the act of publishing content on a site.

**Profile:** Information that a user provides about himself or herself on a social networking site.

**Social Media:** A category of Internet-based resources that integrate user-generated content and user participation. This includes, but is not limited to, social networking sites (Facebook, Instagram), micro-blogging sites (Twitter, Nixle), photo- and video sharing sites (Flickr, YouTube, Snapchat), wikis (Wikipedia), blogs, and news sites (Digg, Reddit).

**Social Networks:** Online platforms where users can create profiles, share information, and socialize with others using a range of technologies.

**Speech:** Expression or communication of thoughts or opinions in spoken words, in writing, by expressive conduct, symbolism, photographs, videotape, or related forms of communication.

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**Web 2.0:** The second generation of the World Wide Web focused on shareable, user-generated content, rather than static web pages. Some use this term interchangeably with social media.

**Wiki:** Web page(s) that can be edited collaboratively.

#### **385.2 POLICY**

The Indio Police Department may use social media as a method of effectively informing the public about department services, issues, investigations and other relevant events.

Department members shall ensure that the use or access of social media is done in a manner that protects the constitutional rights of all. This policy identifies potential uses that may be explored or expanded upon as deemed reasonable by administrative and supervisory personnel. The department also recognizes the role that these tools play in the personal lives of some department personnel. The personal use of social media can have bearing on departmental personnel in their official capacity. As such, this policy provides information of a precautionary nature as well as prohibitions on the use of social media by department personnel.

#### **385.3 AUTHORIZED USERS**

Only members authorized by the Chief of Police or the authorized designee may utilize social media on behalf of the Department. Authorized members shall use only department-approved equipment during the normal course of duties to post and monitor department-related social media, unless they are specifically authorized to do otherwise by their supervisors.

The Chief of Police may develop specific guidelines identifying the type of content that may be posted. Any content that does not strictly conform to the guidelines should be approved by a supervisor prior to posting.

Requests to post information over department social media by members who are not authorized to post should be made through their social media team representative who shall follow the established protocol.

#### **385.4 AUTHORIZED CONTENT**

Only content that is appropriate for public release, that supports the department mission and conforms to all department policies regarding the release of information may be posted.

Examples of appropriate content include:

- (a) Announcements and event advertisements.
- (b) Tips and information related to crime prevention.
- (c) Investigative requests for information.
- (d) Requests that ask the community to engage in projects that are relevant to the department mission.
- (e) Real-time safety information that is related to in-progress crimes, geographical warnings or disaster information.
- (f) Traffic information.

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- (g) Press releases.
- (h) Recruitment of personnel.
- (i) Community outreach.

#### **385.4.1 INCIDENT-SPECIFIC USE**

In instances of active incidents where speed, accuracy and frequent updates are paramount (e.g., crime alerts, public safety information, traffic issues), the Social Media Officer or the authorized designee will be responsible for the compilation of information to be released, subject to the approval of the Incident Commander.

#### **385.5 PROHIBITED CONTENT**

Content that is prohibited from posting includes, but is not limited to:

- (a) Content that is abusive, discriminatory, inflammatory or sexually explicit.
- (b) Any information that violates individual rights, including confidentiality and/or privacy rights and those provided under state, federal or local laws.
- (c) Any information that could compromise an ongoing investigation.
- (d) Any information that could tend to compromise or damage the mission, function, reputation or professionalism of the Indio Police Department or its members.
- (e) Any information that could compromise the safety and security of department operations, members of the Department, victims, suspects or the public.
- (f) Any content posted for personal use.
- (g) Any content that has not been properly authorized by this policy or a supervisor.

Any member who becomes aware of content on this department's social media site that he/she believes is unauthorized or inappropriate shall promptly report such content to a supervisor. The supervisor will ensure its removal from public view and investigate the cause of the entry.

#### **385.5.1 PUBLIC POSTINGS**

Department social media public postings shall be monitored by the assigned Social Media Officer and the assigned social media team members in order to monitor potential threats against the community or public service employees and to discourage inflammatory language.

##### **385.5.1(a) ON THE JOB USE OF SOCIAL MEDIA**

In addition, Social media content shall adhere to applicable laws, regulations, and policies, including all information technology and records management policies:

- Content is subject to public records laws. Relevant records retention schedules apply to social media content.
- Content must be managed, stored, and retrieved to comply with open records laws and e-discovery laws and policies.
- Where possible, social media pages should state that the opinions expressed by visitors to the page(s) do not reflect the opinions of the department.

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- Where possible pages shall clearly indicate that posted comments will be monitored and that the department reserves the right to remove obscenities, off-topic comments, and personal attacks.
- Where possible pages shall clearly indicate that any content posted or submitted for posting is subject to public disclosure.

#### **385.5.2(b) DEPARTMENT-SANCTIONED USE**

Department personnel representing the department via social media outlets shall do the following:

- Conduct themselves at all times as representatives of the department and, accordingly, shall adhere to all department standards of conduct and observe conventionally accepted protocols and proper decorum.
- Identify themselves as a member of the department.
- Not make statements about the guilt or innocence of any suspect or arrestee, or comments concerning pending prosecutions, nor post, transmit, or otherwise disseminate confidential information, including photographs, or videos, related to department training, activities, or work-related assignments without express written permission.
- Not conduct political activities or private business.

#### **385.5.3(c) POTENTIAL USES**

Social media is a valuable investigative tool when seeking evidence or information about (a) missing persons; (b) wanted persons; (c) gang participation; (d) crimes perpetrated online (i.e., cyberbullying, cyberstalking); and (e) photos or videos of a crime posted by a participant or observer.

- Social media can be used for community outreach and engagement.
- Can provide crime prevention tips.
- Offer online-reporting opportunities.
- Share crime maps and data.
- Solicit tips about unsolved crimes (i.e., Crimestoppers, text-a-tip).

#### **385.5.4(d) SOCIAL MEDIA NOTIFICATIONS & INVESTIGATIONS Social Media Notifications & Investigations**

Social media can be used to conduct investigations and make notifications regarding but not limited to;

- Road closures.
- Special events.
- Weather emergencies.
- Missing or endangered persons.

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- Recruitment mechanism for volunteers and potential employees.
- This department has an obligation to include Internet-based content when conducting background investigations of job candidates.
- Searches should be conducted by a non-decision maker.
- Information pertaining to protected classes shall be filtered out prior to sharing any information found online with decision makers.
- Persons authorized to search Internet-based content should be deemed as holding a sensitive position.
- Search methods shall not involve techniques that are in violation of existing laws.
- Vetting techniques shall be applied uniformly to all candidates.
- Every effort must be made to validate Internet based information considered during a hiring process

#### **385.6 MONITORING CONTENT**

The Chief of Police will appoint a supervisor to review, at least annually, the use of department social media and report back on, at a minimum, the resources being used, the effectiveness of the content, any unauthorized or inappropriate content and the resolution of any issues.

#### **385.7 RETENTION OF RECORDS**

The Support Services Division Chief should work with the Custodian of Records to establish a method of ensuring that public records generated in the process of social media use are retained in accordance with established records retention schedules. Electronic and paper records are categorized, filed and retained based upon the content of the record. Records where either the content relates in a substantive way to the conduct of the public's business, or are made or retained for the purpose of preserving the informational content for future reference are saved by placing them in an electronic or paper file folder and retained for the applicable retention period. If the item is not mentioned in this policy consult with the City Attorney to determine if a record is considered transitory or preliminary draft. Refer to records retention schedule (city-wide standards record series number CW-026. Content not substantive, or not made or retained for the purpose of preserving the informational content for future reference is described as;

- (a) Calendars, checklist
- (b) E-mail
- (c) Social media postings that does not have a material impact on the conduct of business
- (d) Invitations
- (e) Instant messaging
- (f) Logs
- (g) Mailing lists
- (h) Meeting room registrations

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- (i) Supply inventories
- (j) Telephone messages
- (k) Transmittal letters
- (l) Thank yous
- (m) Request from other cities
- (n) Undeliverable envelopes
- (o) Visitors logs
- (p) Voice mails
- (q) Webpages

### **385.8 TRAINING**

Authorized members should receive training that, at a minimum, addresses legal issues concerning the appropriate use of social media sites, as well as privacy, civil rights, dissemination and retention of information posted on department sites.

#### **385.8.1 DEPARTMENT SOCIAL MEDIA DISSEMINATION COMPLIANCE PURSUANT TO AB 1475**

**On July 23, 2021, AB 1475** was signed and chaptered into law, and will take effect on January 1, 2022. The bill creates limitations on the ability of law enforcement agencies to disseminate booking photos on social media.

The legislation also has retroactive reach to content already in existence and published on Department social media platforms.

The legislation **adds Section 13665 to the Penal Code.**

The primary constraint imposed by the statute is found in Sec. 13665(a): "A police department or sheriff's office shall not share, on social media, booking photos of an individual arrested on suspicion of committing a nonviolent crime unless any of the following circumstances exist:

" Under Sec. 13665(c)(1), "nonviolent crime" means a crime not identified in subdivision (c) of Section 667.5. Crimes identified in subdivision (c) of Section 667.5 are:

Violent Crime Addendum For the purpose of this section, "**violent felony**" shall mean any of the following:

- (1) Murder or voluntary manslaughter.
- (2) Mayhem.
- (3) Rape as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.
- (4) Sodomy as defined in subdivision (c) or (d) of Section 286.

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- (5) Oral copulation as defined in subdivision (c) or (d) of Section 287 or of former Section 288a.
- (6) Lewd or lascivious act as defined in subdivision (a) or (b) of Section 288.
- (7) Any felony punishable by death or imprisonment in the state prison for life.
- (8) Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7, 12022.8, or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in subdivision (a) of Section 12022.3, or Section 12022.5 or 12022.55.
- (9) Any robbery.
- (10) Arson, in violation of subdivision (a) or (b) of Section 451.
- (11) Sexual penetration as defined in subdivision (a) or (j) of Section 289.
- (12) Attempted murder.
- (13) A violation of Section 18745, 18750, or 18755.
- (14) Kidnapping.
- (15) Assault with the intent to commit a specified felony, in violation of Section 220.
- (16) Continuous sexual abuse of a child, in violation of Section 288.5.
- (17) Carjacking, as defined in subdivision (a) of Section 215.
- (18) Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.
- (19) Extortion, as defined in Section 518, which would constitute a felony violation of Section 186.22.
- (20) Threats to victims or witnesses, as defined in Section 136.1, which would constitute a felony violation of Section 186.22.
- (21) Any burglary of the first degree, as defined in subdivision (a) of Section 460, wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary.
- (22) Any violation of Section 12022.53.
- (23) A violation of subdivision (b) or (c) of Section 11418. The Legislature finds and declares that these specified crimes merit special consideration when imposing a sentence to display society's condemnation for these extraordinary crimes of violence against the person.



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The circumstances where a police department or sheriff's office may share a photo associated with an arrest for a nonviolent offense are found in Sec. 13665(a) (1-3):

- (1) A police department or sheriff's office has determined that the suspect is a fugitive or an imminent threat to an individual or to public safety and releasing or disseminating the suspect's image will assist in locating or apprehending the suspect or reducing or eliminating the threat.
- (2) A judge orders the release or dissemination of the suspect's image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest.
- (3) There is an exigent circumstance that necessitates the dissemination of the suspect's image in furtherance of an urgent and legitimate law enforcement interest.

#### **385.8.2 REMOVAL OF PHOTOS**

The legislation also has removal provisions that can additionally be applied retroactively to any booking photo shared on social media. Sec. 13665(b)(3).

The first of these pertains to photos associated with an arrest for a nonviolent crime. "A police department or sheriff's office that shares, on social media, a booking photo of an individual arrested for the suspected commission of a nonviolent crime shall remove the booking photo from its social media page **within 14 days**, upon the request of the individual who is the subject of the social media post or the individual's representative, unless any of the circumstances described in subdivision (a) exist." Section 13665(b)(1). In addition, the agency must use the name and pronouns given by the individual. A police department or sheriff's office may include other legal names or known aliases of an individual if using the names or aliases will assist in locating or apprehending the individual or reducing or eliminating an imminent threat to an individual or to public safety or an exigent circumstance exists that necessitates the use of other legal names or known aliases of an individual due to an urgent and legitimate law enforcement interest per AB 994.

The second removal authority pertains to booking photos where the individual was arrested for the suspected commission of an offense identified in Section 667.5(c). "A police department or sheriff's office that shares, on social media, a booking photo of an individual arrested for the suspected commission of a crime identified in subdivision (c) of Section 667.5 shall remove the booking photo from its social media page **within 14 days**, upon the request of the individual who is the subject of the social media post or the individual's representative, if the individual or their representative demonstrates any of the following:

- (A) The individual's record has been sealed.
- (B) The individual's conviction has been dismissed, expunged, pardoned, or eradicated pursuant to law.
- (C) The individual has been issued a certificate of rehabilitation.

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(D) The individual was found not guilty of the crime for which they were arrested.

(E) The individual was ultimately not charged with the crime, or the charges were dismissed.

**For further guidance refer to AB 1475, AB 994 and its provisions.**

# Gun Violence Restraining Orders

## 386.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for petitioning and serving gun violence restraining orders and accounting for the firearms obtained pursuant to those orders (Penal Code § 18108).

### 386.1.1 DEFINITIONS

Definitions related to this policy include:

**Gun violence restraining order** - Civil restraining order prohibiting a named person from controlling, owning, purchasing, possessing, receiving, or otherwise having custody of any firearms or ammunition, including an ammunition magazine (Penal Code § 18100).

## 386.2 POLICY

It is the policy of the Indio Police Department to petition and serve gun violence restraining orders in compliance with state law and to properly account for firearms and ammunition obtained by the Department pursuant to such orders.

## 386.3 GUN VIOLENCE RESTRAINING ORDERS

A Major Crimes Unit Supervisor who reasonably believes a person is a present danger to him/herself or another person by controlling, owning, purchasing, possessing, receiving, or otherwise having custody of a firearm may request permission from his/her supervisor to petition the court for a gun violence restraining order.

A Major Crimes Unit Supervisor petitioning the court should use the forms established by the Judicial Council (Penal Code § 18105). The petition should describe the number, types, and locations of any firearms and ammunition that the Major Crimes Unit Supervisor believes to be possessed or controlled by the person (Penal Code § 18107). The petition should also describe why less-restrictive alternatives are ineffective or inadequate for the circumstances (Penal Code § 18125; Penal Code § 18150; Penal Code § 18175).

If it is not practical under the circumstances to submit a written petition, the Major Crimes Unit Supervisor may orally request an order, and then prepare and sign a declaration under penalty of perjury that recites the oral statements provided to the judicial officer and memorialize the order of the court on the appropriate Judicial Council form (Penal Code § 18140).

## 386.4 SERVICE OF GUN VIOLENCE RESTRAINING ORDERS

An officer serving any gun violence restraining order shall:

- (a) Verbally ask the subject of the order if he/she has any firearm, ammunition, or magazine in his/her possession or under his/her custody or control (Penal Code § 18160).
- (b) Request that any firearms or ammunition be immediately surrendered and issue a receipt for the surrendered items (Penal Code § 18120).

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- (c) Take into temporary custody any firearm or other deadly weapon discovered in plain view or pursuant to consent or other lawful search (Penal Code § 18250).
- (d) Inform the restrained person of any scheduled hearing regarding the order (Penal Code § 18160).
- (e) Transmit the original proof of service form to the issuing court as soon as practicable but within one business day (Penal Code § 18115).
- (f) As soon as practicable, but by the end of his/her shift, submit proof of service to the Records Supervisor for prompt entry into the California Restraining and Protective Order System (Penal Code § 18115).

The officer should also inform the restrained person that he/she is required, within 24 hours, to surrender to a law enforcement agency any other firearms and ammunition he/she owns or that are in his/her custody or control or sell them to a firearms dealer. This notification should be documented.

All firearms and ammunition collected shall be handled and booked in accordance with the Property and Evidence Policy.

#### **386.4.1 SERVICE OF ORAL GUN VIOLENCE RESTRAINING ORDERS**

If a gun violence restraining order is obtained orally, the officer shall (Penal Code § 18140):

- (a) Serve the order on the restrained person in the manner outlined above, if the restrained person can reasonably be located.
- (b) File a copy of the order with the court as soon as practicable after issuance.
- (c) Ensure the order is provided to the Records Bureau for entry into the computer database system for protective and restraining orders maintained by the Department of Justice.

#### **386.5 SEARCH WARRANTS**

If a person who has been served with a gun violence restraining order refuses to surrender any firearm or ammunition, the officer should consider whether to seek a search warrant. If a search warrant is to be obtained, the preparation and service of the search warrant shall be done in accordance with the Warrant Service Policy. Additionally, (Penal Code § 1542.5):

- (a) The officer serving the warrant shall take custody of any firearm or ammunition that is controlled, possessed or owned by the person who is the subject of the gun violence restraining order, including any discovered pursuant to the warrant, a consensual search or other lawful search.
- (b) If the location being searched is jointly occupied and the firearm or ammunition is owned by a person other than the restrained person, the firearm or ammunition should not be seized if the following conditions are met:
  1. The firearm or ammunition can be stored in a manner that does not allow the restrained person to have control or access.

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2. There is no evidence that the owner unlawfully possesses the firearm or ammunition.
- (c) If a locked gun safe belonging to someone other than the subject of a gun violence restraining order is discovered, the officer shall not search the contents of the safe unless the owner consents or there is a valid search warrant for the safe. Any search of the safe must be done in the owner's presence.

#### **386.6 RECORDS SUPERVISOR RESPONSIBILITIES**

The Records Supervisor is responsible for ensuring:

- (a) Proof of service of any gun violence restraining order served by an officer or received from the clerk of the court is entered in the computer database system for protective and restraining orders maintained by the Department of Justice within one business day of service if served by an officer, or within one business day of receipt of proof of service if served by a person other than a law enforcement officer (Penal Code § 18115).
- (b) Oral orders are entered into the California Restraining and Protective Order System (Penal Code § 18140).
- (c) Copies of receipts of surrendered firearms or ammunition issued by other agencies for gun violence restraining orders issued by the Department are properly maintained (Penal Code § 18120).
- (d) Any relinquishment of firearm rights form received from the court is entered into the California Restraining and Protective Order System within one business day of receipt (Penal Code § 18115).

#### **386.7 COURT-ORDERED FIREARMS AND AMMUNITION SURRENDERS**

Authorized members shall accept firearms and ammunition from any individual who is the subject of a gun violence restraining order. The member receiving any firearm or ammunition shall:

- (a) Record the individual's name, address and telephone number.
- (b) Record the serial number of the firearm.
- (c) Prepare an incident report and property report.
- (d) Provide a property receipt to the individual who surrendered the firearms and ammunition.
- (e) Package and submit the firearms and ammunition in accordance with the Property and Evidence Policy.

#### **386.7 (a) COMPLIANCE WITH AB 732**

- (a) Notifications received by Records Staff and or the Office of the Chief of Police related to the failure to surrender firearms and or ammunition shall be routed to the Investigative Services Lieutenant for review.
- (b) The reviewing Lieutenant or their designee shall assign the matter to the SCU supervisor for follow up for an attempt to collect the weapon(s) and or ammunition.

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- (c) All follow up shall be documented in a police report via the ALLIANCE software documenting all efforts to collect the weapon(s) and ammunition in question.
- (d) Subject data, TRO number, follow up case number, results and relevant information shall be logged into an excel sheet stored on a file labeled "AB732 COMPLIANCE" in the common drive for record keeping and auditing.
- (e) Refer to attached AB 732 PDF for reference:

[See attachment: 20230AB732\\_93 AB 732 PDF.pdf](#)

#### **386.8 RELEASE OF FIREARMS AND AMMUNITION**

Firearms and ammunition that were taken into temporary custody or surrendered pursuant to a gun violence restraining order shall be returned to the restrained person upon the expiration of the order and in accordance with Penal Code § 18120 and the Property and Evidence Policy.

#### **386.9 GUN VIOLENCE RESTRAINING ORDER COORDINATOR**

The Chief of Police will appoint a gun violence restraining order coordinator. The responsibilities of the coordinator include:

- (a) Developing and maintaining procedures for the filing of a petition for an order or a renewal of an order by department members, also including procedures for requesting and serving (Penal Code § 18108):
  1. A temporary emergency gun violence restraining order.
  2. An ex parte gun violence restraining order.
  3. A gun violence restraining order issued after notice and hearing.
- (b) Developing and maintaining factors to consider when assessing the need to seek an order, including:
  1. Whether threats have been made, and if so, whether the threats are credible and specific.
  2. Whether the potential victim is within close proximity.
  3. Whether the person has expressed suicidal tendencies.
  4. Whether the person has access to firearms.
  5. The criminal history of the person, in particular any history of criminal violence, including whether the person is currently on parole, probation, or monitored release.
  6. The mental health history of the person, in particular whether the person has any history of mental illness or has ever been detained for being a danger to themselves or others.
  7. Any upcoming holidays, anniversaries, or other dates of significance that may serve as a trigger for the person, such as the death of a family member.
  8. Whether the person has any history of drug or alcohol abuse.

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### *Gun Violence Restraining Orders*

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- (c) Developing and maintaining procedures for the receipt and service of orders consistent with the requirements of Penal Code § 18115; Penal Code § 18120; Penal Code § 18135; Penal Code § 18140; and Penal Code § 18160. Procedures should include:
  - 1. Evaluation of an order to determine appropriate service and necessary precautions (see the Warrant Service Policy and the Operations Planning and Deconfliction Policy).
  - 2. Forwarding orders to the Records Supervisor for recording in appropriate databases and required notice to the court, as applicable.
  - 3. Preparing or obtaining a search warrant prior to attempting service of an order, when appropriate (Penal Code § 18108).
  - 4. Seizure procedures of firearms and ammunition at the time of issuance of a temporary emergency gun violence restraining order.
  - 5. Verification procedures for the removal of firearms and ammunition from the subject of a gun violence restraining order.
- (d) Coordinating with the Training Coordinator to provide officers who may be involved in petitioning for or serving orders with training on such orders. Training should include determining when a petition is appropriate, the process for seeking an order, and the service of such orders.
- (e) Reviewing each petition and any associated court documents for an order prepared by members, for compliance with this policy, department procedures, and state law.
- (f) Developing and maintaining procedures for members to accept voluntarily surrendered prohibited items at times other than when an order is being served by the Department.
  - 1. Procedures should include preparing and providing a receipt identifying all prohibited items to the person surrendering the items.
- (g) Coordinating review of notices of court hearings and providing notice to the appropriate officer of the hearing date and the responsibility to appear (Penal Code § 18108).

#### **386.10 RENEWAL OF GUN VIOLENCE RESTRAINING ORDERS**

The Major Crimes Unit or Street Crimes Unit supervisor is responsible for the review of a gun violence restraining order obtained by the Department to determine if renewal should be requested within the time prescribed by law (Penal Code § 18190).

#### **386.11 POLICY AVAILABILITY**

The Chief of Police or the authorized designee shall be responsible for making this policy available to the public upon request (Penal Code § 18108).

#### **386.12 TRAINING**

The Training Coordinator should ensure that members receive periodic training on the requirements of this policy (Penal Code § 18108).

# Native American Graves Protection and Repatriation

## 387.1 PURPOSE AND SCOPE

This policy is intended ensure the protection and security of ancient or historic grave sites, including notification of personnel responsible for cultural items, in compliance with the Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC § 3001 et seq.).

### 387.1.1 DEFINITIONS

Definitions related to this policy include (43 CFR 10.2):

**Funerary objects and associated funerary objects** - Objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains, or that were made exclusively for burial purposes or to contain human remains.

**Native American human remains** - The physical remains of the body of a person of Native American ancestry.

**Objects of cultural patrimony** - Objects having ongoing historical, traditional or cultural importance that is central to the Native American group or culture itself and therefore cannot be appropriated or conveyed by any individual, including members of the Native American group or Native Hawaiian organization. Such objects must have been considered inalienable by the Native American group at the time the object was separated from the group.

**Sacred objects** - Specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions.

## 387.2 POLICY

It is the policy of the Indio Police Department that the protection of Native American human remains, funerary objects, associated funerary objects, sacred objects or objects of cultural patrimony is the responsibility of all members. Such protection includes minimizing destruction, contamination, inadvertent disruption or complicated custody transfer processes.

## 387.3 COMPLIANCE WITH THE NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT

Upon discovery or arrival upon a scene where it reasonably appears that a Native American grave, human remains, funerary objects, associated funerary objects, sacred objects or objects of cultural patrimony are exposed or otherwise unsecured, members shall secure the site in the same manner as a crime scene. All activity at the scene other than scene preservation activity must cease (43 CFR 10.4).

No photography or video recording may be permitted by the media or any group or individual who may wish to exhibit the remains.



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### *Native American Graves Protection and Repatriation*

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Without delay, the appropriate agency or group shall be notified to respond and take control of the scene. These include the following (43 CFR 10.4):

- Federal land - Appropriate agency at the U.S. Department of the Interior or U.S. Department of Agriculture
- State land/Private land - Coroner, when appropriate (Health and Safety Code § 7050.5)
- Tribal land - Responsible Indian tribal official

#### **387.4 EVIDENCE AND PROPERTY**

If the location has been investigated as a possible homicide scene prior to identification as a NAGPRA site, investigators shall work with other appropriate agencies and individuals to ensure the proper transfer and repatriation of any material collected. Members shall ensure that any remains or artifacts located at the site are expediently processed (43 CFR 10.7).

## Chapter 4 - Patrol Operations

## Patrol Function

### **400.1 PURPOSE AND SCOPE**

The purpose of this policy is to define the patrol function and address intraorganizational cooperation and information sharing.

### **400.2 INFORMATION SHARING**

To the extent feasible, all information relevant to the mission of the Department should be shared among all divisions and specialized units on a timely basis. Members should be provided with opportunities on a regular basis to share information during the daily briefings and to attend briefings of other divisions or specialized units.

Additionally, information should be shared with outside agencies and the public in conformance with department policies and applicable laws. Members are encouraged to share information with other units and divisions.

### **400.3 CROWDS, EVENTS AND GATHERINGS**

Officers may encounter gatherings of people, including but not limited to, civil demonstrations, civic, social and business events, public displays, parades and sporting events. Officers should monitor such events as time permits in an effort to keep the peace and protect the safety and rights of those present. A patrol supervisor should be notified when it becomes reasonably foreseeable that such an event may require increased monitoring, contact or intervention.

Officers responding to an event or gathering that warrants law enforcement involvement should carefully balance the speech and association rights of those present with applicable public safety concerns before taking enforcement action.

Generally, officers should consider seeking compliance through advisements and warnings for minor violations and should reserve greater enforcement options for more serious violations or when voluntary compliance with the law is not achieved.

Officers are encouraged to contact organizers or responsible persons to seek voluntary compliance that may address relevant public safety/order concerns.

Officers should consider enforcement of applicable state and local laws, such as Penal Code 602.1 (obstructing or intimidating business operators), when the activity blocks the entrance or egress of a facility or location and when voluntary compliance with the law is not achieved.

This section shall not apply to any of the following persons:

- (a) Any person engaged in lawful labor union activities that are permitted to be carried out on the property by state or federal law.
- (b) Any person on the premises who is engaging in activities protected by the California Constitution or the United States Constitution.

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### *Patrol Function*

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#### 400.3.1 CAMPUS LIAISON

The College of the Desert has designated a liaison between our department and students exercising rights guaranteed by the First Amendment to the United States Constitution, a similar provision of the California Constitution or both (Education Code § 66303). The designated department staff member will work with this liaison regarding relevant issues, scheduled events, training and crowd control.

#### 400.4 POLICY

The Indio Police Department provides patrol services 24 hours a day, seven days a week and will prioritize responses to requests for emergency services using available resources to enhance the safety of the public and department members.

#### 400.5 FUNCTION

Patrol will generally be conducted by uniformed officers in clearly marked law enforcement vehicles in assigned jurisdictional areas of Indio. The function of patrol is to respond to calls for assistance and reports of criminal activity, act as a deterrent to crime, enforce state and local laws, identify community needs, provide support and assistance to the community and respond to emergencies.

Patrol services include, but are not limited to:

- (a) Responding to emergency calls for service.
- (b) Apprehending criminal offenders.
- (c) Providing mutual aid and assistance to other agencies for emergency and law enforcement-related activities.
- (d) Preventing criminal acts, traffic violations and collisions, maintaining public order and discovering hazardous situations or conditions.
- (e) Responding to reports of criminal and non-criminal acts.
- (f) Responding to routine calls for service, such as public assistance or public safety.
- (g) Carrying out crime prevention activities such as residential inspections, business inspections and community presentations.
- (h) Carrying out community oriented policing and problem-solving activities including the application of resources to improve or resolve specific problems or situations and contacting or assisting members of the public in a positive way.
- (i) Directing and controlling traffic.

# MARSY'S LAW POLICY

## 401.1 PURPOSE

The purpose of this order is to establish procedures for informing victims of crime of their rights to justice and due process under the law.

## 401.2 POLICY

It shall be the policy of the Indio Police Department to provide victims of crimes, as defined in the California Constitution, art. 1, § 28(e), with written notification of their rights under the **Victim's Bill of Rights Act of 2008**, also known as **Marsy's Law**.

## 401.3 PROCEDURE

### A. GENERAL

1. **Marsy's Law brochure** shall be issued to all victims of crimes, including all injury accidents involving DUI, vehicular assaults, or fleeing the scene of a crime or accident.

### B. RESPONSIBILITY

1. Department employees shall provide **Marsy's Law** brochures to each victim in the above- mentioned offense/accident reports.
2. The person taking the report shall present the brochure to the victim, the victim's relative(s), or other responsible agent as follows:
  - a. If the victim is alert and cognizant of circumstances surrounding the incident, present the form to the victim.
  - b. If the victim is not alert, and/or is transported to a hospital for treatment, present the form to the victim's representative(s) or leave it in the victim's personal effects at the hospital.
  - c. If the victim is deceased, deliver the brochure to the next of kin. If the whereabouts of the next of kin are unknown, the officer shall deliver the brochure to the coroner's representative for inclusion in the victim's personal effects.
  - d. If the victim files an online report, the Department shall send them an electronic version of the brochure and or provide a copy online for public access.
3. The brochure shall be delivered without unnecessary delay and the disposition of the notification shall be documented in the offense/accident report.

For further guidance refer to IPD Policy 336 – Victim & Witness Assistance, in addition to the attached web link related to Marsy's Law;

[Victims' Bill of Rights Act of 2008: Marsy's Law | State of California - Department of Justice - Office of the Attorney General](#)

# Indio Police Department

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### *MARSY'S LAW POLICY*

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[Marsy's Law Resource Card – English](#)

## Bias-Based Policing

### 402.1 PURPOSE AND SCOPE

This policy provides guidance to department members that affirms the Indio Police Department's commitment to policing that is fair and objective.

Nothing in this policy prohibits the use of specified characteristics in law enforcement activities designed to strengthen the department's relationship with its diverse communities (e.g., cultural and ethnicity awareness training, youth programs, community group outreach, partnerships).

#### 402.1.1 DEFINITIONS

Definitions related to this policy include:

**Bias-based policing or improper profiling** - An inappropriate reliance on actual or perceived characteristics such as race, ethnicity, national origin (including limited English proficiency), religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement (Penal Code § 13519.4). This includes explicit and implicit biases (i.e., conscious and unconscious beliefs or attitudes towards certain groups).

### 402.2 POLICY

The Indio Police Department is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served. It is the policy of this department to provide law enforcement services and to enforce the law equally, fairly, objectively and without discrimination toward any individual or group.

### 402.3 BIAS-BASED POLICING PROHIBITED

Bias-based policing is strictly prohibited.

However, nothing in this policy is intended to prohibit an officer from considering protected characteristics in combination with credible, timely and distinct information connecting a person or people of a specific characteristic to a specific unlawful incident, or to specific unlawful incidents, specific criminal patterns or specific schemes.

#### 402.3.1 CALIFORNIA RELIGIOUS FREEDOM ACT

Members shall not collect information from a person based on religious belief, practice, affiliation, national origin or ethnicity unless permitted under state or federal law (Government Code § 8310.3).

Members shall not assist federal government authorities (Government Code § 8310.3):

- (a) In compiling personal information about a person's religious belief, practice, affiliation, national origin or ethnicity.

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### *Bias-Based Policing*

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- (b) By investigating, enforcing or assisting with the investigation or enforcement of any requirement that a person register with the federal government based on religious belief, practice, or affiliation, or national origin or ethnicity.

#### **402.4 MEMBER RESPONSIBILITIES**

Every member of this department shall perform his/her duties in a fair and objective manner and is responsible for promptly reporting any suspected or known instances of bias-based policing to a supervisor. Members should, when reasonable to do so, intervene to prevent any biased-based actions by another member.

##### **402.4.1 REASON FOR CONTACT**

Officers contacting a person shall be prepared to articulate sufficient reason for the contact, independent of the protected characteristics of the individual.

To the extent that written documentation would otherwise be completed (e.g., arrest report, field interview (FI) card), the involved officer should include those facts giving rise to the contact, as applicable.

Except for required data-collection forms or methods, nothing in this policy shall require any officer to document a contact that would not otherwise require reporting.

##### **402.4.1(a) REPORTING OF STOPS**

1. Commencing January 1, 2022, unless an exception applies under 11 CCR 999.227, an officer conducting a stop of a person shall collect the data elements required by 11 CCR 999.226 for every person stopped and prepare a stop data report.
2. When multiple officers conduct a stop, the officer with the highest level of engagement with the person shall collect the data elements and prepare the report (11 CCR 999.227).
3. If multiple agencies are involved in a stop and the Indio Police Department is the primary agency, the Indio Police Department officer shall collect the data elements and prepare the stop data report (11 CCR 999.227).
4. The stop data report should be completed by the end of the officer's shift or as soon as practicable (11 CCR 999.227).

##### **402.4.2 DISCLOSURE AND DOCUMENTATION OF TRAFFIC OR PEDESTRIAN STOP**

An officer conducting a traffic or pedestrian stop shall state the reason for the stop prior to questioning the individual related to a criminal investigation or traffic violation unless the officer reasonably believes that withholding the reason for the stop is necessary to protect life or property from imminent threat, including but not limited to cases of terrorism or kidnapping (Vehicle Code § 2806.5).

Officers shall document the reason for the stop on any citation or report (Vehicle Code § 2806.5).



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### *Bias-Based Policing*

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#### **402.5 SUPERVISOR RESPONSIBILITIES**

Supervisors should monitor those individuals under their command for compliance with this policy and shall handle any alleged or observed violations in accordance with the Personnel Complaints Policy.

- (a) Supervisors should discuss any issues with the involved officer and his/her supervisor in a timely manner.
  - 1. Supervisors should document these discussions, in the prescribed manner.
- (b) Supervisors shall initiate investigations of any actual or alleged violations of this policy.
- (c) Supervisors should take prompt and reasonable steps to address any retaliatory action taken against any member of this department who discloses information concerning bias-based policing.

#### **402.6 ADMINISTRATION**

Each year, the Field Services Division Chief should review the efforts of the Department to provide fair and objective policing and submit an annual report, including public concerns and complaints, to the Chief of Police.

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

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

#### **402.7 TRAINING**

Training on fair and objective policing and review of this policy shall be conducted annually and include:

- (a) Explicit and implicit biases.
- (b) Avoiding improper profiling.

##### **402.7.1 ADDITIONAL STATE REQUIREMENTS**

Training should be conducted as directed by the Training Unit.

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

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### *Bias-Based Policing*

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#### **402.8 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE**

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

Supervisors should ensure that data stop reports are provided to the Records Administrator for required annual reporting to the DOJ (Government Code § 12525.5).

Government Code 12525.5 requires this collection of data for agencies with sworn officers between 1-333 beginning in January of 2022. The first report shall be issued by April 1, 2023.

## Citizen Contacts and Interactions

### 403.1 PURPOSE AND SCOPE

The Indio Police Department works with a diverse community. This policy establishes procedures that create mutual understanding, prevention of discrimination and conflict, and ensures the appropriate treatment of all individuals. These guidelines are created to ensure police contacts are professional, respectful, and courteous.

### 403.2 POLICY

In the absence of exigent circumstances, these guidelines apply to all Department employees:

- (a) Employees shall not use language that a reasonable person would consider demeaning to another person; in particular, language that demeans one's age, race, sex, their intellectual ability, citizenship status, social or economical status, gender identity, gender expression, or sexual orientation.
- (b) All persons should be treated with dignity and respect. Indio Police employees should demonstrate professionalism even when presented with unequal behavior by individuals being contacted. However, professional communication should never compromise officer safety.

#### 403.2.1 Definitions

**Transgender** - A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth (28 CFR 115.5). A transgender person can be pre-operative, post-operative or non-operative.

**Gender Identity** - A person's sense of being a man or a woman.

**Gender Expression** - Displays gender identity through dress, demeanor and language. For example, males express masculinity in different ways and females express femininity in different ways. Likewise, transgender individuals express femininity and masculinity in different ways, and in ways that may not be consistent with their sex at birth.

### 403.3 CONTACT WITH TRANSGENDER INDIVIDUALS

- (a) When interacting with transgender persons, employees shall address the person by their preferred name, use pronouns appropriate to the individual's self-identity, respect the expressed gender and not question it.
- (b) Employees shall not disclose to non-involved persons that an individual is transgender. As with other policies, a "need to know" basis should guide the employee about any decision of disclosure.

#### 403.3.1 Addressing & Interacting with Transgender Individuals

When a person identifies him / herself as transgender, respect the expressed gender and do not question it. If the individual does not self-identify as transgender, the following guidelines should be followed:

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- (a) When the intent of a person's gender presentation is clear to a reasonable person (based on attire and other clues), use this as a basis for gender determination.
- (b) When a person's sex is unclear, or the officer is not certain of the person's gender identity, it is appropriate to inquire how the individual wishes to be addressed (i.e. Sir, Ma'am) and the name by which the individual wishes to be addressed. This name shall be noted as an "AKA" if it differs from the individual's legal name.
- (c) If a transgender person is unwilling to provide information that enables the officer(s) to know what name and/or gender is preferred, then the officer(s) should make a determination about the person's gender based on the person's gender expression (i.e. clothing, language, demeanor, etc.) and any other evidence available to the officer(s). For example, if the person is clearly dressed like a woman and presenting as a woman, then the person should be recognized and addressed as a woman.
- (d) A Department of Motor Vehicles Identification or any other government-issued form of identification (such as a passport) shall only be acceptable as initial proof of gender identity in the absence of self-identification by the individual or some other obvious expression of gender identity.
- (e) Any information obtained about an individual's transgender status, such as preferred name and pronoun, should be documented and provided to relevant Department employees for the purpose of ensuring continuity of appropriate treatment.
- (f) Under no circumstances shall Department employees disclose to non-involved persons that an individual is transgender. As with other policies, a "need to know" basis should guide decisions about disclosure.

#### **403.3.2 Field Searches Involving Transgender Individuals**

- (a) A search or frisk shall not be performed for the sole purpose of determining an individual's anatomic gender.
- (b) Transgender individuals shall not be subjected to more invasive search or frisk procedures than non-transgender individuals.
- (c) Officers should not inquire about intimate details of an individual's anatomy or surgical status to determine an individual's gender because no proof of an individual's gender is required. This requirement can change for purposes of booking as it will be addressed by booking RSO booking deputies.
- (d) Requests to remove appearance-related items such as prosthetics, clothing that conveys gender identity, wigs, and cosmetics shall be consistent with requirements for the removal of similar items for non-transgender individuals.
- (e) When an arresting officer has reason to believe that the arrestee is a transgender person, the officer shall specifically inform the arrestee that, as with any other arrestee, they must be searched. Ask the arrestee if there is a preference to be searched by a male or a female officer and document this preference in the report. If the arrestee's

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gender request can be reasonably and expeditiously accommodated without risk to officer safety, the request should be granted.

- (f) An officer shall not refuse to search a transgender arrestee based upon the arrestee identifying as transgender.
- (g) When an immediate cursory search for weapons is necessary for safety, it may be conducted in the field by an officer of either sex.

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## Briefing Training

### 404.1 PURPOSE AND SCOPE

The watch commander should conduct weekly training at the beginning of the officer's assigned shift. Briefing provides an opportunity for important exchange between employees and supervisors. A supervisor generally will conduct briefing; however officers may conduct briefing for training purposes with supervisor approval.

Briefing should accomplish, at a minimum, the following basic tasks:

- Briefing officers with information regarding daily patrol activity, with particular attention given to unusual situations and changes in the status of wanted persons, stolen vehicles, and major investigations.
- Notifying officers of changes in schedules and assignments.
- Notifying officers of new Departmental Directives or changes in Departmental Directives and updated policies.
- Debriefing recent incidents for training purposes.
- Providing training on a variety of subjects to include but not limited to; (1) Legislative mandates, (2) Changes and updates in current case law, (3) Evolving and current trends in policing, (4) Police Tactics, and (5) Perishable Skills.

### 404.2 PREPARATION OF MATERIALS

The supervisor conducting Briefing is responsible for preparation and dissemination of the materials necessary for a constructive briefing. Supervisors may delegate this responsibility to a subordinate officer in their absence or for training purposes.

### 404.3 RETENTION OF BRIEFING TRAINING RECORDS

Briefing training materials and a curriculum or summary shall be forwarded to the Professional Development Unit, specifically the Police Training Specialist for inclusion in training records, as appropriate.

# FENTANYL ADMONISHMENT POLICY

## 405.1 PURPOSE

*The purpose of this policy is to establish procedures for informing arrestees charged with narcotic related crimes of the Fentanyl Admonishment and documentation of such process for record keeping purposes.*

## 405.2 POLICY

*It shall be the policy of the Indio Police Department to inform arrestees of narcotic related crimes, as defined in the California Health and Safety Codes of the listed Fentanyl Admonishment which informs them of potential future criminal liability they may acquire if someone loses their life as a result of ingesting drugs provided by an individual who has been read such admonishment.*

## 405.3 PROCEDURE

### A. GENERAL

- 1. When arresting someone for possession of narcotics, specifically a stimulant or depressant such as an opioid, it shall be the responsibility and duty of the arresting officer to read a Fentanyl Admonishment and document the service of the admonishment in the arrest report and or body worn camera.*
- 2. All body worn camera videos documenting such service of the Admonishment shall be downloaded in evidence for record keeping.*

### B. RESPONSIBILITY

- 1. Department employees shall be provided with Fentanyl Admonishment pocket cards (laminated) by their supervisors (See attached PDF file).*
- 2. The investigating officer preparing the arrest report shall read the following Fentanyl Admonishment in either English or Spanish to an arrestee charged with a narcotics related offense.*

## **INDIO POLICE DEPARTMENT FENTANYL ADMONISHMENT**

### **(English)**

*It is extremely dangerous to human life to provide, distribute, or furnish, drugs in any form, and regardless of whether the drugs are real or counterfeit. Selling, furnishing, distributing drugs to those who intend to use them has the potential to cause serious bodily harm or death as they are often mixed with deadly substances such as fentanyl or analogs of fentanyl. Fentanyl is a synthetic opioid that is 50-100 times stronger than morphine and can kill human beings even in very small doses. Therefore, if you sell, furnish, or distribute drugs to someone, and that person dies as a result of using the drugs, you can be charged with murder.*

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### FENTANYL ADMONISHMENT POLICY

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**(Spanish)**

#### ***Amonestacion de Fentanilo***

*Es bien peligroso para la vida humana proveer, distribuir, vender, regalar, drogas a cualquier manera, sin importar si las drogas son verdaderas o falsificadas. Vender, regalar, y distribuir drogas a personas que usan drogas o planean usar drogas que tienen potencial de causar la muerte or danos corporals como son normalmente causas de usar drogas como el fentanilo o chemicos asociados con fentanilo es peligroso. Fentanilo es un opioide syntetico que es 50-100 veces mas fuerte y peligroso que morfina y causa la muerte hasta en dosis bien pequenos. Si usted vende, regala, o distribuye drogas a halguien y esa persona se muere por resultado de usar esas drogas, usted puede ser arrestado y juzgado por homicidio en el Estado de California en un tribunal criminal.*

*3. The Fentanyl Admonishment shall be delivered without unnecessary delay and the disposition of the notification shall be documented in the arrest report via the attached admonishment document and preferably recorded with the officers' body worn camera.*

*For further guidance refer to **IPD Policy 413** – Hazardous Materials Response, in addition to the attached web links related to Fentanyl and narcotic investigations;*

#### **DEA Fact sheets**

- (a) [Drug Fact Sheet: Fentanyl \(dea.gov\)](#)
- (b) [Publications | Get Smart About Drugs](#)
- (c) [Counterfeit Pills \(dea.gov\)](#)
- (d) [Opium \(dea.gov\)](#)
- (e) [Oxycodone \(dea.gov\)](#)
- (f) [Resources | DEA.gov](#)



## Crime and Disaster Scene Integrity

### 406.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance in handling a major crime or disaster.

### 406.2 POLICY

It is the policy of the Indio Police Department to secure crime or disaster scenes so that evidence is preserved, and to identify and mitigate the dangers associated with a major crime or disaster scene for the safety of the community and those required to enter or work near the scene.

### 406.3 SCENE RESPONSIBILITY

The first officer at the scene of a crime or major incident is generally responsible for the immediate safety of the public and preservation of the scene. Officers shall also consider officer safety and the safety of those persons entering or exiting the area, including those rendering medical aid to any injured parties. Once an officer has assumed or been assigned to maintain the integrity and security of the crime or disaster scene, the officer shall maintain the crime or disaster scene until he/she is properly relieved by a supervisor or other designated person. Every officer at the scene shall complete a supplemental report describing their involvement and their specific actions taken while on scene. The highest ranking officer present at the crime scene upon arrival shall assume responsibility for all subsequent visitors to the scene and ensure a crime scene log is initiated until they are properly relieved or the scene is completely processed and are cleared to do so by MCU / SCU personnel.

### 406.4 FIRST RESPONDER CONSIDERATIONS

The following list generally describes the first responder's function at a crime or disaster scene. This list is not intended to be all-inclusive, is not necessarily in order and may be altered according to the demands of each situation:

- (a) Broadcast emergency information, including requests for additional assistance and resources.
- (b) Provide for the general safety of those within the immediate area by mitigating, reducing or eliminating threats or dangers.
- (c) Locate or identify suspects and determine whether dangerous suspects are still within the area.
- (d) Provide first aid to injured parties if it can be done safely.
- (e) Evacuate the location safely as required or appropriate.
- (f) Secure the inner perimeter.
- (g) Protect items of apparent evidentiary value.
- (h) Secure an outer perimeter.
- (i) Identify potential witnesses.
- (j) Start a chronological log noting critical times and personnel allowed access.

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### *Crime and Disaster Scene Integrity*

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#### **406.5 SEARCHES**

Officers arriving at crime or disaster scenes are often faced with the immediate need to search for and render aid to victims, and to 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 additional or alternate authority for the search is obtained, such as consent or a search warrant.

##### **406.5.1 CONSENT**

When possible, officers should seek written consent to search from authorized individuals. However, in the case of serious crimes or major investigations, it may be prudent to also obtain a search warrant. Consent as an additional authorization may be sought, even in cases where a search warrant has been granted.

#### **406.6 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).

## TARASOFF NOTIFICATIONS POLICY

### 407.1 TARASOFF NOTIFICATION PROTOCOL FOR STAFF

Mental health professionals have a duty to warn in circumstances where the patient has communicated to the psychotherapist a serious threat of physical violence against a **reasonable identifiable victim** or victims. In these situations, the psychotherapist's duty is to make a **reasonable effort** to communicate the threat to the victim or victims and to a law enforcement agency where the victim(s) reside.

Refer to : [Tarasoff v. Regents of the University of California, 17 Cal. 3d 425, 551 P.2d334, 131 Cal. Rptr. 14 (Cal. 1976)].

Upon receipt of a telephonic Tarasoff notification, a call for service shall be created by **dispatch personnel** and a **Tarasoff Warning Incident will be documented via the call for service notes by the individual responding officers**. The call and incident will detail the information provided and any assistance completed in helping the reporting party locate the intended victim.

In the event of a **written** Tarasoff notification, the **Indio Police Department Records Unit** will confirm that a call for service was made and the incident documented. If it has not, records supervisors will ensure that this is done.

Records shall notify the **Department of Justice electronically, within 24 hours** ((Welfare and Institutions Code 8105(c)). Proof of this entry will be printed and **attached (or scanned) to the Tarasoff Warning Incident report**.

## PAWN SHOP PROTOCOL POLICY

### 408.1 PURPOSE AND SCOPE

The following policy shall apply to all contacts with pawn or second hand dealer businesses. Investigations Division personnel will be the primary contacts between the pawn shops and the Indio Police Departments.

### 408.2 RESOURCES

The California Department of Justice (DOJ) provides a “Secondhand Dealer & Pawnbroker Laws” information book which will be used as a guide. The “Secondhand Dealer & Pawnbroker Laws” covers a variety of businesses including junk dealers, secondhand dealers, coin dealers, swap meets and pawn brokers.

**CAUTION:** These laws change frequently, be sure to check the current version of the law using department internet resources.

For a copy of the reference guide refer to - <https://oag.ca.gov/secondhand>

### 408.3 ALLEGEDLY OR SUSPECTED STOLEN PROPERTY

When property that is **alleged to have been stolen is located** in the business of a secondhand dealer or pawn broker a peace officer may place a “**hold**” on the property for up to **90 days** to ensure it’s retained for prosecution. The procedures for placing a hold are contained in **§21647** of the Business and Professions Code. The requirements contained in this section will be followed. The property is not to be removed from the business.

In the rare event that the officer wants to book the property into evidence the following procedures will be followed:

- (a) Prior to the taking of any property the officer / detective will make the request to the Division Lieutenant advising them of the circumstances justifying deviation from Section 21647 B&P Code.
- (b) After reviewing the circumstances the Division Lieutenant may make the decision to deviate from the requirements of 21647 B&P. In this event the Division Lieutenant will ensure the detective / officer complies with section 21206.7 and section 21206.8 of the California Finance Code.
- (c) At the conclusion of the case the property will be maintained in evidence and the property shall strictly comply with section 21206.8 of the California Finance Code. Under no circumstance shall property be returned to the victim without complying with section 21206.8 of the California Finance Code.

### 408.4 ADDITIONAL CRIMINAL CHARGES

When property has been positively identified as stolen and it is located in a Pawn Shop, etc. the officer shall ensure the following procedure is followed;

- (a) Initiate a report for violation of Penal Code §484.1 listing the business as the victim and interviewing the person(s) who received the property as a witness.

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### *PAWN SHOP PROTOCOL POLICY*

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- (b) Provide the business with the case number.
- (c) Submit the report to the District Attorney seeking a complaint if sufficient suspect information is available.

This will provide the pawnbroker or secondhand dealer, upon conviction, an opportunity to seek restitution from the person who received the money or other valuable consideration from the pawnbroker or secondhand for the property.

## Special Weapons and Tactics (SWAT) Unit

### 409.1 PURPOSE AND SCOPE

Desert Regional SWAT is comprised of individual agency Special Weapons and Tactics Teams, Crisis Negotiation teams, Tactical Dispatchers and other assigned personnel from the following agencies: Palm Springs, Cathedral City and Indio. In addition specially trained paramedics from the above-represented city Fire Departments of the Cities of Palm Springs and Cathedral City to serve as Tactical Paramedics. The unit has been established to pool personnel and equipment resources while providing specialized support in handling critical field operations where intense negotiations and/or special tactical deployment methods beyond the capacity of field officers appear to be necessary. 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).

#### 409.1.1 OPERATIONAL AND ADMINISTRATIVE POLICY

The Policy Manual sections pertaining to Desert Regional SWAT are divided into Administrative and Operational Policy and Procedures. Since situations that necessitate the need for such a police response vary greatly from incident to incident and such events often demand on-the-scene evaluation, the Operational Policy outlined in this manual section serves as a guideline to department personnel allowing for appropriate on scene decision making as required. The Administrative Procedures, however, are more restrictive and few exceptions should be taken.

#### 409.1.2 DESERT REGIONAL SWAT TEAM DEFINED

Desert Regional SWAT is a designated unit of law enforcement officers specifically trained and equipped to work as a coordinated team to resolve critical incidents that are so hazardous, complex, or unusual that they may exceed the capabilities of first responders or investigative units including, but not limited to, hostage taking, barricaded suspects, snipers, terrorist acts and other high-risk incidents. As a matter of department policy, such a unit may also be used to serve high risk warrants, both search and arrest, where public and officer safety issues warrant the use of such a unit.

### 409.2 MANAGEMENT/SUPERVISION OF SWAT

Desert Regional SWAT shall be managed under the combined direction of the Chiefs of Police from the Palm Springs, Cathedral City, and Indio Police Departments. The Commander and Assistant Commander(s) for Desert Regional SWAT shall be selected by the Chiefs of Police upon recommendation of staff. The Commander and Assistant Commander of Desert Regional SWAT shall be a sworn employee holding the rank of lieutenant/commander from the participating agencies. The Commander should rotate biennially at the beginning of the calendar year from Commander to Assistant Commander with the Assistant Commander rotating to the position of Commander.

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### *Special Weapons and Tactics (SWAT) Unit*

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#### 409.2.1 SWAT COMMANDER

Under the direction of the Chiefs of Police, the Desert Regional SWAT Commander shall direct the day-to-day activities of Desert Regional SWAT, including: supervising personnel; assigning and directing investigations; scheduling duty hours and overtime; reviewing and approving reports; maintaining liaison with the law enforcement administrators and staff of participating and other agencies; conducting in-service training and assigning personnel to training courses and coordinating training offered to personnel of participating agencies.

#### 409.2.2 TEAM SUPERVISORS

Team Supervisors for the Desert Regional SWAT team will be chosen from the rank of sergeant of the participating agencies. Team supervisors will have direct supervision over team members and full functional supervision over team members from the participating agencies during SWAT activations and training exercises.

#### 409.2.3 TEAM SUPERVISION

The Crisis Negotiations Team (CNT) and the Tactical Team will be supervised by sergeant(s) from the participating agencies. The Tactical Dispatch Team will be supervised by the SWAT Commander or his/her designee. The team supervisors shall be selected by the SWAT Commander and alternate SWAT Commanders. The following represent the supervisor responsibilities for SWAT:

- (a) The Crisis Negotiations Team supervisor's primary responsibility is to supervise the operations of the negotiation team which will include deployment, training, first line participation, and other duties as directed by the SWAT Commander.
- (b) The Tactical Team Leader's primary responsibility is to supervise the operations of the SWAT Team which will include deployment, training, first line participation, and other duties as directed.

#### **409.3 POLICY**

It shall be the policy of this department to assign and maintain officers and supervisors for Desert Regional SWAT sufficient to provide appropriate joint coverage for critical incidents which may require a response by Desert Regional SWAT or its components.

The SWAT team should develop sufficient resources to perform three basic operational functions:

- (a) Command and Control
- (b) Containment
- (c) Entry/Apprehension/Rescue

It is understood it is difficult to categorize specific capabilities for critical incidents. Training needs may vary based on the experience level of team personnel, team administrators and potential incident commanders. Nothing in this policy shall prohibit individual teams from responding to a situation that exceeds their training levels due to the exigency of the circumstances. The preservation of innocent human life is paramount.

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### *Special Weapons and Tactics (SWAT) Unit*

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#### 409.3.1 POLICY CONSIDERATIONS

A needs assessment should be conducted to determine the type and extent of SWAT missions and operations appropriate to this department. The assessment should consider the team's capabilities and limitations and should be reviewed annually by the SWAT Commander or his/her designee.

#### 409.3.2 ORGANIZATIONAL PROCEDURES

This department shall develop a separate written set of organizational procedures which should address, at minimum, the following:

- (a) Locally identified specific missions the team is capable of performing.
- (b) Team organization and function.
- (c) Personnel selection and retention criteria.
- (d) Training and required competencies.
- (e) Procedures for activation and deployment.
- (f) Command and control issues, including a clearly defined command structure.
- (g) Multi-agency response.
- (h) Out-of-jurisdiction response.
- (i) Specialized functions and supporting resources.

#### **409.4 TEAM EVALUATION**

The SWAT Commander or his designee shall conduct an annual SWAT Training needs assessment to ensure that training is conducted within team capabilities, department policy and the training guidelines as established by POST (11 C.C.R. § 1084). Once this assessment is complete, a list of required training topics will be passed on to the Tactical Team Leader and CNT Leader so that a comprehensive annual training calendar can be completed. The training calendar will include an estimated training date, topics to be covered, instructors, training location and a brief outline detailing the training day. Training calendars will then be forwarded to the SWAT Commander for review. Once approved, calendars will be sent to the SWAT Team members and department supervisors.

##### 409.4.1 INITIAL TRAINING

SWAT team operators and SWAT supervisors/team leaders should not be deployed until successful completion of the POST-certified Basic SWAT Course or its equivalent.

To avoid unnecessary or redundant training, previous training completed by members may be considered equivalent when the hours and content (topics) meet or exceed department requirements or POST standardized training recommendations.

##### 409.4.2 UPDATED TRAINING

Appropriate team training for the specialized SWAT functions and other supporting resources should be completed prior to full deployment of the team. SWAT team operators and SWAT supervisors/team leaders should complete update or refresher training as certified by POST, or its



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### *Special Weapons and Tactics (SWAT) Unit*

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equivalent, every 24 months. SWAT team members will be selected for advanced training classes as recommended by their team leaders and sent on an as needed basis. All training courses will be approved by the SWAT Commander.

#### 409.4.3 SUPERVISION AND MANAGEMENT TRAINING

Command and executive personnel are encouraged to attend training for managing the SWAT function at the organizational level to ensure personnel who provide active oversight at the scene of SWAT operations understand the purpose and capabilities of the teams.

Command personnel who may assume incident command responsibilities should attend SWAT or Critical Incident Commander course or its equivalent. SWAT command personnel should attend a POST-certified SWAT commander or tactical commander course, or its equivalent.

#### 409.4.4 SWAT ONGOING TRAINING

Training shall be coordinated by the DRS Commander. The DRS Commander may conduct monthly training exercises that include a review and critique of personnel and their performance in the exercise in addition to specialized training. Training shall consist of the following:

- (a) The tactical team shall conduct a mandatory training session twice each month, which may include refresher courses to focus on core skills and advanced tactics. Additional team training will be on an as needed basis, determined by the SWAT Commander and/ or the Tactical Leader.
- (b) Each SWAT tactical team member below the rank of lieutenant/commander shall perform a physical fitness test biannually. Each member must attain a minimum qualifying score. The physical fitness test has been designated to be "job specific" to the tactical officer's role as approved by the Team Commander and The Desert Regional SWAT.

Tactical team members will be allowed 20 minutes to complete the physical fitness test. Any tactical team member failing 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 thirty (30) days will result in dismissal from the team.

#### 409.4.5 SWAT LIGHT DUTY STATUS AND FITNESS TRAINING

SWAT tactical team members who are on vacation, ill, or are on light duty status with a doctor's note of approval on the test date, shall be responsible for reporting to a team supervisor and taking the test within 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, based on their agencies policies and at the discretion of the Chief of Police, 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 perform the physical fitness test within the 30-day period, shall be considered as having failed to attain a qualifying score for that

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test period. Failure to qualify within in 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 the injury and the time needed to return to full SWAT duty.

#### 409.4.6 QUARTERLY WEAPONS TRAINING

Quarterly, each SWAT team member shall perform the mandatory SWAT handgun qualification course and attain a minimum qualifying score of 90%. The qualification course shall consist of the SWAT Basic Drill for the handgun. Failure to qualify will require that officer to seek remedial training from a team Range Master approved by the SWAT Commander. Team members who fail to qualify must retest within 30 days. Failure to qualify within 30 days with or without remedial training may result in dismissal from the team.

- (a) Each SWAT team member shall complete the quarterly SWAT qualification course for any specialty weapon issued to, or used by, the team member during SWAT operations and attain a minimum qualifying score of 95%. Failure to qualify will require the team member to seek remedial training from the Range Master who has been approved by the SWAT Commander. Team members who fail to qualify on their specialty weapon may not utilize the specialty weapon on SWAT operations until qualified. Team members who fail to qualify must retest within 30 days. Failure to qualify with specialty weapons within 30 days may result in the team member being removed from the team or permanently disqualified from use of that particular specialty weapon.
- (b) 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.
- (c) Team members are responsible for notifying their immediate supervisor that they will not be available for regular duty due to SWAT training.
- (d) Team members who cannot make a scheduled training exercise are required to notify their squad leader, with an explanation for the absence.

#### 409.4.7 TRAINING SAFETY

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 Cathedral City a Cathedral City 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.

#### 409.4.8 SCENARIO BASED TRAINING

SWAT teams should participate in scenario-based training that simulates the tactical operational environment. Such training is an established method of improving performance during an actual deployment.

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#### 409.4.9 TRAINING DOCUMENTATION

Individual and team training shall be documented and records maintained by the designated agency's Training Unit. Such documentation shall be maintained in each member's individual training file. A separate agency SWAT training file shall be maintained with documentation and records of all team training.

### **409.5 UNIFORMS, EQUIPMENT, AND FIREARMS**

#### 409.5.1 UNIFORMS

SWAT Team Members from this agency should wear uniforms that clearly identify team members as law enforcement officers. It is recognized that certain tactical conditions may require covert movement. Attire may be selected appropriate to the specific mission.

#### 409.5.2 EQUIPMENT

SWAT Team Members from this agency should be adequately equipped to meet the specific mission(s) identified by the agency. Equipment used by SWAT, the specialized units, and the supporting resources should be agency-issued or approved, including any modifications, additions, or attachments.

#### 409.5.3 FIREARMS

Weapons and equipment used by SWAT, the specialized units, and the supporting resources should be agency-issued or approved, including any modifications, additions, or attachments.

#### 409.5.4 TEAM LOGO AND DESIGNS

The Desert Regional SWAT Team logos and designs are representative of all participating agencies and their personnel assigned to the team. Any designs or logo's used or displayed by the team or any of its members in any form shall be approved by the Desert Regional SWAT Executive Board.

### **409.6 CRISIS NEGOTIATION TEAM AND TACTICAL DISPATCH ADMINISTRATIVE PROCEDURES**

The Desert Regional SWAT Team has members from each agency assigned to the Crisis Negotiation Team and the Tactical Dispatch Team. During SWAT events, these units act under the direction of the SWAT Commander or his/her designee.

#### 409.6.1 CRISIS NEGOTIATION TEAM (CNT)

The Crisis Negotiation Team has been established to provide skilled verbal communicators who may be utilized to attempt to de-escalate and effect surrender in critical situations where suspects have taken hostages, barricaded themselves, or have suicidal tendencies.

#### 409.6.2 SELECTION OF CRISIS NEGOTIATION TEAM PERSONNEL

Interested sworn personnel shall submit a Memorandum of Interest to the Office of the Chief of Police, via the chain of command. A copy will be forwarded to the SWAT Commander and the Crisis Negotiation Team supervisor. Qualified applicants will then be invited to an oral interview.

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a) Minimum Requirements:

1. Must be off department probation.
2. Have two years of sworn law enforcement experience.
3. Cannot have any "Sustained" Use of Force allegations in their personnel file.
4. Must have a minimum of "Meets Standards" on their last annual evaluation.

The oral board will consist of the SWAT Commander, the Crisis Negotiation Team supervisor, and a third person to be selected by the two. Interested personnel shall be evaluated by the following criteria:

- (a) Recognized competence and ability as evidenced by performance.
- (b) Demonstrated good judgment and understanding of critical role of the 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.
- (f) The oral board shall submit a list of successful applicants to staff for final selection

#### 409.6.3 TRAINING OF NEGOTIATORS

Those officers selected as members of the Crisis Negotiation Team should attend the Basic Negotiators Course as approved by the Commission on Peace Officer Standards and Training (POST) prior to primary use in an actual crisis situation. Untrained officers may be used in a support or training capacity. Additional training will be coordinated by the team supervisor.

A minimum of one training day per quarter will be required to provide the opportunity for role playing and situational training necessary to maintain proper skills. This will be coordinated by the team supervisor.

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 team supervisor. Performance and efficiency levels, established by the team supervisor, will be met and maintained by all team members. Any member of the Crisis Negotiation Team who performs or functions at a level less than satisfactory shall be subject to dismissal from the unit.

#### 409.6.4 TACTICAL DISPATCH TEAM

The Tactical Dispatch Team has been established to provide effective radio, computer, and telephone communication during SWAT incidents. The Tactical Dispatch Team should assume the dispatch duties for any non-planned SWAT event and be utilized during planned SWAT events at the direction of the SWAT Commander.

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### *Special Weapons and Tactics (SWAT) Unit*

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#### 409.6.5 SELECTION OF TACTICAL DISPATCH TEAM PERSONNEL

Interested personnel shall submit a Memorandum of Interest to the Office of the Chief of Police, via the chain of command. A copy will be forwarded to the SWAT Commander and the Tactical Team Leader. Qualified applicants will then be invited to an oral interview.

a) Minimum Requirements:

1. Must be off department probation.
2. Have two years of law enforcement dispatch experience.
3. Must have a minimum of "Meets Standards" on their last annual evaluation.

The oral board will consist of the SWAT Commander, the Tactical Team Leader, and a third person to be selected by the two. Interested personnel shall be evaluated by the following criteria:

- (a) Recognized competence and ability as evidenced by performance.
- (b) Demonstrated good judgment and understanding of critical role of the tactical dispatcher.
- (c) Effective communication skills to ensure success as a tactical dispatcher.
- (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 oral board shall submit a list of successful applicants to staff for final selection.

#### 409.6.6 TRAINING OF DISPATCHERS

Those dispatchers selected as members of the Tactical Dispatch Team should attend the Tactical Basic Dispatch Course as approved by the Commission on Peace Officer Standards and Training (POST) prior to primary use in an actual crisis situation. Untrained dispatchers may be used in a support or training capacity. Additional training will be coordinated by the team supervisor.

A minimum of one training day per quarter will be required to provide the opportunity for role playing and situational training necessary to maintain proper skills. This will be coordinated by the team supervisor.

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 team supervisor. Performance and efficiency levels, established by the team supervisor, will be met and maintained by all team members. Any member of the Tactical Dispatch Team who performs or functions at a level less than satisfactory shall be subject to dismissal from the unit.

#### 409.7 NOISE FLASH DIVERSIONARY DEVICES

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### *Special Weapons and Tactics (SWAT) Unit*

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#### 409.7.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the deployment and use of Noise Flash Diversionary Devices (NFDD's). Personnel of Desert Regional SWAT are authorized to use NFDD's, sometimes referred to as "flash bangs", 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.

#### 409.7.2 JUSTIFICATION FOR USE

Circumstances justifying the use of NFDD's may include, but not be limited to:

- (a) Barricaded suspect and/or hostage situations;
- (b) High-Risk warrant services;
- (c) Discouraging dangerous animals from attacking;
- (d) Riotous situations;
- (e) Circumstances wherein distraction of violent and/or emotionally disturbed persons and/or those under the influence of alcohol/drugs is believed necessary to facilitate apprehension/custody;
- (f) Situations wherein the Desert Regional SWAT Commander or Team supervisor deems their use necessary to safely resolve the incident.

#### 409.7.3 PROCEDURES

The following procedures are applicable to all members carrying or NFDD's.

#### 409.7.4 CARRYING/DEPLOYING DIVERSIONARY DEVICES

Only team members who have successfully completed Desert Regional SWAT approved training in the proper use and deployment of NFDD's shall be certified/authorized to carry/deploy NFDD's during actual operations or training. Annual refresher training on their use shall be provided to members of the Team.

#### 409.7.5 AUTHORIZATION FOR USE

Except in extreme emergencies (i.e., life-threatening situations), NFDD's shall not be used without prior authorization of the Desert Regional SWAT Commander or Team Supervisor.

#### 409.7.6 DEPLOYMENT CONSIDERATIONS

loose objects, etc). Circumstances may indicate that exterior deployment is preferable to deployment on the interior of a structure. Whenever possible, devices shall be deployed to an area visible to the deploying officer. NFDD's should not be deployed solely for the purpose of preserving evidence.

#### 409.7.7 SAFETY CONSIDERATIONS

Team members deploying NFDD's in an actual incident or situation should wear fire-retardant gloves, eye protection, body armor, and if possible, ear protection. The previously mentioned equipment is mandatory for training. Because NFDD's have the potential to ignite flammable

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materials, a portable fire extinguisher shall be readily accessible whenever devices are carried and may be deployed.

#### 409.7.8 DOCUMENTATION AND REVIEW

Whenever NFDD's 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 designee shall be responsible for reviewing any deployment of NFDD's to ensure that policy is/was followed.

#### 409.7.9 REPORTING REQUIREMENTS

NFDD's 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 notify ATF upon the use/expenditure of NFDD's. The Desert Regional SWAT Commander or his/her designee shall be responsible for submitting written notification to ATF on an annual basis.

#### 409.7.10 INSPECTION AND STORAGE

The Desert Regional SWAT Commander or his/her designee shall be responsible for ensuring that all NFDD's 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. NFDD's shall be stored in a cool, dry location separate from fixed ammunition. Devices will be issued to DRS team members providing the devices can be kept in an approved storage box in their respective vehicle. The box shall be permanently affixed to the vehicle and locked with an approved padlock. When the devices are carried on the person during a mission, they shall be carried in an appropriate pouch complete with a retention strap.

### **409.8 TACTICAL TEAM ADMINISTRATIVE PROCEDURES**

The Desert Regional SWAT Team was established to provide a skilled and trained team which may be deployed during events requiring specialized tactics in such situations as cases where suspects have taken hostages and/or barricaded themselves as well as prolonged or predictable situations in which persons armed or suspected of being armed pose a danger to themselves or others.

The following procedures serve as directives for the administrative operation of the Tactical Team of SWAT.

#### 409.8.1 SELECTION OF PERSONNEL

Interested personnel meeting the below listed minimum requirements, shall submit a Memorandum of Interest to the Office of Chief of Police via the Chain of Command, a copy of which will be forwarded to the SWAT Commander and other SWAT supervisors. Those qualifying applicants will then be invited to participate in the testing process. A series of tests will be given at the discretion of the SWAT Commander.

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### *Special Weapons and Tactics (SWAT) Unit*

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(a) Minimum Requirements:

1. Sworn personnel must be off department probation.
2. Have two years of sworn law enforcement experience.
3. Cannot have any "Sustained" Use of Force allegations in their personnel file.
4. Must have a minimum of "Meets Standards" on their last annual evaluation.

At the discretion of the Chief of Police, interested probationary personnel are permitted to submit a memorandum of interest and participate in the evaluation process. Assignment to the team may occur, but the officer may not be operationally deployed until they have successfully completed their probationary period.

#### 409.8.2 TACTICAL TEAM SELECTION PROCESS

The testing process will minimally consist of a team assessment, a two day evaluation that gauges physical fitness, firearms proficiency and concludes with an oral board.

Oral board: The oral board will consist of personnel selected by the SWAT Commander. The oral board will consist of SWAT team supervisors or team leaders from a minimum of two team agencies. Applicants will be evaluated by the following criteria:

- (a) Recognized competence and ability as evidenced by performance in their current duty assignments;
- (b) Demonstrated good judgment and understanding of critical role of SWAT member;
- (c) Special skills, training, or appropriate 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 two day evaluation: This process evaluates the candidate's physical fitness during which time they will have to successfully pass the standard tactical team physical fitness test. They will also have to demonstrate basic marksmanship and weapons handling skills. They will also be taught and demonstrate their understanding of various team tactics.

SWAT basic handgun and rifle course: Candidates will be invited to shoot the Desert Regional SWAT Basic Drill for the handgun and rifle.

Team assessment: Current team members will evaluate each candidate on his or her field tactical skills, teamwork, ability to work under stress, communication skills, judgment, and any special skills that could benefit the team.

A list of successful applicants shall be submitted to staff, by the SWAT Commander, for final selection.

#### 409.8.3 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 SWAT Commander. The performance and efficiency level, as established by the team supervisor, will be met and maintained by all SWAT



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### *Special Weapons and Tactics (SWAT) Unit*

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Team members. Any member of the SWAT Team who performs or functions at a level less than satisfactory shall be subject to dismissal from the team.

#### 409.8.4 PROMOTIONAL ADVANCEMENT WHILE ON SWAT TEAM

Each member of CNT and the Tactical Team are subject to reassignment from the SWAT Team upon any promotional advancement within the Department. This reassignment is at the discretion of the Chief of Police.

#### **409.9 OPERATION GUIDELINES FOR SWAT**

The following procedures serve as guidelines for the operational deployment of Desert Regional SWAT. Generally, the Special Weapons and Tactics Team and the Crisis Negotiation Team will be activated together. It is recognized, however, that a tactical team may be used in a situation not requiring the physical presence of the Crisis Negotiation Team such as warrant service operations. This shall be at the discretion of the SWAT Commander.

##### 409.9.1 ON-SCENE DETERMINATION

The following procedures serve as guidelines for the operational deployment of Desert Regional SWAT. Generally, the Special Weapons and Tactics Team and the Crisis Negotiation Team will be activated together. It is recognized, however, that a tactical team may be used in a situation not requiring the physical presence of the Crisis Negotiation Team such as warrant service operations. This shall be at the discretion of the SWAT Commander.

##### 409.9.2 APPROPRIATE SITUATIONS FOR USE OF SWAT

The scope of the response shall be determined by the specific circumstances surrounding the request. Every effort will be made to respond as soon as possible with all due care and caution. Among the types of critical incidents to which Desert Regional SWAT will respond are:

- (a) High-risk warrant service response shall include the Desert Regional SWAT Commander, team supervisor, team leader(s) and team members sufficient to safely execute the search warrant.
- (b) Protective details - executive/witness/show/money/evidence.
- (c) High-risk surveillance - fixed or mobile.
- (d) Undercover officer back-up on high-risk operations.
- (e) Barricaded suspect operations.
- (f) Suicide-by-cop situations.
- (g) Barricaded suspect with hostage situations.
- (h) Anti-sniper operations.
- (i) High-risk search/warrant raids and arrests.
- (j) High-risk kidnap/extortion operations.
- (k) Emergency rescue (injured officer, citizen, etc.)
- (l) Mobile operations.

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- (m) High-risk vehicle stops.
- (n) Crowd control.
- (o) Mass arrest.
- (p) Any other critical incident as determined appropriate by the Desert Regional SWAT Commander where the ordinary patrol and departmental resources of the handling agency have been exhausted and the incident are beyond the control of the agency.

\* When SWAT is activated in an emergency situation, ALL SWAT, SNIPERS, NEGOTIATORS AND LOGISTICS PERSONNEL MAY BE REQUESTED TO RESPOND.

#### 409.9.3 OUTSIDE AGENCY REQUESTS

Requests by field personnel for assistance from outside agency crisis units must be approved by the Watch Commander. Deployment of the the Desert Regional SWAT Team in response to requests by other agencies must be authorized by the SWAT Commander after consulting the Police Chiefs or their designees.

#### 409.9.4 MULTI-JURISDICTIONAL SWAT OPERATIONS

The SWAT team will adhere to the county wide protocol on SWAT including first right of refusal for all operations located inside or out of the city. When possible, SWAT should familiarize themselves with neighboring teams' capabilities and tactics by training with local teams. This will ensure familiarization with local teams should the need for a mutual aid response be required. Multi-Jurisdictional responses will follow the basic mutual aid MOU agreement.

#### 409.9.5 MOBILIZATION OF DESERT REGIONAL SWAT

The On-Scene supervisor shall make a request to the Watch Commander for SWAT. The Watch Commander shall then notify the SWAT Commander. If unavailable, a team supervisor shall be notified. A current mobilization list shall be maintained in the designated dispatch center. The Watch Commander will then notify the Investigative Support Services Division Chief, who will notify the Chief of Police as soon as practical.

The Watch Commander should provide the SWAT Commander with as much of the following information which is available at the time:

- (a) The number of suspects, known weapons and resources.
- (b) If the suspect is in control of hostages.
- (c) If the suspect is barricaded.
- (d) The type of crime involved.
- (e) If the suspect has threatened or attempted suicide.
- (f) The location of the command post and a safe approach to it.
- (g) The extent of any perimeter and the number of officers involved.
- (h) Any other important facts critical to the immediate situation and whether the suspect has refused an order to surrender.

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The SWAT Commander or his/her designee will make the determination whether the SWAT Team will be activated or not and will initiate the callout.

#### 409.9.6 FIELD UNIT RESPONSIBILITIES

While waiting for SWAT, field personnel should, if safe, practical and sufficient resources exist ensure the following is conducted:

- (a) When a SWAT callout is initiated, the field supervisor on scene will become the Incident Commander. He/she shall remain in this position until relieved.
- (b) The Incident Commander shall act to contain the suspect(s) by establishing inner and outer perimeters with patrol personnel.
- (c) The inner perimeter should be created first by positioning officers around the suspect's location keeping in mind that the suspect's movement must be minimized while officers on scene must maximize their own safety.
- (d) The outer perimeter should then be formed to prevent unauthorized persons and vehicles from entering and departing the area of operations and to enable the prompt and safe evacuation of innocent citizens from the threatened area. By establishing a good outer perimeter the security of evacuated homes inside the operation area is maintained. Whenever possible, non-SWAT personnel should be assigned to the outer perimeter.
- (e) Officers on perimeter positions are authorized to apprehend suspects and to take other actions to ensure the safety of officers and citizens. This should occur only if the opportunity presents itself and can be accomplished in a safe manner. The concept of police containment requires timely, deliberate, and well planned actions to successfully and safely apprehend the suspect(s).
- (f) Officers on outer perimeter positions should not be involved in planned arrest tactics and should remain on their assigned perimeter positions until relieved by another officer or until the perimeter is canceled by the Incident Commander.
- (g) Once perimeters are established, the Incident Commander should establish an Incident Command Post and begin gathering and documenting information regarding the suspect's current location, description, and past history.

#### 409.9.7 PLANNED EVENTS

##### High Risk Warrants or Other SWAT Requests

When another divisions within the Department requires the assistance of SWAT the requesting officer(s) supervisor should make the notification as soon as possible to the SWAT Commander to allow for a tactical plan to be devised. Prior to the request being made, the requesting party shall have the following information:

- (a) Date and time needed.
- (b) Nature of request.
- (c) Location or address.
- (d) Warrant Information (if applicable).

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- (e) Available information regarding suspect(s).
- (f) Available information regarding weapons, hazardous materials, or any other risks or special circumstances.
- (g) Detailed diagrams of the structure involved.
- (h) Photographs of location and suspects (if available).
- (i) All crime or incident reports.

#### 409.9.8 ON-SCENE COMMAND RESPONSIBILITIES

The city where a critical incident is located shall assume the role of supervising agency for requesting activation of Desert Regional SWAT. The Incident Commander for that supervising agency shall be assigned at the Command Officer/Watch Commander level and shall direct the nature and scope of response by the appropriate elements of Desert Regional SWAT. The Incident Commander shall coordinate Desert Regional SWAT response with the Desert Regional SWAT Commander. The Desert Regional SWAT Commander is in command of physical operation of the response itself in terms of the movement and actions of Desert Regional SWAT members necessary to achieve the goal of the operation as set forth by the Incident Commander.

The Incident Commander for the requesting agency shall completely brief the Desert Regional SWAT Commander or his or her designee upon their arrival at the scene of all known details and circumstances associated with the incident. Once the situation has been explained and the mission assigned, the execution of that assignment shall be determined by the Desert Regional SWAT Commander or his or her designee. When an operational plan is developed, the Incident Commander for the requesting agency shall be completely briefed, when possible, by the Desert Regional SWAT Commander prior to the actual execution of it.

The Incident Commander for the requesting agency should keep in mind that the operational plan proposed is based on education, training and experience of Desert Regional SWAT personnel who have the best understanding of their exact capabilities.

#### 409.9.9 COMMUNICATIONS WITH SWAT PERSONNEL

All of those persons who are non-Crisis Negotiations Team personnel should refrain from any non-emergency contact or interference with any member of the unit during active negotiations. Operations require the utmost in concentration by involved personnel and, as a result, no one should interrupt or communicate with CNT personnel directly. All non-emergency communications shall be channeled through the Negotiation Team Sergeant or his or her designee.

# HUMAN TRAFFICKING AND CHILD PROSTITUTES

## 410.1 PURPOSE

The purpose of this policy is to provide Indio Police Officers with protocols and guidance when handling calls for service related to human trafficking and adult / child prostitution investigations.

Human trafficking pertains not only to individuals who are victimized as forced laborers but also includes individuals who are victimized for sexual services. Child prostitutes are exploited through forced labor and forced sexual services. Children who are exploited for commercial sex are referred to as Commercially Sexually Exploited Children (CSEC).

Human trafficking is generally defined as depriving or violating the personal liberty of another with the intent to obtain forced labor or services (**Penal Code § 236.1(a)**). Human trafficking of adults and minors for the purpose of commercial sexual exploitation carries more severe punishment (**Penal Code § 236.1(b), (c)**). Because of the predatory nature of human trafficking, victims commonly display one or more high risk factors, including (but not limited to):

- Being young
- A runaway
- Disabled
- Homeless
- Drug or alcohol-addicted
- Lesbian, gay, bisexual, or transgender
- A foreign national
- Undocumented

We cannot address and eradicate human trafficking without understanding victims and their plight. We must seek not only to prosecute vigorously those who take advantage of their vulnerability, but also to assist victims to move forward and live safe, productive lives. The process of healing begins from the very first contact law enforcement has with a child prostitute victim.

The primary objective of this protocol is to prosecute, to the fullest extent of the law, human traffickers and those persons who exploit child prostitutes. The arrest and prosecution must occur with deliberate speed and vigor even as the victim's physical and emotional needs are protected.

The purpose of this protocol is to formalize the procedures to be followed by Indio Police Department personnel when investigating human trafficking and child prostitution cases. This protocol seeks to provide an appropriate umbrella of protection that effectively addresses the ongoing and escalating nature of exploitation suffered by child prostitutes.

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The primary objectives are to identify, reduce and ultimately eradicate any evidence of human trafficking and child prostitution in the City of Indio. This necessarily includes the investigation and prosecution of traffickers while vigorously protecting the needs of victims at all stages. In furtherance of the primary objectives, this protocol will:

- Encourage Department personnel to respond in a **victim-centered, trauma-informed manner as the standard operating procedure** in the investigation of human trafficking and child prostitution cases.
- Assist Department personnel in recognizing human trafficking in all its forms, particularly when victimization is not readily apparent.
- **Emphasize a collaborative, multi-disciplinary response model that engages law enforcement agencies and victim services.**
- Aim to protect victims from predatory traffickers, both physically and emotionally.
- Aim to protect victims from exposure to life-threatening diseases and physical abuse.
- Aim to hold traffickers and exploiters accountable.

#### **410.2 DISPATCH RESPONSE**

During the initial call for assistance, the dispatch operator should make every effort to help the human trafficking/child prostitute victim feel safe and supported, as victims may be distrustful of law enforcement. They are reluctant to disclose information because they are often afraid or unaware of their own victimization. Dispatch operators can begin to build trust from the very first contact; the operator can convey safety and security to the victim through tone of voice, the manner in which questions are asked, and the manner in which the victim's answers and statements are received.

The dispatch operator should never inquire as to the victim's desire to "prosecute" or "press charges", as it is inappropriate to place the responsibility of law enforcement action on the victim.

Human trafficking may be present in a variety of calls for service, including (but not limited to):

- Assault
- Battery
- Child abuse
- Citizen complaints
- Criminal threats
- Dissuading a witness
- Domestic violence
- False imprisonment

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- Gang activity
- Kidnapping
- Missing persons
- Narcotics
- Pandering
- Pimping
- Prostitution
- Robbery
- Traffic stops

Always consider that human trafficking and child prostitution may be occurring even if not immediately apparent.

The following points may assist the dispatch operator in assessing the nature of a human trafficking call. These points are suggestions only and should not be viewed as an exhaustive list. Information gathering should be tailored to specific facts and circumstances; as such, the following areas of inquiry are intended to provide call-taking guidance:

- Nature of emergency
- Nature and extent of injuries, if any
- Presence of suspect(s) in the immediate area
- Language(s) spoken
- Occupation/job/activities in the U.S
- Long hours/little to no pay/debt
- Whether the caller is free to come and go as she/he pleases
- Whether the caller is calling 911 secretly or without suspect's knowledge
- Whether there is any kind of surveillance in the immediate area
- Whether the caller is being hidden or in hiding
- Whether there are others being hidden or in hiding
- Whether identification or immigration documents have been taken
- Whether the caller's own safety or family's safety is being threatened
- Whether the caller is locked-in at his/her location
- Whether there are children present

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The safety of victims, whether the threat of violence is immediate or remote, should be the primary concern of the dispatch operator. The dispatcher operator should advise the victim in a manner which promotes the victim's safety. For example, it may be prudent to suggest that a victim wait for police officers at a neighbor's house or remain on the line until help arrives.

The dispatch operator who receives a human trafficking call shall dispatch officers to every reported incident. The dispatcher should, when warranted, give a human trafficking incident call the same priority as any other life-threatening call.

The dispatcher should, whenever possible, dispatch at least two officers to the scene. Human traffickers move victims quickly and frequently to avoid detection, and as a result, law enforcement must move with deliberate speed.

#### **410.3 PATROL OFFICER RESPONSE**

Pursuant to **Penal Code § 236.2**, a peace officer shall use **due diligence** to identify all victims of human trafficking (regardless of citizenship) whenever he/she contacts a person who is or has been:

- Deprived of his or her personal liberty
- A minor who has engaged in a commercial sex act
- A person suspected of violating **PC § 647(a) or (b)**
- A victim of domestic violence or sexual assault

Consider and document the presence of the following indicators of human trafficking:

- Signs of trauma, fatigue, injury, or other evidence of poor care
- The person is withdrawn, afraid to talk, or his or her communication is censored by another person
- The person does not have freedom of movement
- The person lives and works in the same place
- The person owes a debt to his/her employer
- Security measures are used to control who has contact with the person
- The person does not have control over his/her own government-issued identification or over his/her worker immigration documents
- Evidence of malnutrition

If the person being interviewed speaks a language other than English, the interview should be conducted in the individual's primary language by a qualified interpreter. The officer may need to call for another bilingual officer fluent in that language, a telephone interpreter, a qualified civilian interpreter, or arrange for other certified professional translation services. Avoid using third-party individuals (children, family members, neighbors or bystanders) for interpretation except during



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exigent circumstances. Once the exigent circumstance has passed, the officer should utilize a qualified interpreter.

The existence of the elements of a crime shall solely determine whether an arrest or further investigation is appropriate. The following factors shall not influence an officer's decision to arrest or further investigate a human trafficking case except as they relate to the elements of the crime:

- Victim's desire not to prosecute or have the suspect (trafficker or exploiter) arrested
- Victim's immigration status
- Fact that victim seems complicit in his/her exploitation
- Fact that victim may have also committed a crime
- Victim's emotional state or state of sobriety
- Potential financial consequences of an arrest
- Verbal assurances that exploitative behavior will cease
- Victim's criminal history
- Victim's antagonistic or hostile attitude towards law enforcement
- Victim's relationship with the suspect

With respect to evidence collection and preservation, a sex trafficking/child prostitution case is (and should be) treated as a sexual assault investigation. The victim (and exploiter, when applicable) **should be immediately transported to the Eisenhower Medical Center for an examination by a medical professional if they are cooperative and willing to undergo an examination.** Evidence of sexual assault shall be collected at the Eisenhower Medical Center. Evidence of human trafficking in plain view should also be collected if present.

The victim is to be advised of his/her rights in accordance with **Marsy's Law** and provided with information regarding available services, including (but not limited to):

- Victim advocates
- Contact the Riverside County Department of Children and Family Services and request that a social worker respond
- Marsy's Law card
- Emergency Protective Order options, if applicable
- Eligibility to apply for the CA Victim Compensation Program through the Riverside County Victim Witness Program

At the conclusion of the contact with the human trafficking/child prostitute victim, **the officer shall complete a preliminary crime report thoroughly documenting the incident.** This crime report

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will be promptly assigned to personnel from the **Major Crimes Unit** for follow-up investigation and forwarded to the **Riverside County Human Trafficking Task Force**.

## Ride-Along Policy

### 411.1 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.

#### 411.1.1 ELIGIBILITY

The Indio 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 Indio Police Department Ride-Along Program is offered on a limited basis and at the discretion of the Watch Commander.

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
- Active restraining orders
- Prior documentation of 5150 WIC detentions
- Prior negative police contacts

#### 411.1.2 AVAILABILITY

The Ride-Along Program is available on most days of the week, with certain exceptions. The ride-along times are from 6:00 a.m. to 12:00 p.m. Ride-alongs should not exceed 5 hours. Exceptions to this schedule may be made as approved by the Chief of Police, Division Chief, or Watch Commander.

### 411.2 PROCEDURE TO REQUEST A RIDE-ALONG

Generally, ride-along requests will be scheduled by the Watch Commander. 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 Watch Commander will schedule a date, based on availability, at least one week after the date of application. If approved, a copy will be forwarded to the respective Watch Commander as soon as possible for his/her scheduling considerations.

The Watch Commander is responsible for maintaining and scheduling ride-alongs. Upon completion of the ride-along, the Ride-Along Application and Waiver form shall be returned to the

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Watch Commander. The Watch Commander will ensure the completed signed forms are provided to Records for processing and retention.

If the ride-along is denied after the request has been made, a representative of the Department will contact the applicant and advise him/her of the denial.

#### **411.2.1 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 the Police Cadets Policy.

#### **411.2.2 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.

#### **411.2.3 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.

#### **411.2.4 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 Indio Police Department) (CLETS Policies, Practices and Procedures Manual § 1.6.1.F.2.).

#### **411.3 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.

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The Watch Commander is responsible for maintaining and scheduling ride-alongs. Upon completion of the ride-along, the yellow form shall be returned to the Watch Commander with any comments which may be offered by the officer.

#### **411.4 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 any officer.
- (b) The ride-along will not become involved in any investigation, handling of evidence, discussions with victims or suspects, or handling any police equipment.
- (c) The ride-along may terminate the ride at any time and the officer may return the observer to their home or to the station if the ride-along interferes with the performance of the officer's duties.
- (d) Ride-alongs may be allowed to continue riding during the transportation and booking process provided this does not jeopardize their safety.
- (e) Officers will not allow any ride-alongs to be present in any residences or situations that would jeopardize their safety or cause undue stress or embarrassment to a victim or any other citizen.
- (f) Under no circumstance shall a civilian ride along be permitted to enter a private residence with an officer without the expressed consent of the resident or other authorized person.

## Hazardous Material Response

### 413.1 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.

#### 413.1.1 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.

### 413.2 HAZARDOUS MATERIAL RESPONSE

Employees may encounter situations involving suspected hazardous materials, such as at the scene of a traffic accident, illegal drug manufacturing laboratory chemical spill or fire. When employees come into contact with a suspected hazardous material, certain steps should be taken to protect themselves and citizens. Employees shall exercise universal precautions and wear personal protective gear to include, but not limited to (1) eye protection, (2) protective gloves and (3) face mask. If none is readily available, the on scene supervisor or incident commander shall make efforts to obtain the personal protective gear from (1) fire department personnel or (2) staff at John F. Kennedy hospital to ensure all officers on scene are equipped with the adequate gear.

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).

#### 413.2.1 Hazardous Material Response

- (a) Fire Department personnel are responsible for determining the extent of danger, handling the hazardous substances, notifying state and/or federal/military authorities, and caring for any person exposed to the hazardous material.

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- (b) Police personnel are responsible for protecting the scene, rendering first aid as directed, and controlling traffic.
- (c) No one is to be allowed into the affected area without specific need, and then only with the specific permission of the person in charge of handling the incident.

#### **413.2.2 RADIOACTIVE MATERIAL**

- (a) Officers investigating an incident which requires the handling of radioactive materials shall:
  - (b) (a) Keep all persons and conveyances at a safe distance from radioactive materials or liquid runoff.
  - (c) (b) Notify the Watch Commander of any barricades or other special traffic control devices needed.
  - (d) (c) Immediately notify, or cause to be notified, the Patrol Lieutenant and Executive Staff. Notification shall include the name of the owner of the material (if known), location, type and quantity of material involved.

#### **413.2.3 ILLEGAL DRUG MANUFACTURING LABORATORIES**

If an officer encounters a home made drug manufacturing laboratory, they shall immediately notify a; (1) supervisor, (2) evacuate all occupants and immediate neighbors, (3) secure the scene and (4) contact Fire Department personnel. Once Fire Department personnel determine the scene is in fact an illegal drug laboratory, in accordance with our mutual aid agreement, the on-duty supervisor shall notify the patrol lieutenant and Command Staff. If the need is appropriate, the on-duty supervisor shall contact the social media team and Department PIO for any relevant information dissemination related to community safety issues. The supervisor shall then contact the Riverside County Sheriff Department Special Investigations Bureau (SIB - East) whom is qualified and capable of conducting drug manufacturing laboratory investigations.

If there is an arrest related to such incident, responding personnel shall coordinate with and assist RSO SIB on how they would like to proceed with the investigation and (1) arrest interviews, (2) booking and (3) criminal complaint filing.

Some of the precursors associated with a drug manufacturing laboratory officers should be familiar with but not limited to are;

- (a) Common cold pills containing ephedrine and or pseudo ephedrine (excessive quantities usually collected using "smurfing method")
- (b) Atmospheric vacuum beakers
- (c) Fractional distillation setups
- (d) Glass flask sets
- (e) Acetone
- (f) Alcohol
- (g) Toluene

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- (h) Engine starter
- (i) Drain Cleaner
- (j) Coffee Filters
- (k) Iodine
- (l) Salt
- (m) Batteries
- (n) Propane Tanks
- (o) Lye
- (p) Matches and or lighters
- (q) Muriatic Acid
- (r) Pyrex Dishes
- (s) Butane
- (t) Mini-thins
- (u) Sulphuric Acid
- (v) Red phosphorous

#### **413.3 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.

##### **413.3.1 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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## Hostage and Barricade Incidents

### 414.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations where officers have legal cause to contact, detain or arrest a person, and the person refuses to submit to the lawful requests of the officers by remaining in a structure or vehicle and/or by taking a hostage.

The scope of this policy is not intended to address all variables that officers encounter during their initial response or when a hostage or barricade situation has developed. This policy does not require or purport to recommend specific strategies or tactics for resolution as each incident is a dynamic and rapidly evolving event.

#### 414.1.1 DEFINITIONS

Definitions related to this policy include:

**Barricade situation** - An incident where a person maintains a position of cover or concealment and ignores or resists law enforcement personnel, and it is reasonable to believe the subject is armed with a dangerous or deadly weapon.

**Hostage situation** - An incident where it is reasonable to believe a person is:

- (a) Unlawfully held by a hostage-taker as security so that specified terms or conditions will be met.
- (b) Unlawfully held against his/her will under threat or actual use of force.

### 414.2 POLICY

It is the policy of the Indio Police Department to address hostage and barricade situations with due regard for the preservation of life and balancing the risk of injury, while obtaining the safe release of hostages, apprehending offenders and securing available evidence.

### 414.3 COMMUNICATION

When circumstances permit, initial responding officers should try to establish and maintain lines of communication with a barricaded person or hostage-taker. Officers should attempt to identify any additional subjects, inquire about victims and injuries, seek the release of hostages, gather intelligence information, identify time-sensitive demands or conditions and obtain the suspect's surrender.

When available, department-authorized negotiators should respond to the scene as soon as practicable and assume communication responsibilities. Negotiators are permitted to exercise flexibility in each situation based upon their training, the circumstances presented, suspect actions or demands and the available resources.

#### 414.3.1 EMERGENCY COMMUNICATIONS

Only an officer who has been designated by the District Attorney or Attorney General may use or authorize the use of an electronic amplifying or recording device to eavesdrop on or record,

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or both, oral communication in response to an emergency situation involving a hostage or the barricading of a location, and only when (Penal Code § 633.8(b)):

- (a) The officer reasonably determines an emergency situation exists that involves the immediate danger of death or serious physical injury to any person within the meaning of 18 USC § 2518(7)(a)(i),
- (b) The officer reasonably determines that the emergency situation requires that eavesdropping on oral communication occur immediately, and
- (c) There are grounds upon which an order could be obtained pursuant to 18 USC § 2516(2).
- (d) An application for an order approving the eavesdropping and complying with the requirements of Penal Code § 629.50 is made within 48 hours of the beginning of the eavesdropping.
- (e) The contents of any oral communications overheard are recorded on tape or other comparable device.

#### **414.4 FIRST RESPONDER CONSIDERATIONS**

First responding officers should promptly and carefully evaluate all available information to determine whether an incident involves, or may later develop into, a hostage or barricade situation.

The first responding officer should immediately request a supervisor's response as soon as it is determined that a hostage or barricade situation exists. The first responding officer shall assume the duties of the supervisor until relieved by a supervisor or a more qualified responder. The officer shall continually evaluate the situation, including the level of risk to officers, to the persons involved and to bystanders, and the resources currently available.

The handling officer should brief the arriving supervisor of the incident, including information about suspects and victims, the extent of any injuries, additional resources or equipment that may be needed, and current perimeters and evacuation areas.

##### **414.4.1 BARRICADE SITUATION**

Unless circumstances require otherwise, officers handling a barricade situation should attempt to avoid a forceful confrontation in favor of stabilizing the incident by establishing and maintaining lines of communication while awaiting the arrival of specialized personnel and trained negotiators. During the interim the following options, while not all-inclusive or in any particular order, should be considered:

- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.

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- (c) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).
- (d) Provide responding emergency personnel with a safe arrival route to the location.
- (e) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.
- (f) Attempt or obtain a line of communication and gather as much information on the subject as possible, including weapons, other involved parties, additional hazards or injuries.
- (g) Establish an inner and outer perimeter as circumstances require and resources permit to prevent unauthorized access.
- (h) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
- (i) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the Public Information Officer (PIO).
- (j) If necessary and available, establish a tactical or exclusive radio frequency for the incident.
- (k) Establish a command post.

#### 414.4.2 HOSTAGE SITUATION

Officers presented with a hostage situation should attempt to avoid a forceful confrontation in favor of controlling the incident in anticipation of the arrival of specialized personnel and trained hostage negotiators. However, it is understood that hostage situations are dynamic and can require that officers react quickly to developing or changing threats. The following options, while not all-inclusive or in any particular order, should be considered:

- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.
- (c) Establish a rapid response team in the event it becomes necessary to rapidly enter a building, structure or vehicle, such as when the suspect is using deadly force against any hostages (see the Rapid Response and Deployment Policy).
- (d) Assist hostages or potential hostages to escape if it is reasonably safe to do so. Hostages should be kept separated if practicable pending further interview.
- (e) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).
- (f) Provide responding emergency personnel with a safe arrival route to the location.
- (g) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.

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- (h) Coordinate pursuit or surveillance vehicles and control of travel routes.
- (i) Attempt to obtain a line of communication and gather as much information about the suspect as possible, including any weapons, victims and their injuries, additional hazards, other involved parties and any other relevant intelligence information.
- (j) Establish an inner and outer perimeter as resources and circumstances permit to prevent unauthorized access.
- (k) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
- (l) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the PIO.
- (m) If necessary and available, establish a tactical or exclusive radio frequency for the incident.

#### **414.5 SUPERVISOR RESPONSIBILITIES**

Upon being notified that a hostage or barricade situation exists, the supervisor should immediately respond to the scene, assess the risk level of the situation, establish a proper chain of command and assume the role of Incident Commander until properly relieved. This includes requesting a Special Weapons and Tactics Team (SWAT) response if appropriate and apprising the SWAT Commander of the circumstances. In addition, the following options should be considered:

- (a) Ensure injured persons are evacuated and treated by medical personnel.
  - (b) Ensure the completion of necessary first responder responsibilities or assignments.
  - (c) Request crisis negotiators, specialized units, additional personnel, resources or equipment as appropriate.
  - (d) Establish a command post location as resources and circumstances permit.
  - (e) Designate assistants who can help with intelligence information and documentation of the incident.
  - (f) If it is practicable to do so, arrange for video documentation of the operation.
  - (g) Consider contacting utility and communication providers to restrict such services (e.g., restricting electric power, gas, telephone service).
1. When considering restricting communication services, a supervisor should make the determination that there is reason to believe an emergency situation exists involving immediate danger of death or great bodily harm and that an interruption to communication services is necessary to protect public safety (Penal Code § 11471). The supervisor must ensure the Department obtains a court order, in accordance with Penal Code § 11472, prior to requesting the interruption. In the case of an extreme emergency when there is insufficient time to obtain an order prior to the request, application for the order must be submitted within six hours after initiating the interruption. If six hours is not possible, then the application for the court order shall be made at the first reasonably available opportunity, but no later than 24 hours in accordance with Penal Code § 11475.

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- (h) Ensure adequate law enforcement coverage for the remainder of the City during the incident. The supervisor should direct non-essential personnel away from the scene unless they have been summoned by the supervisor or the Dispatch Center.
- (i) Identify a media staging area outside the outer perimeter and have the department Public Information Officer or a designated temporary media representative provide media access in accordance with the Media Relations Policy.
- (j) Identify the need for mutual aid and the transition or relief of personnel for incidents of extended duration.
- (k) Debrief personnel and review documentation as appropriate.

#### **414.6 CRISIS NEGOTIATIONS TEAM RESPONSIBILITIES**

The Incident Commander will decide, with input from the SWAT Commander, whether to deploy the CNT during a hostage or barricade situation. Once the Incident Commander authorizes deployment, the SWAT Commander or the authorized designee will be responsible for the tactical portion of the operation. The Incident Commander shall continue supervision of the command post operation, outer perimeter security and evacuation, media access and support for the CNT. The Incident Commander and the SWAT Commander or the authorized designee shall maintain communications at all times.

#### **414.7 REPORTING**

Unless otherwise relieved by a supervisor or Incident Commander, the handling officer at the scene is responsible for completion and/or coordination of incident reports.

## Flash/Sound Diversionary Devices

### 415.1 PURPOSE AND SCOPE

The purpose of this order is to establish guidelines for the ordering, storage, transportation, handling, reporting, deployment and use of stinger grenades and flash/sound diversionary devices.

Personnel of this Department are authorized to use stinger grenades or flash/sound diversionary devices, sometimes referred to as "flash bangs", 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.

#### 415.1.1 DEFINITION

For the purpose of this policy, a diversionary device, also referred to as a flashbang, flash/sound diversion or distraction device, shall be defined as any device designed to emit a loud noise and intense light for the purpose of distracting or disorienting a subject.

A stinger grenade, also referred to as a stingball, shall be defined as any device containing an explosive charge and designed to propel rubber pellets.

### 415.2 JUSTIFICATION FOR USE

Circumstances justifying the use of flash/sound diversionary devices may include, but not be limited to:

- (a) Barricaded subject and/or hostage situations
- (b) High-risk warrant services
- (c) Discouraging dangerous animals from attacking
- (d) Riotous situations or to restore or maintain order during civil disturbances.
- (e) Circumstances wherein distraction of violent and/or emotionally disturbed persons and/or those under the influence of alcohol/drugs is believed necessary to facilitate apprehension/custody.
- (f) Situations wherein the Incident Commander or on-scene Supervisor deems their use necessary to safely resolve the incident.

### 415.3 PROCEDURES

#### 415.3.1 AUTHORIZATION FOR USE

Except in extreme emergencies (i.e., life-threatening situations), stinger grenades and/or flash/sound diversionary devices generally, shall not be used without prior authorization of the Incident Commander/On-scene Supervisor or his/her designee.

#### 415.3.2 DEPLOYMENT CONSIDERATIONS

Prior to deploying stinger grenades and/or flash/sound diversionary devices, personnel shall consider available information and circumstances (i.e., presence of young children, elderly

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persons, flammable materials, small loose objects, etc). Circumstances may indicate that exterior deployment is preferable to deployment on the interior of a structure. Whenever possible, devices should be deployed to an area visible to the deploying officer. Stinger grenades or flash/sound diversionary devices generally should not be deployed solely for the purpose of preserving evidence.

#### 415.3.3 SAFETY EQUIPMENT

All personnel carrying stinger grenades and/or flash/sound diversionary devices in an actual incident or situation shall wear a ballistic vest, ballistic helmet, fire-retardant gloves, eye and ear protection. The previously mentioned equipment is mandatory for training. Because flash/sound diversionary devices have the potential to ignite flammable materials, a portable fire extinguisher or the Cal Fire Department shall be readily accessible whenever devices are carried and may be deployed.

#### 415.3.4 DOCUMENTATION AND REVIEW

Whenever stinger grenades and/or flash/sound diversionary devices are deployed by personnel in an actual situation or incident, that fact shall be noted on the Diversionary Device Use Form. The circumstances surrounding their deployment shall be fully described in a written report. Correct nomenclature must always be used. The Chief of Police or his or her designee shall be responsible for reviewing any deployment of flash/sound diversionary devices to ensure that policy is/was followed.

#### 415.3.5 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 notify ATF upon the use/expenditure of flash/sound diversionary devices. The Department Armorer's, Range Staff, or authorized personnel appointed shall be responsible for submitting written notification to ATF when all devices listed on a single ATF form 5 have been used/expended.

#### 415.3.6 INSPECTION AND STORAGE

The Department Armorers, Range Staff, or trained and authorized persons shall be responsible for ensuring that all stinger grenades and/or flash/sound diversion devices are inspected annually. This inspection shall ensure that the 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 within the armory, separate from fixed ammunition. Devices may be temporarily issued to SWAT Team Members, Task Force agents, Street Crimes Unit members, Field Supervisors or other designated personnel, provided appropriate records are maintained and personnel are properly trained. Devices should

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be carried securely in a pouch/carrier with a retention strap or flap. Loans of Departmentally owned equipment to other agencies must be pre-approved by the Chief or his/her designee.

#### **415.4 DIVERSIONARY DEVICE LOG**

The established Indio Police Department Armory - Distraction Device Accountability Forms shall be the proper method to document usage of diversionary devices deployed by employees of the Department.

[See attachment: Distraction Device Accountability Form \(Reloads\)-Blank.pdf](#)

[See attachment: Distraction Device Accountability Form \(Body\)-Blank.pdf](#)



## Response to Bomb Calls

### 416.1 PURPOSE AND SCOPE

The purpose of this policy is to provide general guidelines to assist members of the Indio Police Department in their initial response to incidents involving explosives, explosive devices, explosion/bombing incidents, suspicious packages or threats of such incidents. Under no circumstances should these general guidelines be interpreted as compromising the safety of first responders or the public. When confronted with an incident involving explosives, safety should always be the primary consideration.

### 416.2 POLICY

It is the policy of the Indio Police Department to place a higher priority on the safety of persons and the public over damage or destruction to public or private property.

#### 416.2(a) DEFINITIONS

1. Bomb / Explosive Device—Any chemical compound, mixture or device, the primary purpose of which is to function by explosion.
2. Bomb Threat—The expression of an intention to detonate an explosive device.
3. Triage Area - That area designated by first arriving emergency response units to an actual explosion site. This area is used by EMS personnel to assess patients and begin medical treatment on injuries sustained in the blast. The Triage Area should be in a safe location, at least 300 yard from the blast area, and if possible placing additional protection between the triage and the blast site.
4. Bomb Technician - Personnel trained in the recovery of, and disabling of explosive devices. Only certified personnel will remove any suspected explosive device.
5. Command Post - The fixed position where the Incident Commander and staff should be located for the duration of the event. This is the overall control point for the incident.
6. Frag (Fragmentation) - Any particle / item which is part of the device, and becomes a projectile (A.K.A. Shrapnel).
7. Ground Zero - Is the area where a bomb or explosive device has detonated. This is where the bomber placed the device.
8. Incident Commander - The first arriving supervisor to take charge of the incident. If it is a bomb threat or suspected bomb found the incident command will be the responsibility of the police department until the RSO Bomb Squad arrives and assumes command of the scene, at which point the initial supervisor and personnel will assist with any request of the RSO Incident Commander during the evolution of the incident. If a device has actually been detonated the fire department will take the lead.

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9. Public Information Officer - This person is responsible for designating a secure area for the media, directing the media to a safe control area, and maintaining and providing updated information to the media as the incident continues at the discretion of the Incident Commander.

#### **416.3 RECEIPT OF BOMB THREAT**

Department members receiving a bomb threat should obtain as much specific information from the individual as reasonably possible, including the type, placement and alleged detonation time of the device.

If the bomb threat is received on a recorded line, reasonable steps should be taken to ensure that the recording is preserved in accordance with established department evidence procedures.

The member receiving the bomb threat should ensure that the Watch Commander is immediately advised and informed of the details. This will enable the Watch Commander to ensure that the appropriate personnel are dispatched, and, as appropriate, the threatened location is given an advance warning.

All calls received of a bomb threat, explosive, explosion, or incendiary device are assigned a "1st priority response" and a supervisor shall be dispatched to the location.

#### **416.3.1 FIRST RESPONDING OFFICER RESPONSIBILITIES**

- (a) Officers shall not operate their cell phone / radios within a 300 ft minimum radius as radio/cell phone frequencies may potentially detonate an explosive device.
- (b) Officers shall leave the decision to evacuate or not evacuate a scene to the person in control of the property, unless a potential explosive device is found.
- (c) Officers shall ask persons who locate a real or potential explosive device to remain at the scene to be interviewed by the RSO Bomb Squad.
- (d) Officers may contact the RSO bomb squad when any doubt exists as to whether they are dealing with an explosive device.
- (e) Only Riverside County Sheriff Department Bomb Squad personnel who are currently certified as Bomb Technicians shall handle explosive devices.
- (f) Officers shall notify the RSO bomb squad when an explosion has occurred that has resulted in any injury or damage.
- (g) Officers shall have CDF medics and firefighters stage at a safe location during the evolution of a bomb threat investigation.
- (h) The RSO bomb squad is responsible for moving explosive materials.
- (i) Exception: With the approval of a sergeant, officers may transport only the following materials to the evidence unit:
  - (a) Small arms ammunition smaller than .50 caliber
  - (b) Tear gas capsules that provide identification of their contents
- (j) Officers shall notify RSO Bomb Squad if the evidence unit refuses these materials.
- (k) Officers shall stage CDF if appropriate.

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#### **416.3.2 SUPERVISOR RESPONSIBILITIES**

##### **Dispatch Supervisor Duties;**

- (a) Requests a phone call from the appropriate Sergeant.
- (b) Gives the sergeant information about the bomb threat.
- (c) Dispatches officers via the MDC.
- (d) Verifies that the sergeant is en route.

##### **Sergeant Duties;**

- (a) Inform the dispatch supervisor how many units to send to the scene.
- (b) Establish a command post.
- (c) Instruct all officers to check-in prior to entering the scene.
- (d) Contact the complainant or person who is in control of the property.
- (e) Assist with determining the credibility of the threat.
- (f) Determine how the threat was communicated.
- (g) Determine the exact words used in the threat, if possible.
- (h) Investigate the existence of any motives for the threat (DV issues, labor matters, disgruntled former employees, etc.).
- (i) Ascertain from the person-in-control whether the scene will be searched.
- (j) Determines the level of police involvement with the search, if any.
- (k) If a real or potential explosive device is located, notify RSO Bomb Squad immediately.
- (l) Evacuate the property, if it has not already been evacuated.
- (m) Establish a perimeter commensurate with the level of threat (see the ATF Vehicle Bomb Explosion Hazard and Evacuation Distance Tables).
- (n) Attempts to locate keys to all areas of the property.
- (o) Draws a sketch of the floor plan around the device, if possible.
- (p) Provides RSO with all available information.
- (q) Confirm that a report is written.

#### **416.3.3 RESPONDING TO SUSPICIOUS PACKAGES (POTENTIAL CHEMICAL / BIOLOGICAL WEAPONS)**

When investigating a potential chemical or biological weapon, responding officers shall:

- (a) Requests that a sergeant respond to the scene.
- (b) Requests that the Dispatch Supervisor notify RSO Bomb Squad and CDF Hazmat
- (c) Uses personal protective equipment.
- (d) Identifies potential victims who were exposed to the package or suspected substance.

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- (e) Assist RSO or CDF with their investigation as needed.
- (f) Request additional resources as needed.

This procedure shall be followed should a bomb threat occur at a private facility or another public facility and the Department is informed of the threat. The decision to allow personnel back into the public or private facility will be the responsibility of the person or persons in charge of the building when such facility is deemed safe to enter.

#### **416.4 GOVERNMENT FACILITY OR PROPERTY**

A bomb threat targeting a government facility may require a different response based on the government agency. In case of a bomb threat at the Indio Superior Court which falls under the jurisdiction of the Riverside County Sheriff Department, the on duty supervisor will coordinate any assistance requested by RSO with the RSO Incident Commander to facilitate any mutual aid request other than the Departments jurisdictional control of the adjoining parking lots and any traffic control related issues that arise.

##### **416.4.1 INDIO POLICE DEPARTMENT FACILITY**

If the bomb threat is against the Indio Police Department facility, the Watch Commander will direct and assign officers as required for coordinating a general building search or evacuation of the police department, as he/she deems appropriate.

##### **416.4.2 OTHER COUNTY OR MUNICIPAL FACILITY OR PROPERTY**

If the bomb threat is against a county or municipal facility within the jurisdiction of the Indio Police Department that is not the property of this department, the appropriate agency will be promptly informed of the threat. Assistance to the other entity may be provided as the Watch Commander deems appropriate.

##### **416.4.3 FEDERAL BUILDING OR PROPERTY**

If the bomb threat is against a federal building or property, the Federal Protective Service should be immediately notified. The Federal Protective Service provides a uniformed law enforcement response for most facilities, which may include use of its Explosive Detector Dog teams.

If the bomb threat is against a federal government property where the Federal Protective Service is unable to provide a timely response, the appropriate facility's security or command staff should be notified.

Bomb threats against a military installation should be reported to the military police or other military security responsible for the installation.

#### **416.5 PRIVATE FACILITY OR PROPERTY**

When a member of this department receives notification of a bomb threat at a location in the City of Indio, the member receiving the notification should obtain as much information as reasonably possible from the notifying individual, including:

- (a) The location of the facility.

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- (b) The nature of the threat.
- (c) Whether the type and detonation time of the device is known.
- (d) Whether the facility is occupied and, if so, the number of occupants currently on-scene.
- (e) Whether the individual is requesting police assistance at the facility.
- (f) Whether there are any internal facility procedures regarding bomb threats in place, such as:
  - 1. No evacuation of personnel and no search for a device.
  - 2. Search for a device without evacuation of personnel.
  - 3. Evacuation of personnel without a search for a device.
  - 4. Evacuation of personnel and a search for a device.

The member receiving the bomb threat information should ensure that the Watch Commander is immediately notified so that he/she can communicate with the person in charge of the threatened facility.

#### 416.5.1 ASSISTANCE

The Watch Commander should be notified when police assistance is requested. The Watch Commander will make the decision whether the Department will render assistance and at what level. Information and circumstances that indicate a reasonably apparent, imminent threat to the safety of either the facility or the public may require a more active approach, including police control over the facility.

Should the Watch Commander determine that the Department will assist or control such an incident, he/she will determine:

- (a) The appropriate level of assistance.
- (b) The plan for assistance.
- (c) Whether to evacuate and/or search the facility.
- (d) Whether to involve facility staff in the search or evacuation of the building.
  - 1. The person in charge of the facility should be made aware of the possibility of damage to the facility as a result of a search.
  - 2. The safety of all participants is the paramount concern.
- (e) The need for additional resources, including:
  - 1. Notification and response, or standby notice, for fire and emergency medical services.

Even though a facility does not request police assistance to clear the interior of a building, based upon the circumstances and known threat, officers may be sent to the scene to evacuate other areas that could be affected by the type of threat, or for traffic and pedestrian control.

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#### **416.6 FOUND DEVICE**

When handling an incident involving a suspected explosive device, the following guidelines, while not all inclusive, should be followed:

- (a) No known or suspected explosive item should be considered safe regardless of its size or apparent packaging.
- (b) The device should not be touched or moved except by the bomb squad or military explosive ordnance disposal team.
- (c) Personnel should not transmit on any equipment that is capable of producing radio frequency energy within the evacuation area around the suspected device. This includes the following:
  1. Two-way radios
  2. Cell phones
  3. Other personal communication devices
- (d) The appropriate bomb squad or military explosive ordnance disposal team should be summoned for assistance.
- (e) The largest perimeter reasonably possible should initially be established around the device based upon available personnel and the anticipated danger zone.
- (f) A safe access route should be provided for support personnel and equipment.
- (g) Search the area for secondary devices as appropriate and based upon available resources.
- (h) Consider evacuation of buildings and personnel near the device or inside the danger zone and the safest exit route.
- (i) Promptly relay available information to the Watch Commander including:
  1. The time of discovery.
  2. The exact location of the device.
  3. A full description of the device (e.g., size, shape, markings, construction).
  4. The anticipated danger zone and perimeter.
  5. The areas to be evacuated or cleared.

#### **416.7 EXPLOSION/BOMBING INCIDENTS**

When an explosion has occurred, there are multitudes of considerations which may confront the responding officers. As in other catastrophic events, a rapid response may help to minimize injury to victims, minimize contamination of the scene by gathering crowds, or minimize any additional damage from fires or unstable structures.

##### **416.7.1 CONSIDERATIONS**

Officers responding to explosions, whether accidental or a criminal act, should consider the following actions:

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- (a) Assess the scope of the incident, including the number of victims and extent of injuries.
- (b) Request additional personnel and resources, as appropriate.
- (c) Assist with first aid.
- (d) Identify and take appropriate precautions to mitigate scene hazards, such as collapsed structures, bloodborne pathogens and hazardous materials.
- (e) Assist with the safe evacuation of victims, if possible.
- (f) Establish an inner perimeter to include entry points and evacuation routes. Search for additional or secondary devices.
- (g) Preserve evidence.
- (h) Establish an outer perimeter and evacuate if necessary.
- (i) Identify witnesses.

#### 416.7.2 NOTIFICATIONS

When an explosion has occurred, the following people should be notified as appropriate:

- Fire department
- Bomb squad
- Additional department personnel, such as investigators and forensic services
- Field supervisor
- Watch Commander
- Other law enforcement agencies, including local, state or federal agencies, such as the FBI and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
- Other government agencies, as appropriate

#### 416.7.3 CROWD CONTROL

Only authorized members with a legitimate need should be permitted access to the scene. Spectators and other unauthorized individuals should be restricted to a safe distance as is reasonably practicable given the available resources and personnel.

#### 416.7.4 PRESERVATION OF EVIDENCE

As in any other crime scene, steps should immediately be taken to preserve the scene. The Watch Commander should assign officers to protect the crime scene area, which could extend over a long distance. Consideration should be given to the fact that evidence may be imbedded in nearby structures or hanging in trees and bushes.

## Mental Illness Commitments

### 418.1 PURPOSE AND SCOPE

This policy provides guidelines for when officers may take a person into custody for psychiatric evaluation and treatment (5150 commitment) (Welfare and Institutions Code § 5150).

### 418.2 POLICY

It is the policy of the Indio Police Department to protect the public and individuals through legal and appropriate use of the 72-hour treatment and evaluation commitment (5150 commitment) process.

### 418.3 AUTHORITY

An officer having probable cause may take a person into custody and place the person in an approved mental health facility for 72-hour treatment and evaluation when the officer believes that, as a result of a mental disorder, the person is a danger to him/herself or others or the person is gravely disabled (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5585.50).

When determining whether to take a person into custody, officers are not limited to determining if the person is an imminent danger and shall consider reasonably available information about the historical course of the person's mental disorder, which may include evidence presented from any of the following (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5150.05):

- (a) An individual who is providing or has provided mental health treatment or related support services to the person
- (b) A family member
- (c) The person subject to the determination or anyone designated by the person

#### 418.3.1 VOLUNTARY EVALUATION

If an officer encounters an individual who may qualify for a 5150 commitment, he/she may inquire as to whether the person desires to voluntarily be evaluated at an appropriate facility. If the person so desires, the officers should:

- (a) Transport the person to an appropriate facility that is able to conduct the evaluation and admit the person pursuant to a 5150 commitment.
- (b) If at any point the person changes his/her mind regarding voluntary evaluation, officers should proceed with the 5150 commitment, if appropriate.
- (c) Document the circumstances surrounding the individual's desire to pursue voluntary evaluation and/or admission.

### 418.4 CONSIDERATIONS AND RESPONSIBILITIES

Any officer handling a call involving an individual who may qualify for a 5150 commitment should consider, as time and circumstances reasonably permit:

- (a) Available information that might assist in determining the cause and nature of the person's action or stated intentions.



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- (b) Community or neighborhood mediation services.
- (c) Conflict resolution and de-escalation techniques.
- (d) Community or other resources available to assist in dealing with mental health issues.

While these steps are encouraged, nothing in this section is intended to dissuade officers from taking reasonable action to ensure the safety of the officers and others.

Officers should consider a 5150 commitment over arrest when mental health issues appear to be a mitigating factor for people who are suspected of committing minor crimes or creating other public safety issues.

#### **418.4.1 SECURING OF PROPERTY**

When a person is taken into custody for evaluation, or within a reasonable time thereafter, and unless a responsible relative, guardian or conservator is in possession of the person's personal property, the officer shall take reasonable precautions to safeguard the individual's personal property in his/her possession or on the premises occupied by the person (Welfare and Institutions Code § 5150).

The officer taking the person into custody shall provide a report to the court that describes the person's property and its disposition in the format provided in Welfare and Institutions Code § 5211, unless a responsible person took possession of the property, in which case the officer shall only include the name of the responsible person and the location of the property (Welfare and Institutions Code § 5150).

#### **418.5 TRANSPORTATION**

When transporting any individual for a 5150 commitment, the transporting officer should have the Dispatch Center notify the receiving facility of the estimated time of arrival, the level of cooperation of the individual and whether any special medical care is needed.

Officers may transport individuals in a patrol unit and shall secure them in accordance with the Handcuffing and Restraints Policy. Should the detainee require transport in a medical transport vehicle and the safety of any person, including the detainee, requires the presence of an officer during the transport, Watch Commander approval is required before transport commences.

#### **418.6 TRANSFER TO APPROPRIATE FACILITY**

Upon arrival at the facility, the officer will escort the individual into a treatment area designated by a facility staff member. If the individual is not seeking treatment voluntarily, the officer should provide the staff member with the written application for 5150 commitment and remain present to provide clarification of the grounds for detention, upon request.

Absent exigent circumstances, the transporting officer should not assist facility staff with the admission process, including restraint of the individual, changing garments or facilitating any medical procedure or intervention. However, if the individual is transported and delivered while restrained, the officer may assist with transferring the individual to facility restraints and will be

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available to assist during the admission process, if requested. Under normal circumstances, officers will not apply facility ordered restraints.

So as not to exceed our legal authority, the Indio Police Department does not respond to calls for service at medical or mental health facilities where our role is to assist in patient management issues.

Examples include:

- Refusal to take medications
- Inpatient clients who are inside a secure facility but refusing to go to their assigned room
- Transporting admitted/accepted clients to another medical or mental health facility

Supervisors will monitor calls for service at medical and mental health facilities in order to verify that we are acting within the scope of our law enforcement and community caretaking legal authority and role.

#### **418.7 DOCUMENTATION**

The officer shall complete an application for a 72-Hour detention for evaluation and treatment, provide it to the facility staff member assigned to that patient and retain a copy of the application for inclusion in the case report.

The application shall include the circumstances for officer involvement; the probable cause to believe the person is, as a result of a mental health disorder, a danger to others or him/herself or gravely disabled; and all information used for the determination of probable cause (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5150.05).

The officer should also provide a verbal summary to any evaluating staff member regarding the circumstances leading to the involuntary detention.

##### **418.7.1 ADVISEMENT**

The officer taking a person into custody for evaluation shall advise the person of:

- (a) The officer's name and agency.
- (b) The fact that the person is not under criminal arrest but is being taken for examination by mental health professionals and the mental health staff will advise him/her of their rights.
- (c) The name of the facility to which the person is being taken.
- (d) If the person is being taken into custody at his/her residence, he/she should also be advised that he/she may take a few personal items, which the officer must approve, and may make a telephone call or leave a note indicating where he/she is being taken. The officer should also ask if the person needs assistance turning off any appliance or water.

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The advisement shall be given in a language the person understands. Translation services will be provided if necessary. If the person cannot understand an oral advisement, the information shall be provided in writing (Welfare and Institutions Code § 5150).

#### **418.8 CRIMINAL OFFENSES**

Officers investigating an individual who is suspected of committing a minor criminal offense and who is being taken on a 5150 commitment should resolve the criminal matter by issuing a warning or a Notice to Appear as appropriate.

When an individual who may qualify for a 5150 commitment has committed a serious criminal offense that would normally result in an arrest and transfer to a jail facility, the officer should:

- (a) Arrest the individual when there is probable cause to do so.
- (b) Notify the appropriate supervisor of the facts supporting the arrest and the facts that would support the 5150 commitment.
- (c) Facilitate the individual's transfer to jail.
- (d) Thoroughly document in the related reports the circumstances that indicate the individual may qualify for a 5150 commitment.

In the supervisor's judgment, the individual may instead be arrested or booked and transported to the appropriate mental health facility. The supervisor should consider the seriousness of the offense, the treatment options available, the ability of this department to regain custody of the individual, department resources (e.g., posting a guard) and other relevant factors in making this decision.

#### **418.9 FIREARMS AND OTHER WEAPONS**

Whenever a person is taken into custody for a 5150 commitment, the handling officers should seek to determine if the person owns or has access to any firearm or other deadly weapon defined in Welfare and Institutions Code § 8100. Officers should consider whether it is appropriate and consistent with current search and seizure law under the circumstances to seize any such firearms or other dangerous weapons (e.g., safekeeping, evidence, consent).

Officers are cautioned that a search warrant may be needed before entering a residence or other place to search, unless lawful, warrantless entry has already been made (e.g., exigent circumstances, consent). A search warrant may also be needed before searching for or seizing weapons

The handling officers shall issue a receipt describing the deadly weapon or any firearm seized, and list any serial number or other identification that is on the firearm. Officers shall advise the person of the procedure for the return of any firearm or other weapon that has been taken into custody (Welfare and Institutions Code § 8102 (b)) (see Property and Evidence Policy).

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#### 418.9.1 PETITION FOR RETURN OF FIREARMS AND OTHER WEAPONS

Whenever the handling officer has cause to believe that the future return of any confiscated weapon might endanger the person or others, the officer shall detail those facts and circumstances in a report. The report shall be forwarded to the Investigative Services Division Lieutenant, who shall be responsible for communicating with the City Attorney regarding initiating a petition to the Superior Court for a hearing in accordance with Welfare and Institutions Code § 8102(c), to determine whether the weapon will be returned.

The petition to the Superior Court shall be initiated within 30 days of the release of the individual from whom such weapon has been confiscated, unless the Department makes an ex parte application to the court to extend the time to file such a petition, up to a maximum of 60 days. At the time any such petition is initiated, the Department shall send written notice to the individual informing him/her of the right to a hearing on the issue, that he/she has 30 days to confirm with the court clerk any desire for a hearing and that the failure to do so will result in the forfeiture of any confiscated weapon.

#### **418.10 TRAINING**

This department will endeavor to provide Peace Officer Standards and Training (POST)-approved advanced officer training on interaction with persons with mental disabilities, 5150 commitments and crisis intervention.

## Cite and Release Policy

### 420.1 PURPOSE AND SCOPE

This policy provides guidance on when to release adults who are arrested for a criminal misdemeanor offense on a written notice to appear (citation) and when to hold for court or bail.

### 420.2 POLICY

It is the policy of the Indio Police Department to release all persons arrested on misdemeanor or other qualifying charges on a citation with certain exceptions (Penal Code § 853.6).

If there is a reason for non-release, the Department's mission to protect the community will be the primary consideration when determining whether to release any individual in lieu of holding for court or bail.

### 420.3 RELEASE BY CITATION

Except in cases where a reason for non-release as described below exists, adults arrested for a misdemeanor offense, including a private persons arrest, shall be released from custody on a citation (Penal Code § 853.6).

The citing officer shall, at the time the defendant signs 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.

#### 420.3.1 FIELD CITATIONS

In most cases an adult arrested for a misdemeanor offense may be released in the field on a citation in lieu of physical arrest when booking and fingerprinting is not practicable or immediately required 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; Penal Code § 1270.1). In such cases the arresting officer should check the booking required box on the citation form to indicate that the person will be photographed and fingerprinted at a later time when ordered by the court.

When a booking photo or fingerprints are needed for the furtherance of any investigation, the person should be released on citation after booking instead of on a field citation.

#### 420.3.2 RELEASE AFTER BOOKING

In some cases it may not be feasible or desirable to release a person in the field. The person should instead be released on citation after booking at the jail. All bookings shall be approved by the Watch Commander or the authorized designee.

### 420.4 NON-RELEASE

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#### 420.4.1 DISQUALIFYING OFFENSES

An adult arrested on any of the following disqualifying charges shall not be released on citation and shall be transported to the appropriate detention facility or held for court or bail after booking (Penal Code § 1270.1):

- (a) Misdemeanor domestic battery (Penal Code § 243(e)(1))
- (b) Felony domestic battery (Penal Code § 273.5)
- (c) Serious or violent felonies (Penal Code § 1270.1(a)(1))
- (d) Felony intimidation of witnesses and victims (Penal Code § 136.1)
- (e) Rape of a spouse (Penal Code § 262)
- (f) Violation of a protective order and the arrested person has made threats, used violence, or has gone to the protected person's workplace or residence (Penal Code § 273.6)
- (g) Stalking (Penal Code § 646.9)
- (h) Misdemeanor violations of a protective order relating to domestic violence if there is a reasonable likelihood the offense will continue or the safety of the individuals or property would be endangered (Penal Code § 853.6)

#### 420.4.2 REASONS FOR NON-RELEASE

A person arrested for a misdemeanor shall be released on a citation unless there is a reason for non-release. The Watch Commander may authorize a release on citation regardless of whether a reason for non-release exists when it is determined to be in the best interest of the Department and does not present an unreasonable risk to the community (e.g., release of an intoxicated or ill person to a responsible adult).

Reasons for non-release include (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 Indio 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, Vehicle Code § 40303, and Vehicle Code § 40305.
- (d) The person has been cited, arrested, or convicted for theft from a store or vehicle in the previous six months, or there is probable cause to believe the person is guilty of committing organized retail theft, as defined in Penal Code § 490.4(a).

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- (e) There are one or more outstanding arrest warrants for the person or failures to appear in court on previous misdemeanor citations that have not been resolved (see Misdemeanor Warrants elsewhere in this policy).
- (f) The person could not provide satisfactory evidence of personal identification.
  - 1. If a person released on citation does not have satisfactory identification in his/her possession, a right thumbprint or fingerprint should be obtained on the citation form.
- (g) 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.
- (h) 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.
- (i) The person arrested demands to be taken before a magistrate or has refused to sign the notice to appear.
- (j) 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. An arrest warrant or failure to appear that is currently pending shall constitute reason to believe that the person will not appear. Other reasons 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

When a person is arrested on a misdemeanor offense and is not released by criminal citation, the reason for non-release shall be noted on the booking form. This form shall be submitted to the Watch Commander for approval and included with the case file in the Records Bureau.

#### **420.5 MISDEMEANOR WARRANTS**

An adult arrested on a misdemeanor warrant may be released, subject to Watch Commander approval, unless any 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 him/herself or others due to intoxication or being under the influence of drugs or narcotics.

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- (f) The person requires medical examination or medical care or was otherwise unable to care for his/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 policy.

#### **420.6 JUVENILE CITATIONS**

Completion of criminal citations for juveniles is generally not appropriate with the following exceptions:

- Misdemeanor traffic violations of the Vehicle Code
- Violations of the Indio City codes

All other misdemeanor violations for juveniles shall be documented with a case number and the case should be referred to the Riverside County District Attorney's Office for further action including diversion.

#### **420.7 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.



# Foreign Diplomatic and Consular Representatives

## 422.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that members of the Indio Police Department extend appropriate privileges and immunities to foreign diplomatic and consular representatives in accordance with international law.

## 422.2 POLICY

The Indio Police Department respects international laws related to the special privileges and immunities afforded foreign diplomatic and consular representatives assigned to the United States.

All foreign diplomatic and consular representatives shall be treated with respect and courtesy, regardless of any privileges or immunities afforded them. It is the policy of this department to adhere to the guidance provided by the U.S. Department of State concerning immunities for foreign nationals based on international treaty obligations. Adherence to these international treaty obligations is required by law and also helps protect American diplomatic officers and consular officials stationed abroad.

### 422.2.1 DEFINITIONS

**Foreign National:** For the purposes of consular notification a foreign national is any person who is not a U.S. citizen. Lawful permanent resident aliens (or LPRs) who have resident alien registration cards (green cards) retain their foreign nationality and must be considered foreign nationals. The terms foreign national and alien are used interchangeably.

**Detainee:** A detainee in this context is a foreign national who is arrested or placed in custody pending investigation or judicial appearance, or both. Brief stops of such persons for motor vehicle violations or similar incidents are not considered detentions for purposes of this policy.

**Consul or Consular Officer:** A consular officer is a citizen of a foreign country employed by a foreign government and authorized to provide assistance on behalf of that government to that government's citizens in a foreign country. Consular officers are generally assigned to the consular section of a foreign government's embassy in Washington, DC, or to consular offices maintained by the foreign government in locations in the United States outside of Washington, DC.

**Diplomatic Immunity:** A principle of international law by which certain foreign government officials are not subject to the jurisdiction of local courts and authorities for both their official and, to a large extent, their personal activities.

**Inviolability:** Embodied in international law that generally precludes law enforcement officials from handcuffing, arresting or detaining certain foreign diplomatic and consular officials in any form and forbids U.S. authorities from entering the residences, automobiles, or other property of protected persons. Where public safety is in imminent danger or it is apparent that a felony or crime of

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violence may otherwise be committed, police authorities may intervene to the extent necessary to halt such activity or defend themselves or others from personal harm.

#### **422.3 CLAIMS OF IMMUNITY**

If a member comes into contact with a person where law enforcement action may be warranted and the person claims diplomatic or consular privileges and immunities, the member should, without delay:

- (a) Notify a supervisor.
- (b) Advise the person that his/her claim will be investigated and he/she may be released in accordance with the law upon confirmation of the person's status.
- (c) Request the person's identification card, either issued by the U.S. Department of State (DOS), Office of the Chief of Protocol, or in the case of persons accredited to the United Nations, by the U.S. Mission to the United Nations. These are the only reliable documents for purposes of determining privileges and immunities.
- (d) Contact the DOS Diplomatic Security Command Center at 571-345-3146 or toll free at 866-217-2089, or at another current telephone number and inform the center of the circumstances.
- (e) Verify the immunity status with DOS and follow any instructions regarding further detention, arrest, prosecution and/or release, as indicated by the DOS representative. This may require immediate release, even if a crime has been committed.
- (f) Only an identity card issued by the U.S. Department of State, Office of Protocol, or by the U.S. Mission to the United Nations may be used as valid identification for diplomats and consular officials. The identification cards are color coded according to the following: ([http:// travel.state.gov/law/consular/consular\\_746. html](http://travel.state.gov/law/consular/consular_746.html)):
  1. Blue border = diplomatic officers and their families.
  2. Green border = embassy administrative, technical, and service staff employees.
  3. Red border = consular officers, employees, or their families
- (g) License plates issued by the U.S. Department of State are coded to reflect the degree of immunity which the registered owner of the vehicle enjoys:
  1. Plates with a "D" prefix or suffix are issued to diplomatic missions and those members who hold diplomatic rank.
  2. Plates with a "C" prefix are issued to consular missions and career consular officers.
  3. Plates with a "S" prefix are issued to the administrative and technical staff at diplomatic missions and consular employees at consular missions. Plates with an "A" prefix or suffix are issued to official vehicles of the Secretariates of the United Nations and the Organization of American States and the personally owned vehicles of those staff members who have diplomatic status. These license plates are designed to assist officers identifying vehicles that belong to persons who may enjoy some degree of immunity, however, in no circumstance

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should the license plate be used alone to verify the status of an individual claiming immunity.

Identity or immunity status should not be presumed from the type of license plates displayed on a vehicle. If there is a question as to the status or the legitimate possession of a Diplomat or Consul license plate, a query should be run via the National Law Enforcement Telecommunications System (NLETS), designating "US" as the state.

#### **422.4 ENFORCEMENT**

If the DOS is not immediately available for consultation regarding law enforcement action, members shall be aware of the following:

- (a) Generally, all persons with diplomatic and consular privileges and immunities may be issued a citation or notice to appear. However, the person may not be compelled to sign the citation.
- (b) All persons, even those with a valid privilege or immunity, may be reasonably restrained in exigent circumstances for purposes of self-defense, public safety or the prevention of serious criminal acts.
- (c) An impaired foreign diplomatic or consular representative may be prevented from driving a vehicle, even if the person may not be arrested due to privileges and immunities.
  - 1. Investigations, including the request for field sobriety tests, chemical tests and any other tests regarding impaired driving may proceed but they shall not be compelled.
- (d) The following persons may not be detained or arrested, and any property or vehicle owned by these persons may not be searched or seized:
  - 1. Diplomatic-level staff of missions to international organizations and recognized family members
  - 2. Diplomatic agents and recognized family members
  - 3. Members of administrative and technical staff of a diplomatic mission and recognized family members
  - 4. Career consular officers, unless the person is the subject of a felony warrant
- (e) The following persons may generally be detained and arrested:
  - 1. International organization staff; however, some senior officers are entitled to the same treatment as diplomatic agents.
  - 2. Support staff of missions to international organizations
  - 3. Diplomatic service staff and consular employees; however, special bilateral agreements may exclude employees of certain foreign countries.
  - 4. Honorary consular officers
  - 5. Whenever an officer arrests and incarcerates, or detains for investigation for over two hours, a person with diplomatic and consular privileges and immunities,

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the officer shall promptly advise the person 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.

#### **422.5 DOCUMENTATION**

All contacts with persons who have claimed privileges and immunities afforded foreign diplomatic and consular representatives should be thoroughly documented and the related reports forwarded to DOS.

#### **422.6 DIPLOMATIC IMMUNITY TABLE**

Reference table on diplomatic immunity:

<b>Category</b>	<b>Arrested or Detained</b>	<b>Enter Residence Subject to Ordinary Procedures</b>	<b>Issued Traffic Citation</b>	<b>Subpoenaed as Witness</b>	<b>Prosecuted</b>	<b>Recognized Family Members</b>
<b>Diplomatic Agent</b>	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
<b>Member of Admin and Tech Staff</b>	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
<b>Service Staff</b>	Yes (note (a))	Yes	Yes	Yes	No for official acts. Yes otherwise (note (a))	No immunity or inviolability (note (a))
<b>Career Consul Officer</b>	Yes if for a felony and pursuant to a warrant (note (a))	Yes (note (d))	Yes	No for official acts Testimony may not be compelled in any case	No for official acts. Yes otherwise (note (a))	No immunity or inviolability
<b>Honorable Consul Officer</b>	Yes	Yes	Yes	No for official acts Yes otherwise.	No for official acts Yes otherwise	No immunity or inviolability
<b>Consulate Employees</b>	Yes (note (a))	Yes	Yes	No for official acts Yes otherwise.	No for official acts. Yes otherwise (note (a))	No immunity or inviolability (note (a))

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<b>Int'l Org Staff (note (b))</b>	Yes (note (c))	Yes (note (c))	Yes	Yes (note (c))	No for official acts. Yes otherwise (note (c))	No immunity or inviolability
<b>Diplomatic-Level Staff of Missions to Int'l Org</b>	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
<b>Support Staff of Missions to Int'l Orgs</b>	Yes	Yes	Yes	Yes	No for official acts. Yes otherwise	No immunity or inviolability

Notes for diplomatic immunity table:

- (a) This table presents general rules. The employees of certain foreign countries may enjoy higher levels of privileges and immunities on the basis of special bilateral agreements.
- (b) Reasonable constraints, however, may be applied in emergency circumstances involving self-defense, public safety, or in the prevention of serious criminal acts.
- (c) A small number of senior officers are entitled to be treated identically to diplomatic agents.
- (d) Note that consul residences are sometimes located within the official consular premises. In such cases, only the official office space is protected from police entry.

## Rapid Response and Deployment

### 424.1 PURPOSE AND SCOPE

Violence that is committed in schools, workplaces and other locations by individuals or a group of individuals who are determined to target and kill persons and to create mass casualties presents a difficult situation for law enforcement. The purpose of this policy is to identify guidelines and factors that will assist responding officers in situations that call for rapid response and deployment.

### 424.2 POLICY

The Indio Police Department will endeavor to plan for rapid response to crisis situations, and to coordinate response planning with other emergency services as well as with those that are responsible for operating sites that may be the target of a critical incident. Nothing in this policy shall preclude the use of reasonable force, deadly or otherwise, by members of the Department in protecting themselves or others from death or serious injury.

### 424.3 FIRST RESPONSE

If there is a reasonable belief that acts or threats by a suspect are placing lives in imminent danger, first responding officers should consider reasonable options to reduce, prevent or eliminate the threat. Officers must decide, often under a multitude of difficult and rapidly evolving circumstances, whether to advance on the suspect, take other actions to deal with the threat or wait for additional resources.

If a suspect is actively engaged in the infliction of serious bodily harm or other life-threatening activity toward others, officers should take immediate action, if reasonably practicable, while requesting additional assistance.

Officers should remain aware of the possibility that an incident may be part of a coordinated multi-location attack that may require some capacity to respond to other incidents at other locations.

When deciding on a course of action officers should consider:

- (a) Whether to advance on or engage a suspect who is still a possible or perceived threat to others. Any advance or engagement should be based on information known or received at the time.
- (b) Whether to wait for additional resources or personnel. This does not preclude an individual officer from taking immediate action.
- (c) Whether individuals who are under imminent threat can be moved or evacuated with reasonable safety.
- (d) Whether the suspect can be contained or denied access to victims.
- (e) Whether the officers have the ability to effectively communicate with other personnel or resources.
- (f) Whether planned tactics can be effectively deployed.

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- (g) The availability of rifles, shotguns, shields, breaching tools, control devices and any other appropriate tools, and whether the deployment of these tools will provide a tactical advantage.

In a case of a barricaded suspect with no hostages and no immediate threat to others, officers should consider summoning and waiting for additional assistance (special tactics and/or hostage negotiation team response).

#### **424.3.1 RESPONSE TO SCHOOL THREATS**

Upon receiving a threat or perceived threat from a school official that involves grades 6 to 12, officers shall immediately investigate and conduct a threat assessment. The investigation shall include a review of the firearm registry of the California Department of Justice. A reasonable search of the school at issue shall be conducted when the search is justified by reasonable suspicion that it would produce evidence related to the threat or perceived threat (Education Code § 49394).

For purposes of this subsection a "threat" or "perceived threat" means any writing or action of a pupil that creates a reasonable suspicion that the pupil is preparing to commit a homicidal act related to school or a school activity. This may include possession, use, or depictions of firearms, ammunition, shootings, or targets in association with infliction of physical harm, destruction, or death in a social media post, journal, class note, or other media associated with the pupil. It may also include a warning by a parent, pupil, or other individual (Education Code § 49390).

#### **424.4 CONSIDERATIONS**

When dealing with a crisis situation members should:

- (a) Assess the immediate situation and take reasonable steps to maintain operative control of the incident.
- (b) Obtain, explore and analyze sources of intelligence and known information regarding the circumstances, location and suspect involved in the incident.
- (c) Attempt to attain a tactical advantage over the suspect by reducing, preventing or eliminating any known or perceived threat.
- (d) Attempt, if feasible and based upon the suspect's actions and danger to others, a negotiated surrender of the suspect and release of the hostages.
- (e) When an emergency situation exists, and it is essential to neutralize an active shooter threat, responding officers should make all reasonable efforts to neutralize the threat as rapidly as reasonably possible to minimize injury and loss of life in accordance with the training provided by the department.

#### **424.5 PLANNING**

The Field Services Division Chief should coordinate critical incident planning. Planning efforts should consider:

- (a) Identification of likely critical incident target sites, such as schools, shopping centers, entertainment and sporting event venues.
- (b) Availability of building plans and venue schematics of likely critical incident target sites.

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- (c) Communications interoperability with other law enforcement and emergency service agencies.
- (d) Training opportunities in critical incident target sites, including joint training with site occupants.
- (e) Evacuation routes in critical incident target sites.
- (f) Patrol first-response training.
- (g) Response coordination and resources of emergency medical and fire services.
- (h) Equipment needs.
- (i) Mutual aid agreements with other agencies.
- (j) Coordination with private security providers in critical incident target sites.

#### **424.6 TRAINING**

The Police Training Specialist should include rapid response to critical incidents in the training plan. This training should address:

- (a) Orientation to likely critical incident target sites, such as schools, shopping centers, entertainment and sporting event venues.
- (b) Communications interoperability with other law enforcement and emergency service agencies.
- (c) Patrol first-response training, including patrol rifle, shotgun, breaching tool and control device training.
  - (a) This should include the POST terrorism incident training required for officers assigned to field duties (Penal Code § 13519.12).
- (d) First aid, including gunshot trauma.
- (e) Reality-based scenario training (e.g., active shooter, disgruntled violent worker).
- (f) Command post operation training for sergeants and lieutenants.
- (g) Annual active shooter training, including simulation exercises conducted in schools and other facilities and partnering first response agencies, where appropriate.



## Homeless Persons

### 426.1 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 Indio Police Department recognizes that members of the homeless community are often in need of special protection and services. The Indio 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.

#### 426.1.1 POLICY

It is the policy of the Indio 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.

### 426.2 HOMELESS COMMUNITY LIAISON

The Quality of Life Sergeant will serve as the Department's Homeless Community Liaison. The responsibilities of the Quality of Life Sergeant 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) Remain abreast of laws dealing with the removal and/or destruction of the personal property of the homeless. This will include:
  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 the Property and Evidence Policy and other established procedures.
- (d) 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.
- (e) Develop training to assist officers in understanding current legal and social issues relating to the homeless.

### 426.3 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 continuation of the offense or a

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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.

#### 426.3.1 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) Martin v. Boise prohibits ticketing or arresting homeless people for simply sleeping or camping on public property if "no shelter beds available as an alternative".
- (b) Document alternate contact information. This may include obtaining addresses and phone numbers of relatives and friends.
- (c) Document places the homeless person may frequent.
- (d) Provide homeless victims with victim/witness resources when appropriate.
- (e) Obtain statements from all available witnesses in the event that a homeless victim is unavailable for a court appearance.
- (f) Consider whether the person may be a Senior or Disabled, and if so, proceed in accordance with the Senior and Disability Victimization Policy.
- (g) Arrange for transportation for investigation-related matters, such as medical exams and court appearances.
- (h) Consider whether a crime should be reported and submitted for prosecution, even when a homeless victim indicates that he/she does not desire prosecution.

#### 426.3.2 PATROL OFFICER RESPONSIBILITY

- (a) Officers dispatched to reports of a homeless encampment on public property will respond and assess the situation. The officer will determine if the property or location is posted for no trespassing. In addition, he/she will determine at what locations and distances these signs or notices are posted.
- (b) Discuss the person's presence on the property, including whether they have permission by the proprietor and how long they intend to stay. If the person does not have permission to be on the property, advise reference trespassing.
- (c) If applicable, warn the subjects that they are committing a trespass offense and they must depart. The homeless person will be given a verbal 72-hour notice of trespass prior to arrest and removal of personal property from a homeless encampment, provided the homeless person properly identifies himself, is not violating any other laws, and exigent circumstances do not exist (Martin v. Boise).
- (d) Refer the call for service to the Quality of Life Team for potential follow up.

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#### **426.3.3 QUALITY OF LIFE OFFICERS RESPONSIBILITIES**

- (a) Quality of Life Officers dispatched to reports of homeless encampments on public property will respond and assess the situation. The officer will determine if the property or location is posted for no trespassing. In addition, he/she will determine at what locations and distances these signs or notices are posted.
- (b) Following the reasonable notice period, respond to the affected location. Persons found there and who have been previously warned will be given a final opportunity to leave voluntarily. If they refuse or fail to leave, issue a citation to the violator for Illegal Lodging [Penal Code 647(e) PC].
- (c) Officers should consider physical arrest for Illegal Lodging [Penal Code 647(e) PC] where the person has either been repeatedly cited within a short period of time (30 days) or where an individual refuses to leave the area in question after being cited by an officer and offered the individual alternatives to shelter (Martin v. Boise). [See attachment: Homeless Persons Resources and Services -Riverside County Database and Referral.pdf](#)
- (d) Document all actions taken during the contact.
- (e) Provide the homeless person assistance and referral to local social service agencies, shelters, and private groups that may be able to offer immediate assistance if willing to accept such services.
- (f) If a clean up of the encampment area (i.e., cleanup of the camp by Code Enforcement or city crews) is planned, in addition to providing Notice Letters to each homeless person, Notice Letters indicating the date and time of the cleanup will be posted at regular intervals in the area, including entrances and exits to the area.
- (g) If new encampments, tents, or other property have been placed in the area since the original warnings and notices were issued, the new encampments and any property in them will not be removed until the actions (including the 72-hour period) outlined in this policy have been completed.
- (h) Officers will document such encampment clean up in a report to record the condition of the site(s), names of those served with "Notice of Trespass and Cleanup", location(s) of where the "Notice of Trespass and Cleanup" were posted, photographs that were taken, where notices were delivered, and any other referral or actions that took place. Attach copies of the photographs taken at the encampment to FileOnQ.

#### **426.3.4 RESPONSIBILITIES OF OFFICERS ASSIGNED TO ENCAMPMENT CLEAN-UP**

- (a) Following the reasonable notice period, respond to the affected location.
- (b) Persons found there and who have been previously warned will be given a final opportunity to leave voluntarily. Prior to arrest or cite, Officer(s) shall contact a local shelter, such as Coachella Valley Rescue Mission or Martha's Village, and inquire about available space for the individuals. If space is available, and individuals are receptive to this housing option, officer(s) will transport the individual to the shelter to comply with Martin v. Boise which prohibits cities from ticketing or arresting homeless people for sleeping or camping on public property if there are "no shelter beds available

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as an alternative". If they refuse outreach assistance or fail to leave, issue a citation to the violator for Illegal Lodging Penal Code 647(e) PC.

- (c) Document all actions taken during clean up with your BWC, photos and police report if applicable.

#### **426.4 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. Requests by the public for clean-up of a homeless encampment should be referred to the Quality of Life Sergeant due to notification requirements.

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 Quality of Life Sergeant if such property appears to involve a trespass, blight to the community or is the subject of a complaint. It will be the responsibility of the Quality of Life Sergeant to address the matter in a timely fashion.

#### **426.4.1 HANDLING AND DISPOSITION OF PROPERTY AT A HOMELESS ENCAMPMENT**

- (a) If the person chooses to depart voluntarily rather than face arrest, they shall be encouraged to take all their personal property and possessions with them. Reasonable efforts shall be made to assist them if deemed necessary.
- (b) Property located at the encampment site after all persons have departed, either voluntarily or by arrest, shall be assessed:
- (c) Items that are spoiled or mildewed shall be considered trash. Some of these items include but are not limited to food and beverages and hygiene goods as both can attract insects and vermin. Officers should photograph the spoiled or mildewed trash prior to making appropriate arrangements to have the area cleaned-up.
- (d) Any personal items left behind by the dwellers that do not fit the criteria above, including, but not limited to, items such as tents, clothing, sleeping bags, blankets, photographs, personal papers, and keepsakes shall be considered abandoned and removal and / or disposal will be the responsibility of the property owner. If the personal

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items are found on property owned by the City of Indio, such as a city park or city building, the personal items shall be handled, processed, and booked into Property in accordance with department policy. Photograph the encampment, tents, and items found. If safekeeping, use number boards for each tent. Identify which items came from which tent. If the owners of the items are present when the items are collected for safekeeping, attempt to obtain a contact address or telephone number, which evidence personnel may use to contact the owner on a future date.

- (e) Document the property located and its disposition in a documentation report.

#### **426.5 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 the Crisis Intervention Incidents Policy).

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.

#### **426.6 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.

# Immigration Violations

## 428.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Indio Police Department relating to immigration and interacting with federal immigration officials.

### 428.1.1 DEFINITIONS

The following definitions apply to this policy (Government Code § 7284.4):

**Criminal immigration violation** - Any federal criminal immigration violation that penalizes a person's presence in, entry, or reentry to, or employment in, the United States. This does not include any offense where a judicial warrant already has been issued.

**Immigration enforcement** - Any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, including any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry or reentry to, or employment in the United States.

**Judicial warrant** - An arrest warrant for a violation of federal criminal immigration law and issued by a federal judge or a federal magistrate judge.

## 428.2 POLICY

It is the policy of the Indio Police Department that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this department in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

## 428.3 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/or deportation. Indio Police Department members are not to question victims, witnesses or reporting parties as to their immigration status. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and without regard to race, ethnicity or national origin in any way that would violate the United States or California constitutions.

## 428.4 IMMIGRATION INQUIRIES PROHIBITED

Officers shall not inquire into an individual's immigration status for immigration enforcement purposes (Government Code § 7284.6).

### 428.4.1 CALIFORNIA LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM (CLETS)

Members shall not use information transmitted through CLETS for immigration enforcement purposes except for criminal history information and only when consistent with the California Values Act (Government Code § 15160).

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Members shall not use the system to investigate immigration violations of 8 USC § 1325 (improper entry) if that violation is the only criminal history in an individual's record (Government Code § 15160).

#### 428.4.2 CALIFORNIA DEPARTMENT OF MOTOR VEHICLES

Members shall not obtain, access, use, or otherwise disclose noncriminal history information maintained by the DMV for immigration enforcement (Vehicle Code § 1808.48).

#### **428.5 DETENTIONS AND ARRESTS**

An officer shall not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant (Government Code § 7284.6).

An officer who has a reasonable suspicion that an individual already lawfully contacted or detained has committed a criminal violation of 8 USC § 1326(a) (unlawful reentry) that may be subject to an enhancement due to a previous conviction of an aggravated felony under USC § 1326(b)(2), may detain the person for a reasonable period of time to contact federal immigration officials to verify whether the United States Attorney General has granted the individual permission for reentry and whether the violation is subject to enhancement (Government Code § 7284.6). No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved.

If the officer has facts that establish probable cause to believe that a person already lawfully detained has violated 8 USC § 1326(a) and the penalty may be subject to enhancement due to prior conviction for specified aggravated felonies, he/she may arrest the individual for that offense (Government Code § 7284.6).

An officer shall not detain any individual, for any length of time, for any other criminal immigration violation of federal immigration laws (Government Code § 7284.6).

An officer should notify a supervisor as soon as practicable whenever an individual is arrested for violation of 8 USC § 1326(a).

#### 428.5.1 SUPERVISOR RESPONSIBILITIES

When notified that an officer has arrested an individual for violation of 8 USC § 1326(a) or under the authority of a judicial warrant, the supervisor should determine whether it is appropriate to:

- (a) Transfer the person to federal authorities.
- (b) Transfer the person to jail.

#### **428.6 FEDERAL REQUESTS FOR ASSISTANCE**

Absent an urgent issue of officer safety or other emergency circumstances, requests by federal immigration officials for assistance from this department should be directed to a supervisor. The supervisor is responsible for determining whether the requested assistance would be permitted under the California Values Act (Government Code § 7284.2 et seq.).

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#### **428.7 INFORMATION SHARING**

No member of this department will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373; Government Code § 7284.6):

- (a) Sending information to, or requesting or receiving such information from federal immigration officials
- (b) Maintaining such information in department records
- (c) Exchanging such information with any other federal, state, or local government entity

Nothing in this policy restricts sharing information that is permissible under the California Values Act.

#### **428.7.1 IMMIGRATION DETAINERS**

No individual should be held based solely on a federal immigration detainer under 8 CFR 287.7 (Government Code § 7284.6).

Notification to a federal authority may be made prior to release of an individual who is the subject of a notification request only if the individual meets one of the following conditions (Government Code § 7282.5; Government Code § 7284.6):

- (a) The individual has been arrested and had a judicial probable cause determination for a serious or violent felony identified in Penal Code § 667.5(c) or Penal Code § 1192.7(c).
- (b) The individual has been arrested and had a judicial probable cause determination for a felony punishable by time in a state prison.
- (c) The individual has been convicted of an offense as identified in Government Code § 7282.5(a).
- (d) The individual is a current registrant on the California Sex and Arson Registry.
- (e) The individual is identified by the U.S. Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

#### **428.7.2 NOTICE TO INDIVIDUALS**

Individuals in custody shall be given a copy of documentation received from U.S. Immigration and Customs Enforcement (ICE) regarding a hold, notification, or transfer request along with information as to whether the Indio Police Department intends to comply with the request (Government Code § 7283.1).

If the Indio Police Department provides ICE with notification that an individual is being, or will be, released on a certain date, the same notification shall be provided in writing to the individual and to his/her attorney or to one additional person who the individual may designate (Government Code § 7283.1).



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#### 428.7.3 ICE INTERVIEWS

Before any interview regarding civil immigration violations takes place between ICE personnel and an individual in custody, the Indio Police Department shall provide the individual with a written consent form that explains the purpose of the interview, that the interview is voluntary, and that he/she may decline to be interviewed or may choose to be interviewed only with his/her attorney present. The consent form must be available in the languages specified in Government Code § 7283.1.

#### 428.7.4 TRANSFERS TO IMMIGRATION AUTHORITIES

Members shall not transfer an individual to immigration authorities unless one of the following circumstances exist (Government Code § 7282.5; Government Code § 7284.6):

- (a) Transfer is authorized by a judicial warrant or judicial probable cause determination.
- (b) The individual has been convicted of an offense as identified in Government Code § 7282.5(a).
- (c) The individual is a current registrant on the California Sex and Arson Registry.
- (d) The individual is identified by the U.S. Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

#### 428.7.5 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Major Crimes Unit or Street Crimes Unit supervisor shall ensure that data regarding the number of transfers of an individual to immigration authorities, as permitted by Government Code § 7284.6(a)(4), and the offense that allowed for the transfer is collected and provided to the Records Supervisor for required reporting to the DOJ (Government Code § 7284.6(c)(2)(see the Records Bureau Policy).

#### **428.8 U VISA AND T VISA NONIMMIGRANT STATUS**

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)).

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Major Crimes Unit or Street Crimes Unit supervisor assigned to oversee the handling of any related case. The Major Crimes Unit or Street Crimes Unit supervisor should:

- (a) Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted.
- (b) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted.
- (c) Address the request and complete the certification or declaration, if appropriate, in a timely manner.

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1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.
  2. Form I-918 Supplement B certification shall be completed if the victim qualifies under Penal Code § 679.10 (multiple serious offenses). The certification shall be completed and not refused for the specified reasons in Penal Code § 679.10(k) (3).
  3. Form I-914 Supplement B declaration shall be completed if the victim qualifies under Penal Code § 236.5 or Penal Code § 679.11 (human trafficking). The declaration shall be completed and not refused for completion for the specified reasons in Penal Code § 679.11(j)(3).
  4. Forward the completed Form I-918 Supplement B certification or completed Form I-914 declaration B to the victim, family member, or authorized representative (as defined in Penal Code § 679.10 and Penal Code § 679.11) without requiring the victim to provide government-issued identification (Penal Code § 679.10; Penal Code § 679.11)
- (d) Ensure that any decision to complete, or not complete, a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file.
1. If Form I-918 Supplement B is not certified, a written explanation of denial shall be provided to the victim or authorized representative. The written denial shall include specific details of any reasonable requests for cooperation and a detailed description of how the victim refused to cooperate (Penal Code § 679.10).
- (e) Inform the victim liaison of any requests and their status.

#### 428.8.1 TIME FRAMES FOR COMPLETION

Officers and their supervisors who are assigned to investigate a case of human trafficking as defined by Penal Code § 236.1 shall complete the above process and the documents needed for indicating the individual is a victim for the T visa application within 15 business days of the first encounter with the victim, regardless of whether it is requested by the victim (Penal Code § 236.5).

Officers and their supervisors shall complete the above process and the documents needed certifying victim cooperation for a U visa or T visa application pursuant to Penal Code § 679.10 and Penal Code § 679.11 within 30 days of a request from the victim, victim's family, or authorized representative (as defined in Penal Code § 679.10 and Penal Code § 679.11) related to one of their assigned cases. If the victim is in removal proceedings, the certification shall be processed within seven days of the first business day following the day the request was received.

#### 428.8.2 REPORTING TO LEGISLATURE

The Major Crimes Unit or Street Crimes Unit supervisor or the authorized designee should ensure that certification requests are reported to the Legislature in January of each year and include the number of certifications signed and the number denied. The report shall comply with Government Code § 9795 (Penal Code § 679.10; Penal Code § 679.11).

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#### 428.8.3 POLICE REPORTS

Upon request, an officer or supervisor should provide a victim or authorized representative with a copy of the report filed by the victim within seven days of the request (Penal Code § 679.10).

#### **428.9 TRAINING**

The Training Coordinator should ensure that all appropriate members receive training on immigration issues.

Training should include:

- (a) Identifying civil versus criminal immigration violations.
- (b) Factors that may be considered in determining whether a criminal immigration violation has been committed.
- (c) Prohibitions contained in the California Values Act (Government Code § 7284 et seq.).

## Emergency Utility Service

### 430.1 PURPOSE AND SCOPE

The 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

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 Imperial Irrigation District or Public Works shall 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 Public Works department maintains 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 shall advise the Communications Center of the location and problem with the signal. The dispatcher should make the necessary notification to the proper maintenance agency.

## Aircraft Accidents

### 434.1 PURPOSE AND SCOPE

The purpose of this policy is to provide department members with guidelines for handling aircraft accidents.

This policy does not supersede, and is supplementary to, applicable portions of the Crime and Disaster Scene Integrity, Emergency Management Plan and Hazardous Material Response policies.

#### 434.1.1 DEFINITIONS

Definitions related to this policy include:

**Aircraft** - Any fixed wing aircraft, rotorcraft, balloon, blimp/dirigible or glider that is capable of carrying a person or any unmanned aerial vehicle other than those intended for non-commercial recreational use.

### 434.2 POLICY

It is the policy of the Indio Police Department to provide an appropriate emergency response to aircraft accidents. This includes emergency medical care and scene management.

### 434.3 ARRIVAL AT SCENE

Officers or other authorized members tasked with initial scene management should establish an inner and outer perimeter to:

- (a) Protect persons and property.
- (b) Prevent any disturbance or further damage to the wreckage or debris, except to preserve life or rescue the injured.
- (c) Preserve ground scars and marks made by the aircraft.
- (d) Manage the admission and access of public safety and medical personnel to the extent necessary to preserve life or to stabilize hazardous materials.
- (e) Maintain a record of persons who enter the accident site.
- (f) Consider implementation of an Incident Command System (ICS).

### 434.4 INJURIES AND CASUALTIES

Members should address emergency medical issues and provide care as a first priority.

Those tasked with the supervision of the scene should coordinate with the National Transportation Safety Board (NTSB) before the removal of bodies. If that is not possible, the scene supervisor should ensure documentation of what was disturbed, including switch/control positions and instrument/gauge readings.

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#### **434.5 NOTIFICATIONS**

When an aircraft accident is reported to this department, the responding supervisor shall ensure notification is or has been made to NTSB, the Federal Aviation Administration (FAA), and when applicable, the appropriate branch of the military.

Supervisors shall ensure other notifications are made once an aircraft accident has been reported. The notifications will vary depending on the type of accident, extent of injuries or damage, and the type of aircraft involved. When an aircraft accident has occurred, it is generally necessary to notify the following:

- (a) Fire department
- (b) Appropriate airport tower
- (c) Emergency medical services (EMS)

#### **434.6 CONTROLLING ACCESS AND SCENE AUTHORITY**

Prior to NTSB arrival, scene access should be limited to authorized personnel from the:

- (a) FAA.
- (b) Fire department, EMS or other assisting law enforcement agencies.
- (c) Coroner.
- (d) Air Carrier/Operators investigative teams with NTSB approval.
- (e) Appropriate branch of the military, when applicable.
- (f) Other emergency services agencies (e.g., hazardous materials teams, biohazard decontamination teams, fuel recovery specialists, explosive ordnance disposal specialists).

The NTSB has primary responsibility for investigating accidents involving civil aircraft. In the case of a military aircraft accident, the appropriate branch of the military will have primary investigation responsibility.

After the NTSB or military representative arrives on-scene, the efforts of this department will shift to a support role for those agencies.

If NTSB or a military representative determines that an aircraft or accident does not qualify under its jurisdiction, the on-scene supervisor should ensure the accident is still appropriately investigated and documented.

#### **434.7 DANGEROUS MATERIALS**

Members should be aware of potentially dangerous materials that might be present. These may include, but are not limited to:

- (a) Fuel, chemicals, explosives, biological or radioactive materials and bombs or other ordnance.
- (b) Pressure vessels, compressed gas bottles, accumulators and tires.
- (c) Fluids, batteries, flares and igniters.

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- (d) Evacuation chutes, ballistic parachute systems and composite materials.

#### **434.8 DOCUMENTATION**

All aircraft accidents occurring within the City of Indio shall be documented. At a minimum the documentation should include the date, time and location of the incident; any witness statements, if taken; the names of IPD members deployed to assist; other City resources that were utilized; and cross reference information to other investigating agencies. Suspected criminal activity should be documented on the appropriate crime report.

##### **434.8.1 WRECKAGE**

When reasonably safe, members should:

- (a) Obtain the aircraft registration number (N number) and note the type of aircraft.
- (b) Attempt to ascertain the number of casualties.
- (c) Obtain photographs or video of the overall wreckage, including the cockpit and damage, starting at the initial point of impact, if possible, and any ground scars or marks made by the aircraft.
  - 1. Military aircraft may contain classified equipment and therefore shall not be photographed unless authorized by a military commanding officer (18 USC § 795).
- (d) Secure, if requested by the lead authority, any electronic data or video recorders from the aircraft that became dislodged or cell phones or other recording devices that are part of the wreckage.
- (e) Acquire copies of any recordings from security cameras that may have captured the incident.

##### **434.8.2 WITNESSES**

Members tasked with contacting witnesses should obtain:

- (a) The location of the witness at the time of his/her observation relative to the accident site.
- (b) A detailed description of what was observed or heard.
- (c) Any photographs or recordings of the accident witnesses may be willing to voluntarily surrender.
- (d) The names of all persons reporting the accident, even if not yet interviewed.
- (e) Any audio recordings of reports to 9-1-1 regarding the accident and dispatch records.

#### **434.9 MEDIA RELATIONS**

The Public Information Officer (PIO) should coordinate a response to the media, including access issues, road closures, detours and any safety information that is pertinent to the surrounding community. Any release of information regarding details of the accident itself should be coordinated with the NTSB or other authority who may have assumed responsibility for the investigation.

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### *Aircraft Accidents*

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Depending on the type of aircraft, the airline or the military may be responsible for family notifications and the release of victims' names. The PIO should coordinate with other involved entities before the release of information.



## 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 Indio 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. The Indio Police Department will operate a Field Training Program that will comply with all PEACE OFFICER STANDARDS and TRAINING (POST) mandated requirements. The Field Services Division will be responsible for the operations of the program. The purpose of the Field Training Program is to provide a structured transition from the basic academy or prior law enforcement experience to the field environment while working under the close supervision of a qualified Field Training Officer (FTO).

### 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

FTOs will be selected based on the following requirements:

- (a) Desire to be an FTO
- (b) Minimum of two years of patrol experience
- (c) Demonstrated ability as a positive role model
- (d) Participate and pass a selection process
- (e) Possess a POST Basic certificate
- (f) Must not have any sustained findings of excessive force to train others for the previous 3 years

#### 436.2.2 TRAINING

An officer selected as a Field Training Officer shall successfully complete a POST certified (40-hour) Field Training Officer's Course prior to being assigned as an FTO.

All FTOs must complete a 24-hour Field Training Officer update course every three years while assigned to the position of FTO (11 CCR 1004).

All FTOs must meet any training mandate regarding crisis intervention behavioral health training pursuant to Penal Code § 13515.28.

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## Indio PD Policy Manual

### *Field Training Officer Program*

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Every reassigned FTO, after a 3 year-or-longer break in service as an FTO, shall complete a POST-certified Field Training Officer Update course, prior to being assigned to train probationary officers.

#### **436.3 FIELD TRAINING OFFICER PROGRAM COORDINATOR**

The FTO Program Manager should be selected from the rank of Lieutenant by the Chief of Police or a designee and should possess, or be eligible to receive, a POST Supervisory Certificate.

The responsibilities of the FTO Program Manager include the following:

- (a) Assignment of field training Sergeant as coordinator
- (b) Conduct FTO training coordinator meetings
- (c) Ensure the FTO Sergeant maintains FTO/trainee performance evaluations completed by individual FTOs'.
- (d) Ensure the FTO Sergeant maintains, updates and issues the Field Training Manual to each trainee
- (e) Ensure the FTO Sergeant monitors 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) Ensure that FTO Sergeants and FTO's attend ongoing relevant training

The FTO Program Manager 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 Indio Police Department who has successfully completed a POST approved Basic Academy.

#### **436.4(a) TRAINEE / PROBATIONARY POLICE OFFICER RESPONSIBILITIES**

The future of the Indio Police Department is dependent upon the role of the trainee / probationary police officer. The responsibilities of the trainee / probationary officer include:

- Completing all required tests within the time frame specified in the training manual.
- Ensuring their training manual is completed within the first five months of field training.
- Listening carefully to the teachings and directions of their FTO.
- Asking for or seeking help in any area of performance in which they feel deficient, especially as the training progresses.

#### **436.5 REQUIRED TRAINING**

Entry level officers shall be required to successfully complete the Field Training Program, consisting of a minimum of 10 weeks (11 CCR 1004; 11 CCR 1005).

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### *Field Training Officer Program*

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The training period for a lateral officer may be modified depending on the trainee's demonstrated performance and level of experience. A lateral officer may be exempt from the Field Training Program requirement if the officer qualifies for an exemption as provided in 11 CCR 1005(a)(B).

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 Indio 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 Indio Police Department.

#### **436.6 EVALUATIONS**

Evaluations are an important component of the training process and shall be completed as outlined below.

##### 436.6.1 FIELD TRAINING OFFICER

The FTO will be responsible for the following:

- (a) Complete and submit a written evaluation on the performance of his/her assigned trainee to the FTO Coordinator on a daily basis.
- (b) Review the Daily Trainee Performance Evaluations with the trainee each day.
- (c) Complete a detailed end-of-phase performance evaluation on his/her assigned trainee at the end of each phase of training.
- (d) Sign off all completed topics contained in the Field Training Manual, noting the method(s) of learning and evaluating the performance of his/her assigned trainee.
- (e) The most crucial role in the Field Training Program is that of the FTO. FTOs are selected on the basis of a department selection process, with the approval of the Chief of Police. The responsibilities of the FTO include:
  - Ensuring each probationary officer completes the required testing and stays on schedule with the completion of their training manual.
  - Ensuring the probationary officer has all required safety equipment with them at all times.
  - Recommending to the Administrative FTO specialized or remedial training for probationary officers who are having difficulty succeeding in any performance dimension.
  - Serving as a role model for probationary officers by demonstrating what is expected of them as an Indio Police Officer.

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### *Field Training Officer Program*

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#### 436.6.2 FIELD TRAINING COORDINATOR

The Field Training Coordinator shall review and approve the Daily Trainee Performance Evaluations. The day-to-day activities of the FTO program will be performed by the FTO coordinator. This position will be selected by the Program Manager, with the approval of the Chief of Police. The FTO coordinator will successfully complete a POST-certified Field Training Supervisor/Administrator/Coordinator Course prior to, or within 12 months of the initial appointment to such position.

Responsibilities of the FTO coordinator include but are not limited to:

- Working closely with the Personnel and Training Section to determine the FTO program training requirements.
- Assisting new hires in obtaining the necessary equipment to begin field work.
- Organizing and running the probationary orientation program. This program provides orientation for newly-hired officers, prior to being assigned field patrol work.
- Counseling probationary officers in need of assistance or advice.
- Coordinating special training for probationary officers who need improvement in specific areas of performance.
- Monitoring, coordinating, and ensuring the timely process of daily and phase evaluations for all probationary officers. This includes reviewing the evaluations for needed corrections and/or revisions.
- Coordinating special training for FTOs, including attendance at a POST approved Field Training Officer Course.
- Ensuring changes in law or policy are reflected in the FTO Manual.
- Acting as a liaison between the Field Sergeants and the Program.
- Addressing issues specifically related to the Field Training Program.
- Assisting with recruitment and retention of Field Training Officers.
- Assisting with the daily and monthly evaluation review.
- Acting as an on-duty, after-hours resource for the Field Training Officers with program issues.
- Coordinate FTO meetings

#### **436.6.2(a) FIELD SERGEANTS:**

Field Sergeants play a critical role in the FTO program. Their responsibilities include:

- Closely monitoring the performance of all probationary officers assigned to their shift who work as a solo unit.
- In the absence of an FTO, ensuring probationary officers are assigned to work in the field with officers who have attended the POST Field Training Officer Course. If no qualified officer is available, the probationary officer cannot be assigned field duty.

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### *Field Training Officer Program*

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- Documenting the field performance of the FTO assigned to the Field Sergeant's shift.

#### 436.6.3 FIELD TRAINING ADMINISTRATOR

The Field Training Administrator will review and approve the End of Phase Performance Evaluations submitted by the FTO through the Field Training Coordinator.

#### 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

## Obtaining Air Support

### 438.1 PURPOSE AND SCOPE

The use of air support can be invaluable in certain situations. This policy specifies potential situations where the use of air support may be requested and the responsibilities for making a request.

### 438.2 REQUEST FOR AIR SUPPORT

If a supervisor or officer in charge of an incident determines that the use of air support would be beneficial, a request to obtain air support assistance may be made.

- (a) After consideration and approval of the request for air support and fixed wing by the Watch Commander or their designee, the Communications Officer In Charge (OIC) will call a local agency having air support and fixed wing support available. The OIC will apprise that agency of the specific details of the incident prompting the request.

#### 438.2.1 CIRCUMSTANCES UNDER WHICH AID MAY BE REQUESTED

Air Support may be requested under any of the following conditions:

- (a) When the air support is activated under existing mutual aid agreements
- (b) Whenever the safety of law enforcement personnel is in jeopardy and the presence of air support may reduce such hazard
- (c) When the use of the air support will aid in the capture of a suspected fleeing felon whose continued freedom represents an ongoing threat to the community
- (d) When air support 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 air support will generally provide valuable assistance to ground personnel, the presence of air support will rarely replace the need for officers on the ground.

## Contacts and Temporary Detentions

### 440.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for temporarily detaining but not arresting persons in the field, conducting field interviews (FI) and pat-down searches, and the taking and disposition of photographs. An additional purpose of this policy is to provide guidance to Indio police officers when making contact with individuals in our community.

#### 440.1.1 DEFINITIONS

Definitions related to this policy include:

**Consensual encounter** - 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 purpose of determining the individual's identity and resolving the officer's suspicions.

**Field photographs** - Posed photographs taken of a person during a contact, temporary 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, body-worn camera, or public safety camera when persons are not posed for the purpose of photographing are not considered field photographs.

**Pat-down search** - A type of search used by officers in the field to check an individual for dangerous 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** - 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.

**Temporary detention** - When an officer intentionally, through words, actions, or physical force, causes an individual to reasonably believe he/she is required to restrict his/her movement without an actual arrest. Temporary detentions also occur when an officer actually restrains a person's freedom of movement.

**Probable Cause** - When articulable facts and circumstances within an officer's knowledge are sufficient to warrant a prudent person or one of reasonable caution to believe that the suspect has committed, is committing, or is about to commit an offense.

### 440.2 POLICY

The Indio Police Department respects the right of the public to be free from unreasonable searches or seizures. Due to an unlimited variety of situations confronting the officer, the decision to temporarily detain a person and complete a field interview (FI), pat-down search, or field

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photograph shall be left to the officer based on the totality of the circumstances, officer safety considerations, and constitutional safeguards. Keeping in mind that interactions with individuals form the cornerstone of effective law enforcement operations, all officers should follow the provisions of this policy to maximize the usefulness of police-public contacts to include consensual encounters, investigatory / temporary detentions, pat-downs, and arrests. It is the policy of the Indio Police Department that all community-police contacts made by department personnel shall be conducted professionally and in accordance with established legal principles.

#### **440.3 FIELD INTERVIEWS**

Based on observance of suspicious circumstances or upon information from investigation, an officer may initiate the stop of a person, and conduct an FI, when there is articulable, reasonable suspicion to do so. A person, however, shall not be detained longer than is reasonably necessary to resolve the officer's suspicion.

Nothing in this policy is intended to discourage consensual contacts. Frequent casual consensual contacts with consenting individuals is encouraged by the Indio Police Department to strengthen community involvement, community awareness, community based policing, problem solving and problem identification.

##### **440.3.1 INITIATING A FIELD INTERVIEW**

When initiating the stop, the officer should be able to point to specific articulable facts which, when considered with the totality of the circumstances, reasonably warrant the stop. Such facts include but are not limited to an individual's:

- (a) Appearance or demeanor suggesting that he/she is part of a criminal enterprise or is engaged in a criminal act
- (b) Actions suggesting that he/she is engaged in a criminal activity
- (c) Presence in an area at an inappropriate hour of the day or night
- (d) Presence in a particular area is suspicious
- (e) Carrying of suspicious objects or items
- (f) Excessive clothes for the climate or clothes bulging in a manner that suggest he/she is carrying a dangerous weapon
- (g) Location in proximate time and place to an alleged crime
- (h) Physical description or clothing worn that matches a suspect in a recent crime
- (i) Prior criminal record or involvement in criminal activity as known by the officer
- (j) Based on information and description relayed during a call for service
- (k) Prior & current knowledge of an individual, their parole / probation status in relation to a 4th amendment waiver as condition of his status



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#### **440.4 PAT-DOWN SEARCHES**

Once a valid stop has been made, and consistent with the officer's training and experience, an officer may pat a suspect's outer clothing for weapons if the officer has a reasonable, articulable suspicion the suspect may pose a safety risk. The purpose of this limited search is not to discover evidence of a crime, but to allow the officer to pursue the investigation without fear of violence (*Terry v. Ohio*). Circumstances that may establish justification for performing a pat-down search include but are not limited to:

- (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 weapons.
- (e) The actions and demeanor of the suspect.
- (f) Visual indications which suggest that the suspect is carrying a firearm or other weapon.

Whenever practicable, a pat-down search should not be conducted by a lone officer. A cover officer should be positioned to ensure safety and should not be involved in the search.

#### **440.5 FIELD PHOTOGRAPHS**

All available databases should be searched before photographing any field detainee. If a photograph is not located, or if an existing photograph no longer resembles the 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 being photographed 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. 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. The subject should not be ordered to remove or lift any clothing for the purpose of taking a photograph.

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. All lawfully obtained photographs shall be downloaded in FileonQ.

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#### 440.5.3 DISPOSITION OF PHOTOGRAPHS

All detainee photographs must be adequately labeled and submitted to the Watch Commander with either an associated FI card or other documentation 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.

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 photograph and associated FI or documentation is relevant to criminal organization/enterprise enforcement, the Watch Commander will forward the photograph and documents to the designated criminal intelligence system supervisor. The supervisor will ensure the photograph and supporting documents are retained as prescribed in the Criminal Organizations Policy.
- (b) Photographs that do not qualify for retention in a criminal intelligence system or temporary information file shall be forwarded to the Records Bureau.

When a photograph is taken in association with a particular case, the investigator 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 shall be retained in accordance with the established records retention schedule.

#### 440.5.4 SUPERVISOR RESPONSIBILITIES

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 is taken.

Access to, and use of, field photographs shall be strictly limited to law enforcement purposes.

#### **440.6 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 investigator to utilize available members for the following:

- (a) Identifying all persons present at the scene and in the immediate area.
  - 1. When feasible, a body worn camera recorded statement should be obtained from those 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 an audio / video recorded

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statement. Such witnesses, if willing, may be transported by Indio Police Department members.

1. A written, verbal, or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transport.

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# Criminal Organizations

## 442.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that the Indio Police Department appropriately utilizes criminal intelligence systems and temporary information files to support investigations of criminal organizations and enterprises.

### 442.1.1 DEFINITIONS

Definitions related to this policy include:

**Criminal intelligence system** - Any record system that receives, stores, exchanges or disseminates information that has been evaluated and determined to be relevant to the identification of a criminal organization or enterprise, its members or affiliates. This does not include temporary information files.

**Criminal Intelligence** - Information compiled, analyzed and/or disseminated in an effort to anticipate, prevent, or monitor criminal activity.

**Strategic Intelligence** - Information concerning existing patterns or emerging trends of criminal activity designed to assist in criminal apprehension and crime control strategies, for both short- and long-term investigative goals.

**Tactical Intelligence** - Information regarding a specific criminal event that can be used immediately by operational units to further a criminal investigation, plan tactical operations and provide for officer safety.

**Threshold for criminal intelligence** - The threshold for collecting information and producing criminal intelligence shall be the “reasonable suspicion” standard in 28 CFR, Part 23, Section 23.3 c.

## 442.2 POLICY

The Indio Police Department recognizes that certain criminal activities, including but not limited to gang crimes and drug trafficking, often involve some degree of regular coordination and may involve a large number of participants over a broad geographical area.

Information gathering is a fundamental and essential element in the all-encompassing duties of any law enforcement agency. When acquired, information is used to prevent crime, pursue and apprehend offenders, and obtain evidence necessary for conviction. It is the policy of this agency to gather information directed toward specific individuals or organizations where there is reasonable suspicion (as defined in 28 CFR, Part 23, Section 23.3 c) that indicates individuals or organizations may be planning or engaging in criminal activity, to gather it with due respect for the rights of those involved, and to disseminate it only to authorized individuals as defined. While criminal intelligence may be assigned to specific personnel within the agency, all members of this agency are responsible for reporting information that may help identify criminal conspirators and perpetrators. It is the policy of this department to collect and share relevant information while

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respecting the privacy and legal rights of the public. It is the purpose of this policy to provide law enforcement officers in general, and officers assigned to an intelligence function in particular, with guidelines and principles for the collection, analysis, and distribution of intelligence information.

#### **442.3 CRIMINAL INTELLIGENCE SYSTEMS**

No department member may create, submit to or obtain information from a criminal intelligence system unless the Chief of Police has approved the system for department use.

Any criminal intelligence system approved for department use should meet or exceed the standards of 28 CFR 23.20.

A designated supervisor will be responsible for maintaining each criminal intelligence system that has been approved for department use. The supervisor or the authorized designee should ensure the following:

- (a) Members using any such system are appropriately selected and trained.
- (b) Use of every criminal intelligence system is appropriately reviewed and audited.
- (c) Any system security issues are reasonably addressed.

##### **442.3.1 SYSTEM ENTRIES**

It is the designated supervisor's responsibility to approve the entry of any information from a report, field interview (FI), photo or other relevant document into an authorized criminal intelligence system. If entries are made based upon information that is not on file with this department, such as open or public source documents or documents that are on file at another agency, the designated supervisor should ensure copies of those documents are retained by the Records Bureau. Any supporting documentation for an entry shall be retained by the Records Bureau in accordance with the established records retention schedule and for at least as long as the entry is maintained in the system.

The designated supervisor should ensure that any documents retained by the Records Bureau are appropriately marked as intelligence information. The Records Supervisor may not purge such documents without the approval of the designated supervisor.

##### **442.3.2 GANG DATABASES**

The Chief of Police may approve participation by the gang unit in a shared criminal gang intelligence database, such as CALGANG® or LA CLEAR. Members must obtain the requisite training and authorized access 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 the database. Prior to designating any person as a suspected gang member, associate or affiliate in a shared gang database; or submitting a document to the Attorney General's office for the purpose of designating a person in a shared gang database; or otherwise identifying the person in a shared gang database, the gang unit supervisor shall provide written notice to the person and, if the person is under the age of 18, to his/her parent or guardian of the designation and the basis for the designation, unless providing that notification

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would compromise an active criminal investigation or compromise the health or safety of a minor. Notice shall also describe the process to contest the designation (Penal Code § 186.34).

The person, an attorney working on his/her behalf or his/her parent or guardian (if the person is under 18 years of age) may request, in writing, information as to whether the person is designated as a suspected gang member, associate or affiliate in a shared gang database accessible by the department, the basis for that designation and the name of the agency that made the designation. The department shall respond to a valid request in writing within 30 days, and shall provide the information requested unless doing so would compromise an active investigation or compromise the health and safety of the person if he/she is under 18 years of age (Penal Code § 186.34).

The person, or his/her parent or guardian if the person is under 18 years of age, may contest the designation by submitting written documentation which shall be reviewed by the gang unit supervisor. If it is determined that the person is not a suspected gang member, associate or affiliate, the person shall be removed from the database. The person and the parent or guardian shall be provided written verification of the department's decision within 30 days of receipt of the written documentation contesting the designation and shall include the reason for a denial when applicable (Penal Code § 186.34).

The gang unit supervisor should forward reports or FIs to the Records Bureau after appropriate database entries are made. The supervisor should clearly mark the report/FI as gang intelligence information.

It is the responsibility of the Records Bureau supervisor to retain reports and FIs in compliance with the database rules and any applicable end user agreement.

Records contained in a shared gang database shall not be disclosed for employment or military screening purposes, and shall not be disclosed for the purpose of enforcing federal immigration law unless required by state or federal statute or regulation (Penal Code § 186.36).

#### **442.4 TEMPORARY INFORMATION FILE**

No member may create or keep personal files on individuals that are separate from the approved criminal intelligence system. However, members may maintain temporary information that is necessary to actively investigate whether a person or group qualifies for entry into the department-approved criminal intelligence system only as provided in this section. Once information qualifies for inclusion, it should be submitted to the supervisor responsible for consideration of criminal intelligence system entries.

##### **442.4.1 FILE CONTENTS**

A temporary information file may only contain information and documents that, within one year, will have a reasonable likelihood to meet the criteria for entry into an authorized criminal intelligence system.

Information and documents contained in a temporary information file:

- (a) Must only be included upon documented authorization of the responsible department supervisor.

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- (b) Should not be originals that would ordinarily be retained by the Records Bureau or Property and Evidence Section, but should be copies of, or references to, retained documents such as copies of reports, FI forms, the Dispatch Center records or booking forms.
- (c) Shall not include opinions. No person, organization or enterprise shall be labeled as being involved in crime beyond what is already in the document or information.
- (d) May include information collected from publicly available sources or references to documents on file with another government agency. Attribution identifying the source should be retained with the information.

#### **442.4.2 FILE REVIEW AND PURGING**

The contents of a temporary information file shall not be retained longer than one year. At the end of one year, the contents must be purged.

The designated supervisor shall periodically review the temporary information files to verify that the contents meet the criteria for retention. Validation and purging of files is the responsibility of the supervisor.

#### **442.5 INFORMATION RECOGNITION**

Department members should document facts that suggest an individual, organization or enterprise is involved in criminal activity and should forward that information appropriately. Examples include, but are not limited to:

- (a) Gang indicia associated with a person or residence.
- (b) Information related to a drug-trafficking operation.
- (c) Vandalism indicating an animus for a particular group.
- (d) Information related to an illegal gambling operation.
- (e) Information related to human trafficking.

Department supervisors who utilize an authorized criminal intelligence system should work with the police training specialist to train members to identify information that may be particularly relevant for inclusion.

#### **442.6 RELEASE OF INFORMATION**

Department members shall comply with the rules of an authorized criminal intelligence system regarding inquiries and release of information.

Information from a temporary information file may only be furnished to department members and other law enforcement agencies on a need-to-know basis and consistent with the Records Maintenance and Release Policy.

When an inquiry is made by the parent or guardian of a juvenile as to whether that juvenile's name is in a temporary information file, such information should be provided by the supervisor responsible for the temporary information file, unless there is good cause to believe that the release of such information might jeopardize an ongoing criminal investigation.

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#### **442.7 CRIMINAL STREET GANGS**

The Investigative Services (SCU) Sergeant should ensure that there are an appropriate number of department members who can:

- (a) Testify as experts on matters related to criminal street gangs, and maintain an above average familiarity with:
  - 1. Any organization, associate or group of three or more persons that meets the definition of a criminal street gang under Penal Code § 186.22(f).
  - 2. Identification of a person as a criminal street gang member and criminal street gang-related crimes.
  - 3. The California Street Terrorism Enforcement and Prevention Act (Penal Code § 186.21 et seq.), associated crimes and what defines a criminal street gang (Penal Code § 186.22).
- (b) Coordinate with other agencies in the region regarding criminal street gang-related crimes and information.
- (c) Train other members to identify gang indicia and investigate criminal street gang-related crimes.

#### **442.8 TRAINING**

The training cadre or Police Training Specialist should provide training on best practices in the use of each authorized criminal intelligence system to those tasked with investigating criminal organizations and enterprises. Training should include:

- (a) The protection of civil liberties.
- (b) Participation in a multiagency criminal intelligence system.
- (c) Submission of information into a multiagency criminal intelligence system or the receipt of information from such a system, including any governing federal and state rules and statutes.
- (d) The type of information appropriate for entry into a criminal intelligence system or temporary information file.
- (e) The review and purging of temporary information files.
- (f) Pertinent case law updates.

##### **442.8.1 SHARED GANG DATABASE TRAINING**

The Police Training Specialist should ensure that members who are authorized users of a shared gang database receive the required training from the California Department of Justice (DOJ) or an instructor certified by the DOJ that includes comprehensive and standardized training on the use of shared gang databases, and any other associated training required by the Department (Penal Code § 186.36; 11 CCR 751.6).



## 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.

### **444.2 DESIGNATION AS ACTING WATCH COMMANDER**

Under normal circumstances, a Sergeant or Lieutenant will serve as the Watch Commander. When a Sergeant is unavailable for duty as Watch Commander, a qualified designee will serve as an acting Watch Commander.

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## Mobile Data Computer Use

### 448.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper access, use and application of the Mobile Data Computer (MDC) system in order to ensure appropriate access to confidential records from local, state and national law enforcement databases, and to ensure effective electronic communications between department members and the Dispatch Center.

### 448.2 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to messages accessed, transmitted, received or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

### 448.3 POLICY

Indio Police Department members using the MDC shall comply with all appropriate federal and state rules and regulations and shall use the MDC in a professional manner, in accordance with this policy.

### 448.4 RESTRICTED ACCESS AND USE

MDC use is subject to the Information Technology Use and Protected Information policies.

Members shall not access the MDC system if they have not received prior authorization and the required training. Members shall immediately report unauthorized access or use of the MDC by another member to their supervisors or Watch Commanders.

Use of the MDC system to access law enforcement databases or transmit messages is restricted to official activities, business-related tasks and communications that are directly related to the business, administration or practices of the Department. In the event that a member has questions about sending a particular message or accessing a particular database, the member should seek prior approval from his/her supervisor.

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

It is a violation of this policy to transmit a message or access a law enforcement database under another member's name or to use the password of another member to log in to the MDC system unless directed to do so by a supervisor. Members are required to log off the MDC or secure the MDC when it is unattended. This added security measure will minimize the potential for unauthorized access or misuse.

#### 448.4.1 USE WHILE DRIVING

Use of the MDC by the vehicle operator should be limited to times when the vehicle is stopped. Information that is required for immediate enforcement, investigative, tactical or safety needs should be transmitted over the radio.

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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.

#### **448.5 DOCUMENTATION OF ACTIVITY**

Except as otherwise directed by the Watch Commander or other department-established protocol, all calls for service assigned by a dispatcher should be communicated by voice over the police radio and electronically via the MDC unless security or confidentiality prevents such broadcasting.

MDC and voice transmissions are used to document the member's daily activity. To ensure accuracy:

- (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 should be documented by a dispatcher.
- (c) Whenever the activity or contact is not initiated by voice, the member shall document it via the MDC.

##### **448.5.1 STATUS CHANGES**

All changes in status (e.g., arrival at scene, meal periods, in service) will be transmitted over the police radio or through the MDC system when it appears safe to do so.

Members responding to in-progress calls should advise changes in status over the radio to assist other members responding to the same incident. Other changes in status can be made on the MDC when the vehicle is not in motion.

##### **448.5.2 EMERGENCY ACTIVATION**

If there is an emergency activation and the member does not respond to a request for confirmation of the need for emergency assistance or confirms the need, available resources will be sent to assist in locating the member. If the location is known, the nearest available officer should respond in accordance with the Officer Response to Calls Policy.

Members should ensure a field supervisor and the Watch Commander are notified of the incident without delay.

Officers not responding to the emergency shall refrain from transmitting on the police radio until a no-further-assistance broadcast is made or if they are also handling an emergency.

#### **448.6 EQUIPMENT CONSIDERATIONS**

##### **448.6.1 MALFUNCTIONING MDC**

Whenever possible, members will not use vehicles with malfunctioning MDCs. Whenever members must drive a vehicle in which the MDC is not working, they shall notify the Dispatch Center. It shall be the responsibility of the dispatcher to document all information that will then be transmitted verbally over the police radio.

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#### 448.6.2 BOMB CALLS

When investigating reports of possible bombs, members should not communicate on their MDCs when in the evacuation area of a suspected explosive device. Radio frequency emitted by the MDC could cause some devices to detonate.

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## Portable Audio/Video Recorders

### 450.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this department while in the performance of their duties. Portable audio/video recording devices include all recording systems whether body-worn, hand held or integrated into portable equipment. It should be noted that the Indio Police Department Policy 451- Body Worn Camera Systems, specifically addresses Department issued body worn cameras.

This policy does not apply to lawful surreptitious audio/video recordings, interviews or interrogations conducted at any Indio Police Department Facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices), interception of communications for authorized investigative purposes or to mobile audio/video recordings (see the Investigation and Prosecution and Mobile Audio/Video policies).

### 450.2 POLICY

The Indio Police Department may provide members with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Indio Police Department by accurately capturing contacts between members of the Indio Police Department and the public.

### 450.3 MEMBER PRIVACY EXPECTATION

All recordings made by members on any department issued device at any time, and any recording made while acting in an official capacity for this department, regardless of ownership of the device it was made on, shall remain the property of the Indio Police Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

### 450.4 MEMBER RESPONSIBILITIES

Prior to going into service, each uniformed member will be responsible for making sure that he/ she is equipped with a portable recorder issued by the Indio Police Department, and that the recorder is in good working order. If the recorder is not in working order or the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed members should wear the recorder in a conspicuous manner or otherwise notify persons that they are being recorded, whenever reasonably practicable.

Any member assigned to a non-uniformed position may carry an approved portable recorder at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable.

When using a portable recorder, the assigned member shall record his/her name, Indio Police Department identification number and the current date and time at the beginning and the end of the

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shift or other period of use, regardless of whether any activity was recorded. This procedure is not required when the recording device and related software captures the user's unique identification and the date and time of each recording.

Members should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the member deactivated the recording. Members should include the reason for deactivation.

#### **450.4.1 SUPERVISOR RESPONSIBILITIES**

Supervisors should take custody of a portable audio/video recording device as soon as practicable when the device may have captured an incident involving the use of force, an officer-involved shooting or death or other serious incident, and ensure the data is downloaded (Penal Code § 832.18).

#### **450.5 ACTIVATION OF THE PORTABLE RECORDER**

This policy is not intended to describe every possible situation in which the portable recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The portable recorder should be activated in any of the following situations:

- (a) All enforcement and investigative contacts including stops and field interview (FI) situations
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops
- (c) Self-initiated activity in which a member would normally notify the Indio Police dispatch center
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording

Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable.

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#### 450.5.1 SURREPTITIOUS USE OF THE PORTABLE RECORDER

Members of the Indio Police Department may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation (Penal Code § 633).

Members of the Indio Police Department shall not surreptitiously record another member without a court order unless lawfully authorized by the Chief of Police or the authorized designee.

#### 450.5.2 CESSATION OF RECORDING

Once activated, the portable recorder should remain on continuously until the member reasonably believes that his/her direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

Members shall cease audio recording whenever necessary to ensure conversations are not recorded between a person in custody and the person's attorney, religious advisor or physician, unless there is explicit consent from all parties to the conversation (Penal Code § 636).

#### 450.5.3 EXPLOSIVE DEVICE

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

### **450.6 PROHIBITED USE OF PORTABLE RECORDERS**

Members are prohibited from using department-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with a department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate Police Department business purposes. All such recordings shall be retained at the Indio Police Department.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the on duty watch commander and or supervisor. Any member who uses a personally owned recording device for department-related activities shall comply with the provisions of this policy, including retention and release requirements, and should notify the on-duty supervisor of such use as soon as reasonably practicable.

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

#### 450.6.1 PROHIBITED USE OF BIOMETRIC SURVEILLANCE SYSTEM

The installation, activation, or use of biometric surveillance systems, including facial recognition, in connection with portable recorders is prohibited (Penal Code § 832.19).

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#### **450.7 IDENTIFICATION AND PRESERVATION OF RECORDINGS**

To assist with identifying and preserving data and recordings, members should download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report.

A member should transfer, tag or mark recordings when the member reasonably believes:

- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters.
- (b) A complainant, victim or witness has requested non-disclosure.
- (c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an undercover officer or confidential informant.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

#### **450.8 REVIEW OF RECORDED MEDIA FILES**

When preparing written reports, members should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance.

Recorded files may also be reviewed:

- (a) Upon approval by a supervisor, by any member of the Indio Police Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) By media personnel with permission of the Chief of Police or the authorized designee.
- (d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Custodian of Records prior to public release (see the Records Maintenance and Release Policy). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.



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#### **450.9 COORDINATOR**

The Chief of Police or the authorized designee shall appoint a member of the Indio Police Department to coordinate the use and maintenance of portable audio/video recording devices and the storage of recordings, including (Penal Code § 832.18):

- (a) Establishing a system for downloading, storing and security of recordings.
- (b) Designating persons responsible for downloading recorded data.
- (c) Establishing a maintenance system to ensure availability of operable portable audio/video recording devices.
- (d) Establishing a system for tagging and categorizing data according to the type of incident captured.
- (e) Establishing a system to prevent tampering, deleting and copying recordings and ensure chain of custody integrity.
- (f) Working with counsel to ensure an appropriate retention schedule is being applied to recordings and associated documentation.
- (g) Maintaining logs of access and deletions of recordings.

#### **450.10 RETENTION OF RECORDINGS**

Recordings of the following should be retained for a minimum of two years (Penal Code § 832.18):

- (a) Incidents involving use of force by an Indio Police Officer
- (b) Officer-involved shootings
- (c) Incidents that lead to the detention or arrest of an individual
- (d) Recordings relevant to a formal or informal complaint against Indio Police Officer or the Indio Police Department.

Recordings containing evidence that may be relevant to a criminal prosecution should be retained for any additional period required by law for other evidence relevant to a criminal prosecution (Penal Code § 832.18).

All other recordings should be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 180 days.

Records or logs of access and deletion of recordings should be retained permanently (Penal Code § 832.18).

##### **450.10.1 RELEASE OF AUDIO/VIDEO RECORDINGS**

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy.

## Body Worn Camera Systems

### 451.1 PURPOSE AND SCOPE

The Indio Police Department will provide Body Worn Cameras (BWC) to both uniformed and non-uniformed personnel for use while on-duty. These recorders are intended to assist personnel in the performance of their duties by providing an unbiased video/audio record of any citizen contact while in the performance of their duties. The use of personally owned body worn cameras is strictly prohibited.

The Indio Police Department has adopted the use of BWC's to visually and audibly record interactions between IPD personnel and the public. These recordings provide documentary evidence that include, but are not limited to, criminal investigations, internal or administrative investigations, and civil litigation. Personnel shall utilize the BWC in accordance with the provisions of this policy in order to maximize the effectiveness of audio and video documentation, to achieve operational objectives and to ensure evidence integrity.

### 451.2 POLICY

All personnel working in uniform assigned to field duties, where there is potential for enforcement action, shall use the department issued BWC in accordance with this policy. Additionally, personnel assigned to specialized units (e.g. Street Crimes Unit, Major Crimes Unit, Post-Release Accountability & Compliance Team) where enforcement action is likely, shall use the department BWC in accordance with this policy.

### 451.3 USER RESPONSIBILITIES

Prior to going into service, each employee assigned a BWC will be responsible for making sure it is in good working order. If the employee's BWC is not functioning properly or a replacement is needed, the employee shall notify the on-duty Watch Commander.

Personnel utilizing a BWC shall be responsible for the following:

- (a) Ensure the battery is fully charged and operating properly prior to going into service.
- (b) Documenting the use of the BWC on one of the following:
  - 1. On the police report
  - 2. As a notation on a citation
  - 3. On a Field Interview card
  - 4. In the notes section of the CAD event if the contact did not result in one of the above
  - 5. All reports forwarded for review by a district attorney's office or review for criminal/civil filing shall be documented if BWC footage is or is not available for review
- (c) Not remove, dismantle or tamper with any hardware and/or software component of the BWC system.

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- (d) Be aware of their surroundings when operating the BWC such as in hospitals and emergency rooms where discretion and the privacy of patients should be considered.
- (e) Immediately report unresolved equipment malfunctions/problems to their supervisor and the BWC Administrator.
- (f) Attempt to dock their issued BWC for automated upload of data files at least daily at the end of their shift in the docking station to ensure storage capacity is not exceeded and/or to view uploaded audio/video. Personnel may upload data more frequently if needed or desired.
- (g) Position the BWC on their uniform in such a manner as to facilitate optimal recording field of view.

#### **451.4 NON-UNIFORMED PERSONNEL RESPONSIBILITIES**

Any employee assigned to a non-uniformed position may activate their department assigned BWC any time the employee believes such a device may be beneficial to the situation.

Non-uniformed personnel who are executing pre-planned enforcement activities such as serving a search/arrest warrant or parole/probation searches shall ensure BWC's are utilized during the arrest/search warrant or parole/probation search. Non-uniformed employees shall be responsible for uploading their BWC recordings in the same manner as described above under User Responsibilities.

#### **451.5 SUPERVISOR RESPONSIBILITIES**

Supervisors of personnel utilizing BWC's shall be responsible for the following:

- (a) Ensure that personnel utilize the BWC according to policy guidelines.
- (b) Review relevant BWC recordings prior to approval and submission of criminal and/or administrative reports related to:
  - 1. Use of force
  - 2. Any incidents that may expose the City to considerable civil liability
  - 3. Investigations deemed high profile in nature
  - 4. Citizen complaints and alleged employee misconduct
  - 5. Pursuits
- (c) Conduct periodic inspections of personnel's assigned BWC equipment and ensure the cameras are properly affixed to the employee's uniforms and are fully operational.
- (d) Ensure videos related to significant events are uploaded properly and in a timely manner.
- (e) When safe and practical, an on-scene supervisor may retrieve the BWC from the involved employee(s) at the scene of an incident. The supervisor will then be responsible for ensuring the camera is docked and data uploaded.
- (f) Supervisors may have the ability to immediately resolve citizen complaints by reviewing video captured by the BWC. In those circumstances where a complaint is

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resolved with no further actions needed, supervisors shall add an additional category of "citizen complaint" to the video and make appropriate notes on the video.

- (g) If the BWC equipment is found to be defective, the supervisor shall ensure the equipment is removed from service and immediately replaced.
- (h) It shall be deemed a violation of this policy for a supervisor to review recordings for the sole purpose of searching for violations of department policy or law not related to a specific complaint or incident without the consent of the Chief of Police.
- (i) In no event shall any recording be used or shown for the purpose of ridicule or embarrassing any employee.
- (j) Supervisors shall ensure all reports that will be sent to the district attorney's office document if BWC footage is or is not available for review.

#### **451.6 BODY WORN CAMERA ADMINISTRATOR RESPONSIBILITIES**

The BWC Administrator has oversight responsibilities to include, but not limited to, the following:

- (a) Operation and user administration of the BWC system
- (b) Ensure that public records access requests have been routed through the Custodian of Records or his/her designee prior to the release of any BWC footage to anyone outside the agency without the expressed permission of the Chief of Police.
- (c) Coordination with the Information Technology (IT) Unit regarding system related issues
- (d) Policy and procedure review and evaluation
- (e) Department Training
- (f) System evaluation

#### **451.7 ACTIVATION OF BODY WORN CAMERAS**

This policy is not intended to describe every possible situation where the system may be used however; there are many situations where the use of the BWC system is appropriate. Personnel shall activate the system any time he/she believes its use would be appropriate and/or valuable to document an incident. In some circumstances, it is not possible to capture images of the incident due to conditions or location of the camera. However, the audio portion can be valuable evidence and is subject to the same activation requirements as the BWC.

All uniformed personnel who are issued a BWC shall keep their camera in the "Ready" mode while on duty, outside of the Department. Keeping the BWC in this mode allows personnel to capture pre-event recordings when a recording is activated.

When safe to do so, employees are required to record the following activity, even if the event is out of view of the camera:

- (a) Dispatched calls, starting before the employee arrives at the call to ensure adequate time to turn on the camera
- (b) Traffic and Terry stops, including pedestrian checks

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- (c) On-view activity involving violations and/or criminal activity
- (d) Arrests, seizures, and all K-9 deployments
- (e) Supervisor arrest screenings and interviews of arrestees
- (f) Searches and inventories of vehicles, persons, or premises
- (g) Handling and counting of currency up to the point it is sealed in an evidence envelope
- (h) Transports (excluding ride-a-longs and passengers for meetings)
- (i) Following or riding in ambulances or medic units that are transporting persons involved in an event to a medical facility
- (j) Vehicle eluding/pursuits and "code 3" responses
- (k) Questioning victims, suspects, or witnesses (This does not include conversations with persons merely wishing to pass on information about general criminal activity not tied to a specific event)
- (l) If circumstances prevent recording at the start of an event, the employee will record as soon as practical
- (m) Employees will record the entire event to its conclusion unless specifically instructed otherwise by this manual section
- (n) If the employee is on a perimeter post at an extended major incident investigation, the on-scene supervisor may authorize BWC recording to be stopped when he/she reasonably believes further recording will not capture audio/visual evidence regarding the incident or enforcement efforts

In the event an employee is unable to initiate a BWC recording as directed above, the employee shall document the reason the BWC was not activated and/or why a recording was delayed, interrupted or inadvertently terminated. Additionally, employees who intentionally stop recording during an event will state on the recording their intention to stop recording and explain the basis for that decision. Employees will also document the reason(s) in the Report and/or CAD event.

Supervisors who direct that recordings cease will direct employees to document the order in the Report and/or CAD event.

#### **451.8 WHEN TO DEACTIVATE**

BWC recordings shall continue until the conclusion of the encounter. An event has concluded when both of the following apply:

- (a) The employee has completed his/her part of the active investigation; and
- (b) There is little possibility that the employee will have further contact with any person involved in the event

For transports, the event concludes when the employee reaches the transport destination, and the facility has accepted responsibility for the subject or the subject has been taken into the destination and is cooperative.

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Employees shall keep in mind that static situations may change rapidly, requiring employees to re-activate their BWC unexpectedly.

- (a) Example: Officers are assigned to an outer perimeter position with their cameras turned off and a suspect exits the residence to surrender or run from police.

#### **451.9 MUTING YOUR BODY WORN CAMERA**

The department recognizes that there may be times when personnel want to continue recording an incident while also protecting sensitive information from being recorded for reasons pertaining to privacy or tactics. In these instances, personnel will be permitted to utilize the mute audio function of the BWC while continuing to record video. Prior to placing the BWC into the mute function, personnel shall dictate the reasons for their decision to mute the audio of their recording. Once the necessity for the privacy concern is eliminated, the officer shall turn off the mute function and return their recording to normal operation.

#### **451.10 WHEN ACTIVATING IS NOT REQUIRED**

Activation of the BWC is not required when exchanging information with other employees or during breaks, lunch periods, when not in service, or actively on patrol. It is also not required if officer safety would be compromised due to unexpected or sudden altercation or if the recording would potentially endanger a confidential informant or an undercover officer.

#### **451.11 WHEN ACTIVATION IS PROHIBITED**

Employees are prohibited from utilizing a department-issued BWC for personal use and the BWC shall not be activated in places where a reasonable expectation of privacy exists such as locker rooms, dressing rooms, and restrooms. If an accidental recording is made in one of these private locations, the user may request that it be deleted from the system – See accidental recordings.

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.

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.

#### **451.12 ADVISEMENTS AND CONSENT**

Personnel may inform individuals they are being recorded when feasible unless the employee has reason to believe that doing so will endanger themselves, another officer, a member of the public, or if it will interfere with the course of the investigation.

Private Citizens do not have a reasonable expectation of privacy when talking to police officers during the scope of an officer's official duties, even when the contact is in a private residence. When officers are lawfully present in a home in the course of their official duties there is no reasonable expectation of privacy. Therefore, officers are not required to give notice they are recording. However, if asked, officers shall advise citizens they are being recorded.

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Officers are not required to initiate or cease recording an event, situation or circumstance solely at the demand of the citizen. In addition, officers are not required to playback BWC recordings to allow members of the public to review the video footage.

#### **451.13 ACCIDENTAL RECORDINGS**

In the event of accidental activation of the BWC where the resulting recording is of no investigative or evidentiary value, the recording user may request that the BWC file be deleted. The user will submit a request for deletion via email, with sufficient information to locate the BWC file, to their direct supervisor.

The email will be forwarded to the BWC Administrator who shall review the file and recommend to the Chief of Police whether to approve or deny the request. Prior to deleting an accidental activation, the BWC Administrator will ensure the file is not associated with a police contact or CAD event. No files associated with an official police contact, CAD event, or any pending litigation or complaint is eligible for deletion.

#### **451.14 DOCUMENTING THE USE OF THE BODY WORN CAMERA**

Personnel will document in a report when a BWC file is made and associated with an incident. If a BWC was worn, but not activated, that should be documented as well. This will ensure the District Attorney and Police Administrators are made aware that BWC footage exists. Personnel should continue to prepare reports in the same manner as prior to the implementation of this camera system. Employees should not simply substitute "refer to video" in exchange for writing a detailed and thorough report.

Refer to attached Riverside County District Attorneys' Office discovery protocols (PDF) related to body worn camera for further guidance.

[See attachment: FINAL - DA OFFICE - BWC Discovery Procedures 072022.pdf](#)

#### **451.15 CLASSIFICATION OF BODY WORN CAMERA RECORDINGS**

Once video of evidentiary value is captured, personnel shall identify BWC files as follows:

- (a) When a CAD or incident number has been assigned, that number shall be entered in the video's "ID" field (e.g., YYMMI-1234)
- (b) Selecting the appropriate "CATEGORY" for the video from the following options:
- (c) Entering a title in the video's "TITLE" field that contains a short description of the video which could include the location, crime type, or name of the interviewee

Uncategorized	Until Manually Deleted
01 – Call for Service, No Crime (5150's/Non-injury Collisions)	2 Years
02 – Citizen Contact and/or Infraction	3 Years
03 – Traffic Stop/Pedestrian Check/Detention	3 Years
04 – Misdemeanor Investigation/Arrest (except Sex Crimes)	5 Years

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05 – Felony Investigation/Arrest (except Homicide/ Sex Crimes)	10 Years
06 – Sex Offense/Kidnapping	Until Manually Deleted
07 – Homicide/Death Investigation/Fatal Traffic Collision	Until Manually Deleted
08 – Use of Force (Admin only)	Until Manually Deleted
09 – Citizen Complaint/IA Investigation	Until Manually Deleted
10 – Critical Incident	Until Manually Deleted
11 – Accidental Recording	Until Manually Deleted
12 – False Signal	1 Year
13 – Camera Test / Training	1 Year

This information may be entered via handheld device or department authorized computer(s), department work stations, authorized mobile devices, or Mobile Data Computers via the BWC system website.

Recorded media uploaded to Evidence.com will be retained according to the BWC footage retention schedule listed above. Inadvertent/accidental recordings of personal events and conversations shall be purged as soon as practicable (see Accidental Recordings Procedure).

#### **451.16 REVIEW OF BODY WORN CAMERA FILES**

Personnel assigned a BWC may view their own audio/video data (e.g. to verify an identification, a vehicle license number, or to review an incident for statement accuracy) at a Department desktop computer or department authorized mobile device. The video management software automatically time/date stamps and records each access by Officer name.

BWC recordings that constitute evidence may be viewed by those department members based on a need and right to know basis and when requested by a district attorney's office for prosecution purposes or by a properly served subpoena. Recordings not placed into evidence may be reviewed in any of the following situations:

- (a) By a supervisor investigating a specific complaint or for any official purpose. Videos will not be randomly viewed to search for unreported acts of misconduct.
  1. A supervisor's review of BWC recordings that identifies a minor performance deficiency should generally be viewed as an opportunity to provide counseling and/or additional training to correct that deficiency. If the performance deficiency is not corrected through training and/or counseling, the appropriate disciplinary and/or corrective action shall be taken.
- (b) By a department detective, when conducting a follow-up investigation where BWC video was recorded by initial responding patrol officers.
- (c) By court personnel through proper process or with permission from the Chief of Police or his/her designee.
- (d) By media personnel with permission from the Chief of Police or his/her designee.



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- (e) Recordings may be shown for the purposes of training value. If an involved employee objects to the showing of recording, his/her objection will be submitted to staff to determine if the training value outweighs the employee's objection for not showing the recording.
- (f) By members of the City Attorney's office or Risk Management in connection with pending litigation.
- (g) Upon approval by a supervisor/manager, by a Department employee who is conducting an official investigation such as a personnel, administrative or criminal investigation.
- (h) Third party investigations: In the event a third party law enforcement agency (e.g. Riverside County District Attorney's Office) is conducting a criminal investigation related to an incident involving a Department employee, recordings may be made available to that agency.
- (i) Supervisors should view BWC recordings to assist their review of citizen's complaints. Supervisors have discretion to show BWC recordings to a complainant when it relates to their complaint, to assist in clarifying the complaint, resolving the complaint, or having the complaint withdrawn. Such viewings by a complainant require the prior authorization of a Division Lieutenant. Approval from a Division Lieutenant shall be documented. Under no circumstances shall a complainant be provided with a copy of the BWC or allowed to record the BWC viewing with a cellphone or recording device as such copies can only be requested via a PRA (public records act) request.
- (j) In the event that an employee is to be interviewed pursuant to an investigation related to an incident which results in injury, bodily harm, death or involves the use of force, the employee and/or his/her attorney will be afforded an opportunity to review his/her video of the incident prior to the interview or after they have been interviewed by the appropriate investigative personnel. It will be at the discretion of the employee if the video is to be viewed before or after the statement is or is not provided. If the employee elects to view the video after being interviewed, the employee shall be offered the opportunity to review the video immediately after providing his/her statement regarding the underlying incident and be given an opportunity to offer a supplemental statement. Prior to the employee offering an initial statement, the following **admonishment** shall be provided to the employee:

*"In this case, there is video evidence that you have had (or will have) an opportunity to view before (after) giving your initial statement. Video evidence has limitations and may depict the events differently than you recall, and may not depict all of the events as seen or heard by you. Video has a limited field of view and may not capture events normally seen by the human eye. The "frame rate" of video may limit the camera's ability to capture movements normally seen by the human eye. Lighting as seen on the video may be different than what is seen by the human eye. Videos are a two dimensional medium and may not capture depth, distance or positional orientation as well as the human eye. Remember, the video evidence is intended to assist your memory and ensure that your initial statement explains your state of mind at the time of the incident."*

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#### **451.17 COPIES AND REQUESTS OF BODY WORN CAMERA RECORDINGS**

All recorded media, images and audio from the BWC'S are property of the Indio Police Department and shall not be copied, released or disseminated in any form or manner outside the parameters of this policy without the expressed written consent of the Chief of Police, subject to the CalECPA (California Electronic Communications Privacy Act) requirements, and in accordance with federal, state and local statutes.

Unauthorized use, duplication, and/or distribution of BWC data or files is prohibited. Personnel shall not make any copies of BWC footage for their personal use or attempt to upload recordings to social networking sites. Personnel are prohibited from using a recording device such as a phone camera or secondary video camera to record BWC files.

Upon proper request, a copy of the original recording will be made for use as authorized in this policy.

##### a. Departmental Request

1. Any request shall be completed by Records personnel, the BWC Administrator or designee with the approval of the Chief of Police. Only authorized personnel shall copy BWC files in accordance with this policy

b. Media inquiries or requests for BWC files shall be received and processed in accordance with IPD Policy 346 (Media Relations).

1. All non-departmental requests for BWC files shall be accepted and processed in accordance with federal, state and local statutes, as well as the records release policy outlined in IPD Policy 805 (Records Maintenance and Release).
2. Media inquiries or requests for BWC files shall be received and processed in accordance with IPD Policy 346 (Media Relations).

Officers, Records, and Property & Evidence Personnel may make copies of BWC recordings for use as authorized in this policy.

- (a) A copy of the BWC recording may be made by the involved employee(s), Records, and Property & Evidence Personnel in accordance with the provisions of this policy for evidence, district attorney request, in response to a subpoena, warrant or by the order of the Chief of Police.
- (b) Other than as provided in this policy, no member of this department shall download any video from the BWC system onto any other computer, device, CD, DVD or any other format without permission from the Chief of Police.
- (c) Detectives and/or Officers Conducting Criminal Investigations:
  1. Detectives and/or officers may download a working copy of the BWC recording(s) to their workstation computer for the sole purpose of investigating an incident and/or drafting a report where having the video readily available would assist in the investigation. When the video is no longer required, all working copies shall be deleted and removed from the detective and/or officer's computer or storage device.

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#### **451.18 BODY WORN CAMERA USE TRAINING**

All members who are authorized to use the BWC system shall successfully complete department approved training in the proper use and maintenance of the devices before use.

## Medical Marijuana

### 452.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this department with guidelines for investigating the acquisition, possession, transportation, delivery, production or use of marijuana under California's medical marijuana laws.

#### 452.1.1 DEFINITIONS

Definitions related to this policy include:

**Cardholder** - A person issued a current medical marijuana identification card.

**Compassionate Use Act (CUA)** (Health and Safety Code § 11362.5) - California law intended to provide protection from prosecution to those who are seriously ill and whose health would benefit from the use of marijuana in the treatment of illness for which marijuana provides relief. The CUA does not grant immunity from arrest but rather provides an affirmative defense from prosecution for possession of medical marijuana.

**Identification card** - A valid document issued by the California Department of Public Health to both persons authorized to engage in the medical use of marijuana and also to designated primary caregivers.

**Medical marijuana** - Marijuana possessed by a patient or primary caregiver for legitimate medical purposes.

**Medical Marijuana Program (MMP)** (Health and Safety Code § 11362.7 et seq.) - California laws passed following the CUA to facilitate the prompt identification of patients and their designated primary caregivers in order to avoid unnecessary arrests and provide needed guidance to law enforcement officers. MMP prohibits arrest for possession of medical marijuana in certain circumstances and provides a defense in others.

**Patient** - A person who is entitled to the protections of the CUA because he/she has received a written or oral recommendation or approval from a physician to use marijuana for medical purposes or any person issued a valid identification card.

**Primary caregiver** - A person designated by the patient, who has consistently assumed responsibility for the patient's housing, health or safety, who may assist the patient with the medical use of marijuana under the CUA or the MMP (Health and Safety Code § 11362.5; Health and Safety Code § 11362.7).

**Statutory amount** - No more than 8 ounces of dried, mature, processed female marijuana flowers ("bud") or the plant conversion (e.g., kief, hash, hash oil), and no more than six mature or 12 immature marijuana plants (roots, stems and stem fibers should not be considered) (Health and Safety Code § 11362.77).

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#### **452.2 POLICY**

It is the policy of the Indio Police Department to prioritize resources to forgo making arrests related to marijuana that the arresting officer reasonably believes would not be prosecuted by state or federal authorities.

California's medical marijuana laws are intended to provide protection to those who are seriously ill and whose health would benefit from the use of medical marijuana.

However, California medical marijuana laws do not affect federal laws and there is no medical exception under federal law for the possession or distribution of marijuana. The Indio Police Department will exercise discretion to ensure laws are appropriately enforced without unreasonably burdening both those individuals protected under California law and public resources.

#### **452.3 INVESTIGATION**

Investigations involving the possession, delivery, production or use of marijuana generally fall into one of several categories:

- (a) Investigations when no person makes a medicinal claim.
- (b) Investigations when a medicinal claim is made by a cardholder.
- (c) Investigations when a medicinal claim is made by a non-cardholder.

##### **452.3.1 INVESTIGATIONS WITH NO MEDICINAL CLAIM**

In any investigation involving the possession, delivery, production or use of marijuana or drug paraphernalia where no person claims that the marijuana is used for medicinal purposes, the officer should proceed with a criminal investigation if the amount is greater than permitted for personal use under the Control, Regulate and Tax Adult Use of Marijuana Act (Health and Safety Code § 11362.1; Health and Safety Code § 11362.2). A medicinal defense may be raised at any time, so officers should document any statements and observations that may be relevant to whether the marijuana was possessed or produced for medicinal purposes.

##### **452.3.2 INVESTIGATIONS INVOLVING A MEDICINAL CLAIM MADE BY A CARDHOLDER**

A cardholder or designated primary caregiver in possession of an identification card shall not be arrested for possession, transportation, delivery or cultivation of medical marijuana at or below the statutory amount unless there is probable cause to believe that (Health and Safety Code § 11362.71; Health and Safety Code § 11362.78):

- (a) The information contained in the card is false or falsified.
- (b) The card has been obtained or used by means of fraud.
- (c) The person is otherwise in violation of the provisions of the MMP.
- (d) The person possesses marijuana but not for personal medical purposes.

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Officers who reasonably believe that a person who does not have an identification card in his/her possession has been issued an identification card may treat the investigation as if the person had the card in his/her possession.

Cardholders may possess, transport, deliver or cultivate medical marijuana in amounts above the statutory amount if their doctor has concluded that the statutory amount does not meet the patient's medical needs (Health and Safety Code § 11362.71; Health and Safety Code § 11362.77). Investigations involving cardholders with more than the statutory amount of marijuana should be addressed as provided in this policy for a case involving a medicinal claim made by a non-cardholder.

#### **452.3.3 INVESTIGATIONS INVOLVING A MEDICINAL CLAIM MADE BY A NON-CARDHOLDER**

No patient or primary caregiver should be arrested for possession or cultivation of an amount of medical marijuana if the officer reasonably believes that marijuana is in a form and amount reasonably related to the qualified patient's current medical needs (Health and Safety Code § 11362.5). This arrest guidance also applies to sales, transportation or delivery of medical marijuana, or maintaining/renting a drug house or building that may be a nuisance if otherwise in compliance with MMP (Health and Safety Code § 11362.765).

Officers are not obligated to accept a person's claim of having a physician's recommendation when the claim cannot be readily verified with the physician but are expected to use their judgment to assess the validity of the person's medical-use claim.

Officers should review any available written documentation for validity and whether it contains the recommending physician's name, telephone number, address and medical license number for verification.

Officers should generally accept verified recommendations by a physician that statutory amounts do not meet the patient's needs (Health and Safety Code § 11362.77).

#### **452.3.3 (a) MARIJUANA ENFORCEMENT**

All personnel shall familiarize themselves with enforceable marijuana laws related to sales, possession and cultivation in an effort to minimize the risk of potential civil liability to the Indio Police Department in order to maintain compliance with Prop 64. Employees shall be provided with a cannabis law charging guide to familiarize themselves with enforceable laws.

#### **452.3.4 ADDITIONAL CONSIDERATIONS**

Officers should consider the following when investigating an incident involving marijuana possession, delivery, production, or use:

- (a) Because enforcement of medical marijuana laws can be complex, time consuming, and call for resources unavailable at the time of initial investigation, officers will consider submitting a report to the prosecutor for review, in lieu of making an arrest. This can be particularly appropriate when:
  1. The suspect has been identified and can be easily located at a later time.

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2. The case would benefit from review by a person with expertise in medical marijuana investigations.
  3. Sufficient evidence, such as photographs or samples, has been lawfully obtained.
  4. Other relevant factors, such as available department resources and time constraints prohibit making an immediate arrest.
- (b) Whenever the initial investigation reveals an amount of marijuana greater than the statutory amount, officers should consider the following when determining whether the form and amount is reasonably related to the patient's needs:
1. The amount of marijuana recommended by a medical professional to be ingested.
  2. The quality of the marijuana.
  3. The method of ingestion (e.g., smoking, eating, nebulizer).
  4. The timing of the possession in relation to a harvest (patient may be storing marijuana).
  5. Whether the marijuana is being cultivated indoors or outdoors.
- (c) Before proceeding with enforcement related to collective gardens or dispensaries, officers shall confer with a supervisor, an applicable state regulatory agency or other member with special knowledge in this area, and/or appropriate legal counsel (Business and Professions Code § 26010; Business and Professions Code § 26060). Licensing, zoning, and other related issues can be complex. Patients, primary caregivers, and cardholders who collectively or cooperatively cultivate marijuana for medical purposes may be licensed or may have a defense in certain circumstances (Business and Professions Code § 26032; Business and Professions Code § 26033).
- (d) Investigating members will not order a patient to destroy marijuana plants under threat of arrest.

#### **452.3.4 (a) PROCEDURES FOR HANDLING ANY LEGALLY SEIZED MARIJUANA**

In the event that an officer encounters a situation where a subject is in possession of a large quantity of marijuana that far exceeds the allowed legal thresholds as described in this policy, any marijuana deemed evidence of a sales crime subject to seizure shall be placed in the appropriate packaging materials and labeled with the issued FileOnQ printed evidence labels, The File on Q data fields shall include the;

1. The case number.
2. Whether the narcotics are evidence or found property.
3. The item number with a description of the narcotic including count and weight.
4. The department employee's name and badge number.
5. Possessors information if available.

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The seized marijuana, with a computer printed label attached to each item, shall then be placed in an envelope or paper bag, sealed, and put in the secured evidence lockers. If the seized marijuana is too large for traditional evidence envelopes, it is to be placed in a paper bag or cardboard box then placed in a secured evidence locker.

#### **452.3.4 (b) PROCESSING BY PROPERTY AND EVIDENCE PERSONNEL**

The responsibility of processing any legally seized marijuana and dangerous drugs is the sole responsibility of the Property and Evidence Officer. In their absence, the Investigative Services Lieutenant assigns the responsibility.

On a daily basis, the property and evidence officer will remove the seized marijuana from the temporary storage lockers and transfer it to the respective assigned storage area for processing. The procedure that shall be adhered to is as follows:

- (a) The packaged marijuana will be assigned a control number, which is used by Property & Evidence for accountability.
- (b) The Property & Evidence personnel will then log the date, time, the item was received on.
- (c) The item shall be inspected to ensure it has not been tampered with and stored according to Property & Evidence protocol pending case adjudication and or instructions from the District Attorney's Office.

#### **452.3.4 (c) CHAIN OF CUSTODY**

The chain of custody is the written record of all individuals who have maintained unbroken control/ custody of evidence/property. The chain of custody begins when an item of evidence/property is collected and is maintained until the final disposition is made. The chain of custody assures continual accountability. Each individual in the chain of custody is responsible for the evidence/ property during the time it was under his control.

#### **452.3.4 (d) ANALYSIS**

All seized marijuana and dangerous drugs seized by departmental personnel shall be sent to the DOJ lab for analysis if the following apply:

1. A person was arrested for a criminal offense.
2. A criminal complaint is pending.
3. Directed to do so by the District Attorney's Office.

#### **452.3.5 EXCEPTIONS**

This policy does not apply to violations of H&S 11362.5, possession in correctional facilities and the mentioned examples. Officers should conduct enforcement action for the following:

- (a) Persons who engage in illegal conduct that endangers others, such as driving under the influence (23152(f)vc) of marijuana in violation of the Vehicle Code (Health and Safety Code § 11362.5).



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- (b) Marijuana possession in jails or other correctional facilities that prohibit such possession (Health and Safety Code § 11362.785).
- (c) Smoking marijuana (Health and Safety Code § 11362.79):
  1. In a public place where smoking is prohibited by law.
  2. In or within 1,000 feet of the grounds of a school, recreation center or youth center, unless the medical use occurs within a residence.
  3. On a school bus.
  4. While in a motor vehicle that is being operated.
  5. While operating a boat.
- (d) Use of marijuana by a person on probation or parole, or on bail and use is prohibited by the terms of release (Health and Safety Code § 11362.795).

#### **452.3.6 INVESTIGATIONS INVOLVING A STATE LICENSEE**

No person issued a state license under the Business and Professions Code shall be arrested or cited for cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution or sale of medical cannabis or a medical cannabis product related to qualifying patients and primary caregivers when conducted lawfully. Whether conduct is lawful may involve questions of license classifications, local ordinances, specific requirements of the Business and Professions Code and adopted regulations. Officers should consider conferring with a supervisor, the applicable state agency or other member with special knowledge in this area and/or appropriate legal counsel before taking enforcement action against a licensee or an employee or agent (Business and Professions Code § 26032).

#### **452.4 FEDERAL LAW ENFORCEMENT**

Officers should provide information regarding a marijuana investigation to federal law enforcement authorities when it is requested by federal law enforcement authorities or whenever the officer believes those authorities would have a particular interest in the information.

#### **452.5 PROPERTY AND EVIDENCE SECTION SUPERVISOR RESPONSIBILITIES**

The Property and Evidence Section supervisor should ensure that marijuana, drug paraphernalia or other related property seized from a person engaged or assisting in the use of medical marijuana is not destroyed pending any charges and without a court order. The Property and Evidence Section supervisor is not responsible for caring for live marijuana plants.

Upon the prosecutor's decision to forgo prosecution, or the dismissal of charges or an acquittal, the Property and Evidence Section supervisor should, as soon as practicable, return to the person from whom it was seized any useable medical marijuana, plants, drug paraphernalia or other related property.

The Property and Evidence Section supervisor or designee may release marijuana to federal law enforcement authorities upon presentation of a valid court order or by a written order of the Major Crimes Unit Sergeant.

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## Bicycle Patrol Unit

### 453.1 PURPOSE AND SCOPE

The Indio Police Department has established the Bicycle Patrol Unit (BPU) for the purpose of enhancing patrol efforts in the community. Bicycle patrol has been shown to be an effective way to increase officer visibility in congested areas and their quiet operation can provide a tactical approach to crimes in progress. The purpose of this policy is to provide guidelines for the safe and effective operation of the patrol bicycle.

### 453.2 POLICY

Patrol bicycles may be used for regular patrol duty, traffic enforcement, parking control, or special events. The use of the patrol bicycle will emphasize their mobility and visibility to the community.

Bicycles may be deployed to any area at all hours of the day or night, according to Department needs and as staffing levels allow.

Requests for specific deployment of bicycle patrol officers shall be coordinated through the Bicycle Patrol Unit supervisor or the Watch Commander.

### 453.3 SELECTION OF PERSONNEL

Interested sworn personnel, who are off probation, shall submit a change of assignment request to their appropriate Division Chief. A copy will be forwarded to the BPU supervisor. Qualified applicants will then be invited to an oral interview. The oral board will consist of the BPU supervisor and second person to be selected by the BPU supervisor. Interested personnel shall be evaluated by the following criteria:

- (a) Recognized competence and ability as evidenced by performance.
- (b) Special skills or training as it pertains to the assignment.
- (c) Good physical condition.
- (d) Willingness to perform duties using the bicycle as a mode of transportation.

#### 453.3.1 BICYCLE PATROL UNIT SUPERVISOR

The Bicycle Patrol Unit supervisor will be selected from the rank of sergeant by the Field Services Division Chief or his/her designee.

The Bicycle Patrol Unit supervisor shall have responsibility for the following:

- (a) Organizing bicycle patrol training.
- (b) Inspecting and maintaining inventory of patrol bicycles and program equipment.
- (c) Scheduling maintenance and repairs.
- (d) Evaluating performance of bicycle officers.
- (e) Coordinating activities with the Field Services Division.

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- (f) Other activities as required to maintain the efficient operation of the Bicycle Patrol Unit.

#### **453.4 TRAINING**

Participants in the program must complete an initial Department approved bicycle-training course after acceptance into the program. Thereafter bicycle patrol officers should receive twice yearly in-service training to improve skills and refresh safety, health and operational procedures. The initial training shall minimally include the following:

- Bicycle patrol strategies.
- Bicycle safety and accident prevention.
- Operational tactics using bicycles.

Bicycle patrol officers will be required to qualify with their duty firearm while wearing bicycle safety equipment including the helmet and riding gloves.

#### **453.5 UNIFORMS AND EQUIPMENT**

Officers shall wear the department-approved uniform and safety equipment while operating the department bicycle. Safety equipment includes department-approved helmet, riding gloves, protective eyewear and approved footwear.

The bicycle patrol unit uniform consists of the standard short-sleeve uniform shirt or other department-approved shirt with department badge and patches, and department-approved bicycle patrol pants or shorts.

Optional equipment includes a radio head set and microphone, and jackets in colder weather. Turtleneck shirts or sweaters are permitted when worn under the uniform shirt.

Bicycle patrol officers shall carry the same equipment on the bicycle patrol duty belt as they would on a regular patrol assignment.

Officers will be responsible for obtaining the necessary forms, citation books and other department equipment needed while on bicycle patrol.

#### **453.6 CARE AND USE OF PATROL BICYCLES**

Officers will be assigned a specially marked and equipped patrol bicycle, attached gear bag, two batteries and a charger.

Bicycles utilized for uniformed bicycle patrol shall be primarily black or white in with a "POLICE" decal affixed to each side of the crossbar or the bike's saddlebag. Every such bicycle shall be equipped with front and rear reflectors front lights and a siren/horn satisfying the requirements of Vehicle Code §2800.1(b).

Bicycles utilized for uniformed bicycle patrol shall be equipped with a rear rack and/or saddle bag(s) sufficient to carry all necessary equipment to handle routine patrol calls including report writing, vehicle storage and citations.

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Each bicycle gear bag shall include a first aid kit, tire pump, repair tool, tire tube, security lock, equipment information and use manuals. These items are to remain with/on the bicycle at all times.

Each bicycle shall be equipped with a steady or flashing blue warning light that is visible from the front, sides, or rear of the bicycle. (Vehicle Code § 21201.3)

Bicycle officers shall conduct an inspection of the bicycle and equipment prior to use to insure proper working order of the equipment. Officers are responsible for the routine care and maintenance of their assigned equipment (e.g., tire pressure, chain lubrication, overall cleaning).

If a needed repair is beyond the ability of the bicycle officer, a repair work order will be completed and forwarded to the program supervisor for repair by an approved technician.

Each bicycle will have scheduled maintenance twice yearly to be performed by a department approved repair shop/technician.

At the end of a bicycle assignment, the bicycle shall be returned clean and ready for the next tour of duty.

Electric patrol bicycle batteries shall be rotated on the assigned charger at the end of each tour of duty. During prolonged periods of non-use, each officer assigned an electric bicycle shall periodically rotate the batteries on the respective charges to increase battery life.

Officers shall not modify the patrol bicycle, remove, modify or add components except with the expressed approval of the bicycle supervisor, or in the event of an emergency.

Vehicle bicycle racks are available should the officer need to transport the patrol bicycle. Due to possible component damage, transportation of the patrol bicycle in a trunk or on a patrol car push-bumper is discouraged.

Bicycles shall be properly secured when not in the officer's immediate presence.

#### **453.7 OFFICER RESPONSIBILITY**

Officers must operate the bicycle in compliance with the vehicle code under normal operation. Officers may operate the bicycle without lighting equipment during hours of darkness when such operation reasonably appears necessary for officer safety and tactical considerations. Officers must use caution and care when operating the bicycle without lighting equipment.

Officers are exempt from the rules of the road under the following conditions (Vehicle Code § 21200(b)(1)):

- (a) In response to an emergency call.
- (b) While engaged in rescue operations.
- (c) In the immediate pursuit of an actual or suspected violator of the law.

## Foot Pursuits

### 457.1 PURPOSE AND SCOPE

This policy provides guidelines to assist officers in making the decision to initiate or continue the pursuit of suspects on foot.

### 457.2 DECISION TO PURSUE

The safety of department members 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 members.

Officers may be justified in initiating a foot pursuit of any individual the officer reasonably believes is about to engage in, is engaging in or has engaged in criminal activity. The decision to initiate or continue such a foot pursuit, however, must be continuously re-evaluated in light of the circumstances presented at the time.

Mere flight by a person who is not suspected of criminal activity shall not serve as justification for engaging in an extended foot pursuit without the development of reasonable suspicion regarding the individual's involvement in criminal activity or being wanted by law enforcement.

Deciding to initiate or continue a foot pursuit is a decision that an officer must make quickly and under unpredictable and dynamic circumstances. It is recognized that foot pursuits may place department members and the public at significant risk. Therefore, no officer or supervisor shall be criticized or disciplined for deciding not to engage in a foot pursuit because of the perceived risk involved.

If circumstances permit, surveillance and containment are generally the safest tactics for apprehending fleeing persons. In deciding whether to initiate or continue a foot pursuit, an officer should continuously consider reasonable alternatives to a foot pursuit based upon the circumstances and resources available, such as:

- (a) Containment of the area.
- (b) Saturation of the area with law enforcement personnel, including assistance from other agencies.
- (c) A canine search.
- (d) Thermal imaging or other sensing technology.
- (e) Air support.
- (f) Apprehension at another time when the identity of the suspect is known or there is information available that would likely allow for later apprehension, and the need to immediately apprehend the suspect does not reasonably appear to outweigh the risk of continuing the foot pursuit.

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#### **457.3 GENERAL GUIDELINES**

When reasonably practicable, officers should consider alternatives to engaging in or continuing a foot pursuit when:

- (a) Directed by a supervisor to terminate the foot pursuit; such an order shall be considered mandatory
- (b) The officer is acting alone.
- (c) Two or more officers become separated, lose visual contact with one another, or obstacles separate them to the degree that they cannot immediately assist each other should a confrontation take place. In such circumstances, it is generally recommended that a single officer keep the suspect in sight from a safe distance and coordinate the containment effort.
- (d) The officer is unsure of his/her location and direction of travel.
- (e) The officer is pursuing multiple suspects and it is not reasonable to believe that the officer would be able to control the suspect should a confrontation occur.
- (f) The physical condition of the officer renders him/her incapable of controlling the suspect if apprehended.
- (g) The officer loses radio contact with the dispatcher or with assisting or backup officers.
- (h) The suspect enters a building, structure, confined space, isolated area or dense or difficult terrain, and there are insufficient officers to provide backup and containment. The primary officer should consider discontinuing the foot pursuit and coordinating containment pending the arrival of sufficient resources.
- (i) The officer becomes aware of unanticipated or unforeseen circumstances that unreasonably increase the risk to officers or the public.
- (j) The officer reasonably believes that the danger to the pursuing officers or public outweighs the objective of immediate apprehension.
- (k) The officer loses possession of his/her firearm or other essential equipment.
- (l) The officer or a third party is injured during the pursuit, requiring immediate assistance, and there are no other emergency personnel available to render assistance.
- (m) The suspect's location is no longer definitely known.
- (n) The identity of the suspect is established or other information exists that will allow for the suspect's apprehension at a later time, and it reasonably appears that there is no immediate threat to department members or the public if the suspect is not immediately apprehended.
- (o) The officer's ability to safely continue the pursuit is impaired by inclement weather, darkness or other environmental conditions.

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#### **457.4 RESPONSIBILITIES IN FOOT PURSUITS**

##### **457.4.1 INITIATING OFFICER RESPONSIBILITIES**

Unless relieved by another officer or a supervisor, the initiating officer shall be responsible for coordinating the progress of the pursuit. When acting alone and when practicable, the initiating officer should not attempt to overtake and confront the suspect but should attempt to keep the suspect in sight until sufficient officers are present to safely apprehend the suspect.

Early communication of available information from the involved officers is essential so that adequate resources can be coordinated and deployed to bring a foot pursuit to a safe conclusion. Officers initiating a foot pursuit should, at a minimum, broadcast the following information as soon as it becomes practicable and available:

- (a) Location and direction of travel
- (b) Call sign identifier
- (c) Reason for the foot pursuit, such as the crime classification
- (d) Number of suspects and description, to include name if known
- (e) Whether the suspect is known or believed to be armed with a dangerous weapon

Officers should be mindful that radio transmissions made while running may be difficult to understand and may need to be repeated.

Absent extenuating circumstances, any officer unable to promptly and effectively broadcast this information should terminate the foot pursuit. If the foot pursuit is discontinued for any reason, immediate efforts for containment should be established and alternatives considered based upon the circumstances and available resources.

When a foot pursuit terminates, the officer will notify the dispatcher 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, to include requesting medical aid as needed for officers, suspects or members of the public.

##### **457.4.2 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.

##### **457.4.3 SUPERVISOR RESPONSIBILITIES**

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 foot pursuit. The supervisor shall continuously assess the situation in order to ensure the foot pursuit is conducted within established department guidelines.

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### *Foot Pursuits*

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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-foot pursuit activity.

#### **457.4.4 THE DISPATCH CENTER RESPONSIBILITIES**

- (a) Clearing the radio channel of non-emergency traffic.
- (b) Coordinating pursuit communications of the involved officers.
- (c) Broadcasting pursuit updates as well as other pertinent information as necessary.
- (d) Ensuring that a field supervisor is notified of the foot pursuit.
- (e) Notifying and coordinating with other involved or affected agencies as practicable.
- (f) Notifying the Watch Commander as soon as practicable.
- (g) Assigning an incident number and logging all pursuit activities.

#### **457.5 REPORTING REQUIREMENTS**

The initiating officer shall complete appropriate crime/arrest reports documenting, at minimum:

- (a) Date and time of the foot pursuit.
- (b) Initial reason and circumstances surrounding the foot pursuit.
- (c) Course and approximate distance of the foot pursuit.
- (d) Alleged offenses.
- (e) Involved vehicles and officers.
- (f) 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 Use of Force Policy.
- (g) Arrestee information, if applicable.
- (h) Any injuries and/or medical treatment.
- (i) Any property or equipment damage.
- (j) Name of the supervisor at the scene or who handled the incident.

Assisting officers taking an active role in the apprehension of the suspect shall complete supplemental reports as necessary or as directed.

The supervisor reviewing the report will make a preliminary determination that the pursuit appears to be in compliance with this policy or that additional review and/or follow-up is warranted.



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## Indio PD Policy Manual

### *Foot Pursuits*

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In any case in which a suspect is not apprehended and there is insufficient information to support further investigation, a supervisor may authorize that the initiating officer need not complete a formal report.

#### **457.6 POLICY**

It is the policy of this department that officers, when deciding to initiate or continue a foot pursuit, continuously balance the objective of apprehending the suspect with the risk and potential for injury to department members, the public or the suspect.

Officers are expected to act reasonably, based on the totality of the circumstances.

## Flock Safety System Policy

### 458.1 PURPOSE AND SCOPE

This policy provides guidance for the placement and monitoring of department public safety flock system's cameras, as well as the storage and release of the captured / downloaded images. This policy only applies to the Flock System operated by Indio Police Department staff.

### 458.2 POLICY

The Indio Police Department operates a public safety video system known as Flock Safety System to complement its anti-crime strategy, to effectively allocate and deploy personnel, and to enhance public safety and security in public areas in and around the City of Indio. Cameras may be placed in strategic locations throughout the City of Indio to detect and deter 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.

Use of the video flock systems in public areas shall be conducted in a legal and ethical manner while recognizing and protecting constitutional standards of privacy.

### 458.3 OPERATIONAL GUIDELINES

Members authorized to access flock system(s) equipment should only download images used for public safety investigative purposes.

The Chief of Police or authorized designee shall approve all proposed locations for the use of flock system technology.

### 458.4 PLACEMENT AND MONITORING

Flock system camera placement will be guided by the underlying purpose or strategy associated with the overall flock safety system plan. As appropriate, the Chief of Police should confer with other affected City Departments and designated stakeholders when evaluating camera placement. Environmental factors, including lighting, location of buildings, presence of vegetation or other obstructions, should also be evaluated when determining placement.

Recorded images may be used for a variety of public safety purposes such as:

- (a) To prevent, deter and identify criminal activity.
- (b) Generate real time alerts for known suspect vehicle(s)
- (c) To aid in capturing traffic collision information.
- (f) To augment and allocate resources in a cost-effective manner.

### 458.5 INTEGRATION WITH OTHER TECHNOLOGY

The Department may elect to integrate its flock System with other technology to enhance available information systems.

# Indio Police Department

## Indio PD Policy Manual

### *Flock Safety System Policy*

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#### **458.6 SUPERVISOR'S RESPONSIBILITIES**

Supervisors shall monitor flock system access and usage to ensure members are within department policy and applicable laws. Supervisors shall ensure such use and access is appropriately documented.

#### **458.7 STORAGE AND RETENTION OF MEDIA**

All flock system image captures shall be stored in a secure area with access restricted to authorized persons. A recording or downloaded media file needed as evidence shall be copied to a suitable medium and booked into evidence in accordance with established evidence procedures. All actions taken with respect to retention of media shall be appropriately documented.

The downloaded media should be stored and retained in accordance with the established records retention schedule. If downloaded media is considered evidence in any claim filed or any pending litigation, it shall be preserved until pending litigation is resolved (Government Code § 34090.6). Any downloaded media needed as evidence in a criminal or civil proceeding shall be copied to a suitable medium and booked into evidence in accordance with established evidence procedures.

Department members must be aware that captured images may be subject to release as part of a California Public Records Act request.

Unauthorized recording, viewing, reproduction, dissemination or retention is strictly prohibited and may be subject to discipline.

#### **458.8 EVIDENTIARY INTEGRITY**

All downloaded and retained media shall be treated in the same manner as all other evidence. Media shall be accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to the chain of custody requirements. Electronic trails, including encryption, digital masking of innocent or uninvolved individuals to preserve anonymity, authenticity certificates and date, and time stamping, shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.

#### **458.9 RELEASE OF VIDEO STILL IMAGES**

All downloaded images gathered by the public safety flock system are for the official use of the Indio Police Department. Requests for downloaded images from the public or the media shall be processed in the same manner as requests for department public records. Requests for downloaded images from other law enforcement agencies shall be referred to the Flock System administrator for release in accordance with a specific and legitimate law enforcement purpose. Downloaded images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process.

#### **458.10 TRAINING**

All department members authorized to operate or access public flock systems shall receive appropriate training. Training should include guidance on the use of cameras, interaction with

# Indio Police Department

## Indio PD Policy Manual

### *Flock Safety System Policy*

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dispatch and patrol operations and a review regarding relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of flock systems equipment and privacy.

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# PROVIDING ASSISTANCE TO THE BAIL INDUSTRY

## 460.1 PURPOSE AND SCOPE

This policy provides members of the Indio Police Department with guidance for addressing issues related to conflicts between persons released on bail and members of the bail industry.

Insurance companies that sell bail bonds to temporarily release an arrested person from custody will often, with legal authority, attempt to return one of their customers into custody, for a variety of reasons. In many instances, the justification for returning the subject into custody is not based on any criminal violation but is simply a violation of the civil contract between the insurance company and the released subject.

On occasion, members of the bail industry will ask for law enforcement assistance. Nothing in the policy is intended to prohibit or restrict Department members from serving arrest warrants for wanted subjects. This policy addresses instances with a nexus to members of the bail industry.

## 460.2 POLICY

Department members **shall not** assist members of the bail industry in the apprehension of a bail fugitive or any persons **wanted for a violation of their bail contract**. Department members are strictly prohibited from serving as backup for any member of the bail industry. If a court-ordered arrest warrant has been issued for a bond customer, officers may offer to take over the situation in its entirety, respond to the location without a member of the bail industry, and attempt a lawful arrest warrant service.

If apprehended, the officer will take custody of the individual and book him/her into jail on the warrant. Officers **shall not** turn over such arrested persons over to any member of the bail industry.

## 460.3 DEFINITIONS

The following are definitions related to the bail industry:

**Bail Fugitive (AKA Bail Jumper):** means a defendant in a pending criminal case who has been released from custody under a financially secured appearance, cash, or other bond and has had that bond declared forfeited, or a defendant in a pending criminal case who has violated a bond condition whereby apprehension and re-incarceration are permitted.

**Member of Bail Industry:** means any Bail Agent, Bail Permittee, and Bail Solicitor licensed by the Department of Insurance pursuant to Sections 1802, 1802.5, and 1803 of the Insurance Code and any person employed as a Bail Fugitive Recovery Person (AKA Bounty Hunter) as defined under Penal Code Section 1299.01 (d).

## 460.4 RECORDS BUREAU RELEASE OF INFORMATION TO THE BAIL INDUSTRY

Penal Code section 11105.6 states law enforcement may release certain information to a licensed bail agent or bail bond licensee. The release is not considered a mandate, and the Department

# Indio Police Department

## Indio PD Policy Manual

### *PROVIDING ASSISTANCE TO THE BAIL INDUSTRY*

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has assigned the Records Bureau as the sole designated point of contact for the release of this information.

Department members shall refer all PC 11105.6 requests to the Records Bureau. Prior to releasing any information to the agent or licensee, the Records Bureau shall verify the following circumstances exist:

- The information is from the record of a person from whom a bench warrant has been issued or from whom a bail forfeiture has been ordered
- The subject of the information request is a client of the agent or licensee
- The agent or licensee pays the appropriate Department fees equal to the cost of providing the information

Only after the Records Bureau verifies these conditions, they may release the following information to the agent or licensee:

- Individual's known aliases
- Booking photograph
- Identified prior convictions for any violent felony (per 667.5 (c) PC)
- An unaltered copy of the booking and property record (excluding any medical information)

#### **460.5 BAIL INDUSTRY NOTIFICATION REQUIREMENTS**

As defined under Penal Code Section 1299.08:

(a) Except under exigent circumstances, an individual authorized by Section 1299.02 to apprehend a bail fugitive shall, prior to and no more than six hours before attempting to apprehend the bail fugitive, notify the local police department or sheriff's department of the intent to apprehend a bail fugitive in that jurisdiction by doing all of the following:

1. Indicating the name of an individual authorized by Section 1299.02 to apprehend a bail fugitive entering the jurisdiction.
2. Stating the approximate time an individual authorized by Section 1299.02 to apprehend a bail fugitive will be entering the jurisdiction and the approximate length of the stay.
3. Stating the name and approximate location of the bail fugitive.

(b) If an exigent circumstance does arise and prior notification is not given as provided in subdivision (a), an individual authorized by Section 1299.02 to apprehend a bail fugitive shall notify the local police department or sheriff's department immediately after the apprehension, and upon request of the local jurisdiction, shall submit a detailed explanation of those exigent circumstances within three working days after the apprehension is made.

(c) This section shall not preclude an individual authorized by Section 1299.02 to apprehend a bail fugitive from making or attempting to make a lawful arrest of a bail fugitive on bond pursuant

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## Indio PD Policy Manual

### *PROVIDING ASSISTANCE TO THE BAIL INDUSTRY*

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to Section 1300 or 1301. The fact that a bench warrant is not located or entered into a warrant depository or system shall not affect a lawful arrest of the bail fugitive.

(d) For the purposes of this section, notice may be provided to a local law enforcement agency by telephone prior to the arrest or, after the arrest has taken place if exigent circumstances exist. In that case, the name or operator number of the employee receiving the notice information shall be obtained and retained by the bail, depositor of bail, or bail fugitive recovery person.

#### **460.6 ROUTINE AND CRITICAL INCIDENT CALLS BY A MEMBER OF THE BAIL INDUSTRY**

Dispatchers and other Department employees shall inform the station watch commander of all requests for assistance from members of the bail industry immediately after such requests are received.

A member of the bail industry may request to provide information regarding a bail fugitive with an active warrant. If a call for service is generated, the assigned officer shall contact the RP at a safe location unrelated to the wanted subject. The officer shall gather all pertinent information and review the facts with the watch commander.

The decision to act immediately or delay service of the warrant is at the discretion of the watch commander. A threat assessment should be done to determine the risk level to officer safety and the public in both instances. While this is not an all-inclusive list, consideration shall be given to the following:

- Availability of man power
- Type of warrant and the nature of the originating case
  - o Violent felony vs. non-violent crime
- Need and availability of other Departmental resources
  - o K9, air support, SWAT, etc.
- The absence of higher priority tasks or calls for service
- The criminal history of the wanted subject and known associates
- Potential for weapons or violence
- Location of the wanted subject
- Availability of Department apprehension teams to take over apprehension efforts
  - o SCU, MCU, SWAT, QOL, CNT, etc
- Need to conduct additional investigation or surveillance
- Alternative arrest methods or location(s)

In the event service is immediately attempted, officers will take over the investigation from the member of the bail industry in its entirety. Officers shall respond to the wanted persons' location

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## Indio PD Policy Manual

### *PROVIDING ASSISTANCE TO THE BAIL INDUSTRY*

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without the member of the bail industry and attempt a lawful arrest warrant service. If the subject is apprehended, the officer will book him/her into jail on the warrant. Officers are prohibited from turning such arrested persons over to any member of the bail industry.

#### **460.7 CRITICAL INCIDENT RESPONSE**

In the event of an in-progress critical incident involving a member of the bail industry, dispatch or department members shall ascertain if the wanted subject has an active warrant or is simply wanted for a violation of their bail contract. **Violation of a bail contract is civil in nature and should be handled as a non-criminal civil matter. Subjects with an active warrant and refusing to surrender to a member of the bail industry may be considered a barricaded subject.**

Officers should direct the member(s) of the bail industry to retreat from the location and assess the situation to ascertain further police involvement based on the nature of the warrant (**i.e 23152(a)(b) CVC warrant vs. a 245(a) PC warrant**). Based on the nature of the warrant and upon notification of a watch commander, officers may choose to clear the scene to de-escalate a situation if appropriate based on the example provided and upon approval of a watch commander unless unsafe to do so.

#### **460.8 PROHIBITED SOLICITATION OF BAIL FUGITIVES WITH ACTIVE WARRANTS**

When making arrests of bail fugitives, Department members shall not solicit assistance from members of the bail industry. When Department members arrest bail fugitives on an outstanding arrest warrant, they shall not be released to the custody of members of the bail industry, but shall be booked by the arresting officer on the outstanding warrant.

#### **460.9 DEPARTMENT MEMBERS AS BAILORS**

Department members shall make notification via chain of command to their Watch Commander when acting as bailors for any person in custody. Department members are prohibited from acting as bailors where any fee, gratuity or reward is solicited or accepted.

Department members shall refrain from suggesting, recommending, or advising any attorney or member of the bail industry to any person coming to their attention as a result of a law enforcement action or activity, except where their family member(s) may be involved.



## Automated License Plate Readers (ALPRs)

### 461.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

### 461.2 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Indio 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. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Support Services Division Chief. The Support Services Division Chief will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

#### 461.2.1 ALPR ADMINISTRATOR

The Support Services Division Chief shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Working with the Custodian of Records on the retention and destruction of ALPR data.
- (g) Ensuring this policy and related procedures are conspicuously posted on the department's website.

### 461.3 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.

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### *Automated License Plate Readers (ALPRs)*

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- (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 department, state or federal data unless otherwise authorized to do so.
- (f) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

#### **461.4 DATA COLLECTION AND RETENTION**

The Support Services Division Chief is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6) and in accordance with the established records retention schedule. Thereafter, ALPR data should 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 discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

#### **461.5 ACCOUNTABILITY**

All data will be closely safeguarded and protected by both procedural and technological means. The Indio Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (b) Members 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.
- (c) ALPR system audits should be conducted on a regular basis.

# Indio Police Department

## Indio PD Policy Manual

### *Automated License Plate Readers (ALPRs)*

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For security or data breaches, see the Records Release and Maintenance Policy.

#### **461.6 POLICY**

The policy of the Indio Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

#### **461.7 RELEASING ALPR DATA**

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

- (a) The agency makes a written request for the ALPR data that includes:
  1. The name of the agency.
  2. The name of the person requesting.
  3. The intended purpose of obtaining the information.
- (b) The request is reviewed by the Support Services Division Chief or the authorized designee and approved before the request is fulfilled.
- (c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

#### **461.8 TRAINING**

The Training Coordinator should ensure that members receive department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

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# ARSON INVESTIGATIONS POLICY

## 462.1 PURPOSE AND SCOPE

To insure a timely response by Indio Police Officers / Investigators to fire scenes involving arson.

## 462.2 PROCEDURE

The initial responding officer(s) at an arson scene shall notify Indio Police Dispatchers immediately when:

1. There is a death or significant injury.
2. There is a reckless fire of suspicious origin to a **city or private structure** designed for human habitation and or commercial purposes.
3. Fires involving suspicious circumstances (i.e fraud).

The initial responding officer / investigator shall assume responsibility for protecting the scene from avoidable destruction or disturbance of potential evidentiary items until relieved by personnel having jurisdictional investigative authority and or the on duty watch commander or his / her designee.

## 462.3 OFFICER RESPONSIBILITIES

Reports **shall be written** in all of the following situations on the appropriate department approved report format unless otherwise approved by a supervisor.

Reports **shall be written** if:

- (a) Death or injury occur.
- (b) There is significant damage to city or private structures, vehicles, or the location has been repeatedly targeted.
- (c) If instructed to do so by a supervisor.
- (d) In the event of an arson related arrest.
- (e) In the event a Cal-Fire arson investigator responds to assist, a report shall be written to document the Cal-Fire scene response and investigators information / involvement.

Refer to IPD policy 344 – Report preparation for additional guidance.

Refer to IPD policy 357 – Major incident notification for additional guidance.

## 462.4 SUPERVISOR RESPONSIBILITIES

Watch Commanders' **shall review and approve** their employee's arson reports without delay and, in most cases, on the day of submission. When workload prevents the supervisor from clearing their approval queue, they should request another supervisor handle the review and approval prior to completion of their work week.

The Watch Commander is responsible for making the appropriate notifications to the Division Lieutenant. The Division Lieutenant shall notify their Division Chief as soon as practical.

# Indio Police Department

## Indio PD Policy Manual

### *ARSON INVESTIGATIONS POLICY*

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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 practicable. Notification should be made by calling the cell phone number first of their Division Lieutenant and then by any other available contact numbers, text or email. If appropriate, the watch commander or designee shall notify the social media team to disseminate a social media public announcement if needed.

#### **462.5 INVESTIGATIVE ROUTING**

All reports shall be routed to Cal Fire Arson investigations for review via IPD records.

## Public Recording of Law Enforcement Activity

### 463.1 PURPOSE AND SCOPE

This policy provides guidelines for handling situations in which members of the public photograph or audio/video record law enforcement actions and other public activities that involve members of this department. In addition, this policy provides guidelines for situations where the recordings may be evidence.

### 463.2 POLICY

The Indio Police Department recognizes the right of persons to lawfully record members of this department who are performing their official duties. Members of this department will not prohibit or intentionally interfere with such lawful recordings. Any recordings that are deemed to be evidence of a crime or relevant to an investigation will only be collected or seized lawfully.

Officers should exercise restraint and should not resort to highly discretionary arrests for offenses such as interference, failure to comply or disorderly conduct as a means of preventing someone from exercising the right to record members performing their official duties.

### 463.3 RECORDING LAW ENFORCEMENT ACTIVITY

Members of the public who wish to record law enforcement activities are limited only in certain aspects.

- (a) Recordings may be made from any public place or any private property where the individual has the legal right to be present (Penal Code § 69; Penal Code § 148).
- (b) Beyond the act of photographing or recording, individuals may not interfere with the law enforcement activity. Examples of interference include, but are not limited to:
  - 1. Tampering with a witness or suspect.
  - 2. Inciting others to violate the law.
  - 3. Being so close to the activity as to present a clear safety hazard to the officers.
  - 4. Being so close to the activity as to interfere with an officer's effective communication with a suspect or witness.
- (c) The individual may not present an undue safety risk to the officers, him/herself or others.

### 463.4 OFFICER RESPONSE

Officers should promptly request that a supervisor respond to the scene whenever it appears that anyone recording activities may be interfering with an investigation or it is believed that the recording may be evidence. If practicable, officers should wait for the supervisor to arrive before taking enforcement action or seizing any cameras or recording media.

Whenever practicable, officers or supervisors should give clear and concise warnings to individuals who are conducting themselves in a manner that would cause their recording or behavior to be unlawful. Accompanying the warnings should be clear directions on what an

# Indio Police Department

## Indio PD Policy Manual

### *Public Recording of Law Enforcement Activity*

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individual can do to be compliant; directions should be specific enough to allow compliance. For example, rather than directing an individual to clear the area, an officer could advise the person that he/she may continue observing and recording from the sidewalk across the street.

If an arrest or other significant enforcement activity is taken as the result of a recording that interferes with law enforcement activity, officers shall document in a report the nature and extent of the interference or other unlawful behavior and the warnings that were issued.

#### **463.5 SUPERVISOR RESPONSIBILITIES**

A supervisor should respond to the scene when requested or any time the circumstances indicate a likelihood of interference or other unlawful behavior.

The supervisor should review the situation with the officer and:

- (a) Request any additional assistance as needed to ensure a safe environment.
- (b) Take a lead role in communicating with individuals who are observing or recording regarding any appropriate limitations on their location or behavior. When practical, the encounter should be recorded.
- (c) When practicable, allow adequate time for individuals to respond to requests for a change of location or behavior.
- (d) Ensure that any enforcement, seizure or other actions are consistent with this policy and constitutional and state law.
- (e) Explain alternatives for individuals who wish to express concern about the conduct of Department members, such as how and where to file a complaint.

#### **463.6 SEIZING RECORDINGS AS EVIDENCE**

Officers should not seize recording devices or media unless (42 USC § 2000aa):

- (a) There is probable cause to believe the person recording has committed or is committing a crime to which the recording relates, and the recording is reasonably necessary for prosecution of the person.
  1. Absent exigency or consent, a warrant should be sought before seizing or viewing such recordings. Reasonable steps may be taken to prevent erasure of the recording.
- (b) There is reason to believe that the immediate seizure of such recordings is necessary to prevent serious bodily injury or death of any person.
- (c) The person consents.
  1. To ensure that the consent is voluntary, the request should not be made in a threatening or coercive manner.
  2. If the original recording is provided, a copy of the recording should be provided to the recording party, if practicable. The recording party should be permitted to be present while the copy is being made, if feasible. Another way to obtain the evidence is to transmit a copy of the recording from a device to a department-owned device.

# Indio Police Department

## Indio PD Policy Manual

### *Public Recording of Law Enforcement Activity*

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Recording devices and media that are seized will be submitted within the guidelines of the Property and Evidence Policy.



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## Crisis Intervention Incidents

### 464.1 PURPOSE AND SCOPE

This policy provides guidelines for interacting with those who may be experiencing a mental health or emotional crisis. Interaction with such individuals has the potential for miscommunication and violence. It often requires an officer to make difficult judgments about a person's mental state and intent in order to effectively and legally interact with the individual.

#### 464.1.1 DEFINITIONS

Definitions related to this policy include:

**Person in crisis** - A person whose level of distress or mental health symptoms have exceeded the person's internal ability to manage his/her behavior or emotions. A crisis can be precipitated by any number of things, including an increase in the symptoms of mental illness despite treatment compliance; non-compliance with treatment, including a failure to take prescribed medications appropriately; or any other circumstance or event that causes the person to engage in erratic, disruptive or dangerous behavior that may be accompanied by impaired judgment.

**Mental Health Crisis** - An event or experience in which an individual's normal coping mechanisms are overwhelmed, causing them to have an extreme emotional, physical, mental, and/or behavioral response. Symptoms may include emotional reactions such as fear, anger, or excessive giddiness; psychological impairments such as inability to focus, confusion, or nightmares, and potentially even psychosis; physical reactions like vomiting/stomach issues, headaches, dizziness, excessive tiredness, or insomnia; and/or behavioral reactions including the trigger of a "freeze, fight, or flight" response. Any individual can experience a crisis reaction regardless of a lack of previous history of mental illness.

**Mental Illness** - An impairment of an individual's normal cognitive, emotional, or behavioral functioning, caused by physiological or psychosocial factors. A person may be affected by mental illness if they display an inability to think rationally (e.g., delusions or hallucinations); exercise adequate control over behavior or impulses (e.g., aggressive, suicidal, homicidal, sexual); and/or take reasonable care of their welfare with regard to basic provisions for clothing, food, shelter, or safety.

### 464.2 POLICY

The Indio Police Department is committed to providing a consistently high level of service to all members of the community and recognizes that persons in crisis may benefit from intervention. The Department will collaborate, where feasible, with mental health professionals to develop an overall intervention strategy to guide its members' interactions with those experiencing a mental health crisis. This is to ensure equitable and safe treatment of all involved. It is the purpose of this policy to provide guidance to law enforcement officers when responding to or encountering persons experiencing a mental health crisis.

# Indio Police Department

## Indio PD Policy Manual

### *Crisis Intervention Incidents*

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#### **464.3 SIGNS**

Only a trained mental health professional can diagnose mental health illness, and even they may sometimes find it difficult to make a diagnosis. Officers are not expected to diagnose mental or emotional conditions, but rather to recognize behaviors that are potentially indicative of a person in mental health crisis, with special emphasis on those that suggest potential violence and/or danger to self and others in addition to indicators indicating a person may be gravely disabled and unable to care for self and others. The following are generalized signs and symptoms of behavior that may suggest an individual is experiencing a mental health crisis, but each should be evaluated within the context of the entire situation. However, officers should not rule out other potential causes, such as effects of alcohol or psychoactive drugs, temporary emotional disturbances that are situational, or medical conditions. Members should be alert to any of the following possible signs of mental health issues or crises which include but are not limited to:

- (a) A known history of mental illness
- (b) Threats of or attempted suicide
- (c) Loss of memory
- (d) Incoherence, disorientation or slow response
- (e) Delusions, hallucinations, perceptions unrelated to reality or grandiose ideas
- (f) Depression, pronounced feelings of hopelessness or uselessness, extreme sadness or guilt
- (g) Social withdrawal
- (h) Manic or impulsive behavior, extreme agitation, lack of control
- (i) Lack of fear
- (j) Anxiety, aggression, rigidity, inflexibility or paranoia
- (k) Strong and unrelenting fear of persons, places, or things.
- (l) Extremely inappropriate behavior for a given context.
- (m) Frustration in new or unforeseen circumstances; inappropriate or aggressive behavior in dealing with the situation.
- (n) Memory loss related to such common facts as name or home address, although these may be signs of other physical ailments such as injury, dementia, or Alzheimer's disease.
- (o) Delusions, defined as the belief in thoughts or ideas that are false, such as delusions of grandeur ("I am Christ") or paranoid delusions ("Everyone is out to get me").
- (p) Hallucinations of any of the five senses (e.g., hearing voices, feeling one's skin crawl, smelling strange odors, seeing things others cannot see).
- (q) The belief that one suffers from extraordinary physical ailments that are not possible, such as persons who are convinced that their heart has stopped beating for extended periods of time.
- (r) Obsession with recurrent and uncontrolled thoughts, ideas, and images.

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- (s) Extreme confusion, fright, paranoia, or depression.
- (t) Feelings of invincibility.

Members should be aware that this list is not exhaustive. The presence or absence of any of these should not be treated as proof of the presence or absence of a mental health issue or crisis.

#### **464.4 COORDINATION WITH MENTAL HEALTH PROFESSIONALS**

The Chief of Police should designate an appropriate Division Chief to collaborate with mental health professionals to develop an education and response protocol. It should include a list of community resources, to guide department interaction with those who may be suffering from mental illness or who appear to be in a mental health crisis.

#### **464.5 FIRST RESPONDERS**

Safety is a priority for first responders. It is important to recognize that individuals under the influence of alcohol, drugs or both may exhibit symptoms that are similar to those of a person in a mental health crisis. These individuals may still present a serious threat to officers; such a threat should be addressed with reasonable tactics. Nothing in this policy shall be construed to limit an officer's authority to use reasonable force when interacting with a person in crisis.

Officers are reminded that mental health issues, mental health crises and unusual behavior alone are not criminal offenses. Individuals may benefit from treatment as opposed to incarceration.

An officer responding to a call involving a person in crisis should:

- (a) Promptly assess the situation independent of reported information and make a preliminary determination regarding whether a mental health crisis may be a factor.
- (b) Request available backup officers and specialized resources as deemed necessary and, if it is reasonably believed that the person is in a crisis situation, use conflict resolution and de-escalation techniques to stabilize the incident as appropriate.
- (c) If feasible, and without compromising safety, turn off flashing lights, bright lights or sirens.
- (d) Attempt to determine if weapons are present or available.
  1. Prior to making contact, and whenever possible and reasonable, conduct a search of the Department of Justice Automated Firearms System via the California Law Enforcement Telecommunications System (CLETS) to determine whether the person is the registered owner of a firearm (Penal Code § 11106.4).
- (e) Take into account the person's mental and emotional state and potential inability to understand commands or to appreciate the consequences of his/her action or inaction, as perceived by the officer.
- (f) Secure the scene and clear the immediate area as necessary.
- (g) Employ tactics to preserve the safety of all participants.
- (h) Determine the nature of any crime.
- (i) Request a supervisor, as warranted.

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- (j) Evaluate any available information that might assist in determining cause or motivation for the person's actions or stated intentions.
- (k) If circumstances reasonably permit, consider and employ alternatives to force.

#### **464.6 DE-ESCALATION**

Officers should consider that taking no action or passively monitoring the situation may be the most reasonable response to a mental health crisis.

Once it is determined that a situation is a mental health crisis and immediate safety concerns have been addressed, responding members should be aware of the following considerations and should generally:

- Evaluate safety conditions.
- Introduce themselves and attempt to obtain the person's name.
- Be patient, polite, calm, courteous and avoid overreacting.
- Speak and move slowly and in a non-threatening manner.
- Moderate the level of direct eye contact.
- Remove distractions or disruptive people from the area.
- Demonstrate active listening skills (e.g., summarize the person's verbal communication).
- Provide for sufficient avenues of retreat or escape should the situation become volatile.

Responding officers generally should not:

- Use stances or tactics that can be interpreted as aggressive.
- Allow others to interrupt or engage the person.
- Corner a person who is not believed to be armed, violent or suicidal.
- Argue, speak with a raised voice or use threats to obtain compliance.

#### **464.6.1 TACTICAL DISENGAGEMENT**

Tactical Disengagement is the decision to leave, delay contact, delay arrest or plan to make contact at a different time under different circumstances. This tactic should be considered when an officer reasonably believes continued contact may result in unreasonable risk to the person in crisis, the public and/or department members. Members may choose to tactically disengage to avoid using force when the danger to the subject by self-harm is no longer imminent or the risk to members of the community, including officers, has been mitigated. This is especially true during events where no criminal violation has taken place. In the event a person suffering a mental health crisis threatens violence towards themselves or others, and barricades themselves inside a location, or refuses to exit a location, a supervisor shall respond and assess whether to employ a tactical disengagement strategy.

#### **464.6.2 AFTER-ACTION REPORTING**

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The supervisor electing to deploy a tactical disengagement strategy shall complete a thorough evaluation and assessment of the incident in a comprehensive police report that contains the following:

A detailed report of the event, explaining the incident including the following:

- (a) Date, time and description of the event
- (b) Actions taken and outcomes (e.g., injuries, property damage, arrests)
- (c) Problems identified
- (d) Significant events
- (e) Recommendations for improvement; opportunities for training should be documented in a generic manner, without identifying individuals or specific incidents, facts or circumstances.

#### **464.7 INCIDENT ORIENTATION**

When responding to an incident that may involve mental illness or a mental health crisis, the officer should request that the dispatcher provide critical information as it becomes available. This includes:

- (a) Whether the person relies on drugs or medication, or may have failed to take his/her medication.
- (b) Whether there have been prior incidents, suicide threats/attempts, and whether there has been previous police response.
- (c) Contact information for a treating physician or mental health professional.

Additional resources and a supervisor should be requested as warranted.

#### **464.8 SUPERVISOR RESPONSIBILITIES**

A supervisor should respond to the scene of any interaction with a person in crisis. Responding supervisors should:

- (a) Attempt to secure appropriate and sufficient resources.
- (b) Closely monitor any use of force, including the use of restraints, and ensure that those subjected to the use of force are provided with timely access to medical care (see the Handcuffing and Restraints Policy).
- (c) Consider strategic disengagement. Absent an imminent threat to the public and, as circumstances dictate, this may include removing or reducing law enforcement resources or engaging in passive monitoring.
- (d) Ensure that all reports are completed and that incident documentation uses appropriate terminology and language.
- (e) Conduct an after-action tactical and operational debriefing, and prepare an after-action evaluation of the incident to be forwarded to the Division Chief.

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Evaluate whether a critical incident stress management debriefing for involved members is warranted.

#### **464.9 INCIDENT REPORTING**

Members engaging in any oral or written communication associated with a mental health crisis should be mindful of the sensitive nature of such communications and should exercise appropriate discretion when referring to or describing persons and circumstances.

Members having contact with a person in crisis should keep related information confidential, except to the extent that revealing information is necessary to conform to department reporting procedures or other official mental health or medical proceedings. If an individual is determined to be in mental health crisis and detained for a mental health evaluation, the incident shall be documented in a written report. When documenting such detentions, officers should do the following;

- (a) Officers should ensure that the report is as specific and explicit as possible concerning the circumstances of the incident and the type of behavior that was observed.
- (b) In circumstances when an individual is transported to a mental health facility for a psychiatric evaluation, officers shall complete a 5150 WIC form and attach a copy to the police report.

##### **464.9.1 DIVERSION**

Individuals who are not being arrested should be processed in accordance with the Mental Illness Commitments Policy.

#### **464.10 NON-SWORN INTERACTION WITH PEOPLE IN CRISIS**

Non-sworn members may be required to interact with persons in crisis in an administrative capacity, such as dispatching, records request, and animal control issues.

- (a) Members should treat all individuals equally and with dignity and respect.
- (b) If a member believes that he/she is interacting with a person in crisis, he/she should proceed patiently and in a calm manner.
- (c) Members should be aware and understand that the person may make unusual or bizarre claims or requests.

If a person's behavior makes the member feel unsafe, if the person is or becomes disruptive or violent, or if the person acts in such a manner as to cause the member to believe that the person may be harmful to him/herself or others, an officer should be promptly summoned to provide assistance.

#### **464.11 EVALUATION**

The Division Chief designated to coordinate the crisis intervention strategy for this department should ensure that a thorough review and analysis of the department response to these incidents is conducted annually. The report will not include identifying information pertaining to any involved

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individuals, officers or incidents and will be submitted to the Chief of Police through the chain of command.

#### **464.12 TRAINING**

In coordination with the mental health community and appropriate stakeholders, the police training cadre & police training specialist will develop and provide comprehensive education and training to all department members to enable them to effectively interact with persons in mental health crisis.

This department will endeavor to provide Peace Officer Standards and Training (POST)-approved advanced officer training on interaction with persons with mental disabilities, welfare checks and crisis intervention (Penal Code § 11106.4; Penal Code § 13515.25; Penal Code § 13515.27; Penal Code § 13515.30).

The following POST training (<https://catalog.post.ca.gov>) is for officers that should be provided by the police training cadre & police training specialist but, is not limited to;

- **CRISIS INTERVENTION BEHAVIORAL HEALTH TRAINING SB 11**- Provides the student with the minimum topics mandated in section 13515.27(a) of the California Penal Code and meets the Perishable Skills Program for Tactical Communication. The training increases officer safety prior to, during and post contact.
- **LEGISLATIVE UPDATE** - Designed to update agency executives and officers to current case law trends, what they mean for agencies and how to practically satisfy new case law requirements. Some of these trends include de-escalation techniques and mental health considerations.
- **CRISIS INTERVENTION BEHAVIORAL HEALTH TRAINING FTO** - The course meets minimum 8 hours for Field Training Officer per SB 29. It will provide the trainee with the minimum topics mandated by 13515.28(a)(1) of the California Penal Code. Field training officers are required to have 8 hours of crisis intervention behavioral health training.
- **CRISIS INTERVENTION TRAINING** - (CIT) is a training program designed to help law enforcement officers manage potential crisis situations with individuals with mental illness within the community. The course focuses on specific mental illnesses, de-escalation skills, community resources, in addition to other various mental health related issues. CIT is a partnership between the Sheriff's Department and Riverside University Health System, Behavioral Health.

## First Amendment Assemblies

### 465.1 PURPOSE AND SCOPE

This policy provides guidance for responding to public assemblies or demonstrations.

### 465.2 POLICY

The Indio Police Department respects the rights of people to peaceably assemble. It is the policy of this department not to unreasonably interfere with, harass, intimidate or discriminate against persons engaged in the lawful exercise of their rights, while also preserving the peace, protecting life and preventing the destruction of property. This Department procedure establishes guidelines for the coordination, facilitation and management of First Amendment Activities.

#### 465.2.1 DEFINITIONS

- Lawful Assembly - A First Amendment Activity, involving two or more persons, which abides by relevant statutory laws and does not involve violence or criminal acts.
- Riot - Any use of force or violence, disturbing the public peace, or any threat to use force or violence, if accompanied by the immediate power of execution, by two or more persons acting together, and without the authority of law, is a Riot. (404 PC)
- Rout - Whenever two or more persons, assembled and acting together, make any attempt or advance toward the commission of an act which would be a riot if actually committed, such assembly is a Rout. (406 PC)
- First Amendment Activity/Activities - First Amendment Activities include all forms of speech and expressive conduct used to convey ideas or information, express grievances, or otherwise communicate with others, including verbal and non-verbal expression. First Amendment Activities may include public displays of a group's or individual's feeling(s) toward a person(s), idea, or cause, and includes, but is not limited to, marches, protests, student walk-outs, assemblies, and sit-ins. Such events and activities usually attract a crowd of persons, including participants, onlookers, observers, media, and other persons who may agree or disagree with the activity's point of view.

Common First Amendment Activities include, but are not limited to, speeches, demonstrations, vigils, picketing, distribution of literature, displaying banners or signs, using puppets to convey a message, and other artistic forms of expression. These activities involve the freedom of speech, association, assembly, and the right to petition the government, as guaranteed by the United States Constitution and the California Constitution.

All persons have the right to peacefully march, demonstrate, protest, rally, or perform the other activities protected by the First Amendment of the United States Constitution and California Constitution.

The government may impose reasonable restrictions on the time, place, or manner of protected speech, provided the restrictions are content-neutral, without reference



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to the content of the regulated speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information.

- Unlawful Assembly - Whenever two or more persons assemble to do an unlawful act or do a lawful act in a violent, boisterous, or tumultuous manner, such assembly is an Unlawful Assembly. (407 PC)

#### **465.3 GENERAL CONSIDERATIONS**

Individuals or groups present on the public way, such as public facilities, streets or walkways, generally have the right to assemble, rally, demonstrate, protest or otherwise express their views and opinions through varying forms of communication, including the distribution of printed matter. These rights may be limited by laws or ordinances regulating such matters as the obstruction of individual or vehicle access or egress, trespass, noise, picketing, distribution of handbills and leafleting, and loitering. However, officers shall not take action or fail to take action based on the opinions being expressed.

Participant behavior during a demonstration or other public assembly can vary. This may include, but is not limited to:

- Lawful, constitutionally protected actions and speech.
- Civil disobedience (typically involving minor criminal acts).
- Rioting.

All of these behaviors may be present during the same event. Therefore, it is imperative that law enforcement actions are measured and appropriate for the behaviors officers may encounter. This is particularly critical if force is being used. Adaptable strategies and tactics are essential. The purpose of a law enforcement presence at the scene of public assemblies and demonstrations should be to preserve the peace, to protect life and prevent the destruction of property.

Officers should not:

- (a) Engage in assembly or demonstration-related discussion with participants.
- (b) Harass, confront or intimidate participants.
- (c) Seize the cameras, cell phones or materials of participants or observers unless an officer is placing a person under lawful arrest.

Supervisors should continually observe department members under their commands to ensure that members' interaction with participants and their response to crowd dynamics is appropriate.

#### **465.3.1 PHOTOGRAPHS AND VIDEO RECORDINGS**

Photographs and video recording, when appropriate, can serve a number of purposes, including support of criminal prosecutions by documenting criminal acts; assistance in evaluating department performance; serving as training material; recording the use of dispersal orders; and facilitating a response to allegations of improper law enforcement conduct.

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Photographs and videos will not be used or retained for the sole purpose of collecting or maintaining information about the political, religious or social views of associations, or the activities of any individual, group, association, organization, corporation, business or partnership, unless such information directly relates to an investigation of criminal activities and there is reasonable suspicion that the subject of the information is involved in criminal conduct.

#### **465.4 UNPLANNED EVENTS**

When responding to an unplanned or spontaneous public gathering, the first responding officer should conduct an assessment of conditions, including, but not limited to, the following:

- Location
- Number of participants
- Apparent purpose of the event
- Leadership (whether it is apparent and/or whether it is effective)
- Any initial indicators of unlawful or disruptive activity
- Indicators that lawful use of public facilities, streets or walkways will be impacted
- Ability and/or need to continue monitoring the incident

Initial assessment information should be promptly communicated to the Dispatch Center, and the assignment of a supervisor should be requested. Additional resources should be requested as appropriate. The responding supervisor shall assume command of the incident until command is expressly assumed by another, and the assumption of command is communicated to the involved members. A clearly defined command structure that is consistent with the Incident Command System (ICS) should be established as resources are deployed.

#### **465.5 PLANNED EVENT PREPARATION**

For planned events, comprehensive, incident-specific operational plans should be developed. The ICS should be considered for such events.

##### **465.5.1 INFORMATION GATHERING AND ASSESSMENT**

In order to properly assess the potential impact of a public assembly or demonstration on public safety and order, relevant information should be collected and vetted. This may include:

- Information obtained from outreach to group organizers or leaders.
- Information about past and potential unlawful conduct associated with the event or similar events.
- The potential time, duration, scope, and type of planned activities.
- Any other information related to the goal of providing a balanced response to criminal activity and the protection of public safety interests.

Information should be obtained in a transparent manner, and the sources documented. Relevant information should be communicated to the appropriate parties in a timely manner.

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Information will be obtained in a lawful manner and will not be based solely on the purpose or content of the assembly or demonstration, or actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability of the participants (or any other characteristic that is unrelated to criminal conduct or the identification of a criminal subject).

#### 465.5.2 OPERATIONAL PLANS

An operational planning team with responsibility for event planning and management should be established. The planning team should develop an operational plan for the event.

The operational plan will minimally provide for:

- (a) Command assignments, chain of command structure, roles and responsibilities.
- (b) Staffing and resource allocation.
- (c) Management of criminal investigations.
- (d) Designation of uniform of the day and related safety equipment (e.g., helmets, shields).
- (e) Deployment of specialized resources.
- (f) Event communications and interoperability in a multijurisdictional event.
- (g) Liaison with demonstration leaders and external agencies.
- (h) Liaison with City government and legal staff.
- (i) Media relations.
- (j) Logistics: food, fuel, replacement equipment, duty hours, relief and transportation.
- (k) Traffic management plans.
- (l) First aid and emergency medical service provider availability.
- (m) Prisoner transport and detention.
- (n) Review of policies regarding public assemblies and use of force in crowd control.
- (o) Parameters for declaring an unlawful assembly.
- (p) Arrest protocol, including management of mass arrests.
- (q) Protocol for recording information flow and decisions.
- (r) Rules of engagement, including rules of conduct, protocols for field force extraction and arrests, and any authorization required for the use of force.
- (s) Protocol for handling complaints during the event.
- (t) Parameters for the use of body-worn cameras and other portable recording devices.

#### 465.5.3 MUTUAL AID AND EXTERNAL RESOURCES

The magnitude and anticipated duration of an event may necessitate interagency cooperation and coordination. The assigned Incident Commander should ensure that any required memorandums

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of understanding or other agreements are properly executed, and that any anticipated mutual aid is requested and facilitated (see the Mutual Aid and Outside Agency Assistance Policy).

#### **465.6 UNLAWFUL ASSEMBLY DISPERSAL ORDERS**

If a public gathering or demonstration remains peaceful and nonviolent, and there is no reasonably imminent threat to persons or property, the Incident Commander should generally authorize continued monitoring of the event.

Should the Incident Commander make a determination that public safety is presently or is about to be jeopardized, he/she or the authorized designee should attempt to verbally persuade event organizers or participants to disperse of their own accord. Warnings and advisements may be communicated through established communications links with leaders and/or participants or to the group.

When initial attempts at verbal persuasion are unsuccessful, the Incident Commander or the authorized designee should make a clear standardized announcement to the gathering that the event is an unlawful assembly, and should order the dispersal of the participants. The announcement should be communicated by whatever methods are reasonably available to ensure that the content of the message is clear and that it has been heard by the participants. The announcement should be amplified, made in different languages as appropriate, made from multiple locations in the affected area and documented by audio and video. The announcement should provide information about what law enforcement actions will take place if illegal behavior continues and should identify routes for egress. A reasonable time to disperse should be allowed following a dispersal order.

Officers shall use the following dispersal order:

- I am (your name and rank), a Police Officer of the City of Indio. I hereby declare this to be an unlawful assembly, and in the name of the People of the State of California, I command all those assembled at (give specific location) to immediately disperse. You may move to (give a suitable location for crowd destination). If you remain in the area, which was just described, regardless of your purpose in remaining, you will be in violation of Penal Code Section 409. The following routes to dispersal are available; (give the most convenient route(s) of dispersal). You have (a reasonable amount of time) to disperse. If you refuse to move, chemical agents and other weapons will be used. (Provide the chemical agent/projectile warning only if their use is anticipated.)
- Yo soy (name and rank) un oficial del departamento de policia de Indio. Por Medio de la presente declaro que esta es una asamblea ilegal y en el nombre del gobierno del estado de California, les ordeno a todos aquellos reunidos (give specific location) que se retiren inmediatamente. Usted puede moverse (give specific locations and best route). Si no hacen eso, ustedes seran arrestados por una violacion del codigo penal seccion 409 del codigo penal del estado de California. Si usted rehusa moverse se usara gas lacrimojeno y otras armas. (Provide the chemical agent/projectile warning only if their use is anticipated.)

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Emergency Medical Services personnel should be staged before the use of crowd dispersal techniques defined below unless exigent circumstances exist.

Unless exigent circumstances exist, crowd dispersal techniques shall not be initiated until the Incident Commander has ensured dispersal announcements have been made to the crowd.

These dispersal announcements must be made using adequate sound amplification equipment to ensure that they are audible over a sufficient area. The dispersal orders should be repeated after the commencement of the dispersal operation so that persons not present at the original broadcast will understand that they must leave the area. Consider using a bullhorn, vehicle Public Address (PA) system, or Long-Range Acoustical Device. Ensure this is recorded with your BWC.

The Incident Commander should ensure that the name of the individual making the dispersal order and the date, time(s), and location(s) each order was given is recorded with their BWC. Unless an immediate risk to public safety exists or significant property damage occurs, a reasonable time will be allowed for a crowd to comply with police commands before taking action.

#### **465.7 USE OF FORCE**

Use of force is governed by current department policy and applicable law (see the Use of Force, Handcuffing and Restraints, Control Devices and Techniques, and Conducted Energy Device policies).

Individuals refusing to comply with lawful orders (e.g., nonviolent refusal to disperse) should be given a clear verbal warning and a reasonable opportunity to comply. If an individual refuses to comply with lawful orders, the Incident Commander shall evaluate the type of resistance and adopt a reasonable response in order to accomplish the law enforcement mission (such as dispersal or arrest of those acting in violation of the law). Control devices and Conducted Energy Devices should be considered only when the participants' conduct reasonably appears to present the potential to harm officers, themselves or others, or will result in substantial property loss or damage (see the Control Devices and Techniques and the Conducted Energy Device policies).

Force or control devices, including oleoresin capsaicin (OC), should be directed toward individuals and not toward groups or crowds, unless specific individuals cannot reasonably be targeted due to extreme circumstances, such as a riotous crowd.

Any use of force by a member of this department shall be documented promptly, completely and accurately in an appropriate report. The type of report required may depend on the nature of the incident.

#### **465.8 ARRESTS**

The Indio Police Department should respond to unlawful behavior in a manner that is consistent with the operational plan. If practicable, warnings or advisements should be communicated prior to arrest.

Mass arrests should be employed only when alternate tactics and strategies have been, or reasonably appear likely to be, unsuccessful. Mass arrests shall only be undertaken upon the

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order of the Incident Commander or the authorized designee. There must be probable cause for each arrest.

If employed, mass arrest protocols should fully integrate:

- (a) Reasonable measures to address the safety of officers and arrestees.
- (b) Dedicated arrest, booking and report writing teams.
- (c) Timely access to medical care.
- (d) Timely access to legal resources.
- (e) Timely processing of arrestees.
- (f) Full accountability for arrestees and evidence.
- (g) Coordination and cooperation with the prosecuting authority, jail and courts (see the Cite and Release Policy).

#### **465.9 MEDIA RELATIONS**

The Public Information Officer should use all available avenues of communication, including press releases, briefings, press conferences, and social media to maintain open channels of communication with media representatives and the public about the status and progress of the event, taking all opportunities to reassure the public about the professional management of the event (see the Media Relations Policy).

The media have a right to cover First Amendment Activity, including the right to record the event on video, film, photographs, and other mediums. The media shall never be targeted for dispersal or enforcement action because of their media status. Members of the media may not interfere with arrests, assault officers, or commit acts that qualify as criminal violations under local, state, or federal law. Any criminal offenses by a media member shall be thoroughly documented, detailing specific facts, witnesses, and evidence. Even after a dispersal order has been given, clearly identified media shall be permitted to carry out their professional duties unless their presence would unduly interfere with the enforcement action.

##### **465.9.1 MEDIA ACCESS**

If officers close the immediate area surrounding any emergency field command post or any other command post, or establish a police line, or rolling closure at a demonstration, march, protest, or rally where individuals are engaged in a protected activity pursuant to the First Amendment, officers shall comply with the requirements of Penal Code § 409.7 relating to media access (i.e., access to closed areas, obtaining information) (Penal Code § 409.7).

#### **465.10 DEMOBILIZATION**

When appropriate, the Incident Commander or the authorized designee should implement a phased and orderly withdrawal of law enforcement resources. All relieved personnel should promptly complete any required reports, including use of force reports, and account for all issued equipment and vehicles to their supervisors prior to returning to normal operational duties.

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#### **465.11 POST EVENT**

The Incident Commander should designate a member to assemble full documentation of the event, to include the following:

- (a) Operational plan
- (b) Any incident logs
- (c) Any assignment logs
- (d) Vehicle, fuel, equipment and supply records
- (e) Incident, arrest, use of force, injury and property damage reports
- (f) Photographs, audio/video recordings, the Dispatch Center records/tapes
- (g) Media accounts (print and broadcast media)

##### **465.11.1 AFTER-ACTION REPORTING**

The Incident Commander should work with City legal counsel, as appropriate, to prepare a comprehensive after-action report of the event, explaining all incidents where force was used including the following:

- (a) Date, time and description of the event
- (b) Actions taken and outcomes (e.g., injuries, property damage, arrests)
- (c) Problems identified
- (d) Significant events
- (e) Recommendations for improvement; opportunities for training should be documented in a generic manner, without identifying individuals or specific incidents, facts or circumstances.

#### **465.12 TRAINING**

Department members should receive periodic training regarding this policy, as well as the dynamics of crowd control and incident management (Penal Code § 13514.5). The Department should, when practicable, train with its external and mutual aid partners.

Officers should also receive periodic training on the standards for the use of kinetic energy projectiles and chemical agents for crowd control purposes as identified in Penal Code § 13652.

#### **465.13 USE OF KINETIC ENERGY PROJECTILES AND CHEMICAL AGENTS FOR CROWD CONTROL**

Kinetic energy projectiles and chemical agents for crowd control purposes shall only be deployed by officers who have received POST training for crowd control if the use is objectively reasonable to defend against a threat to life or serious bodily injury to any individual, including an officer, or to bring an objectively dangerous and unlawful situation safely and effectively under control and in accordance with the following requirements of Penal Code § 13652.

- (a) De-escalation techniques or other alternatives to force have been attempted, when objectively reasonable, and have failed.

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- (b) Repeated, audible announcements are made announcing the intent to use kinetic energy projectiles and chemical agents and the type to be used, when objectively reasonable to do so. The announcements shall be made from various locations, if necessary, and delivered in multiple languages, if appropriate.
- (c) Individuals are given an objectively reasonable opportunity to disperse and leave the scene.
- (d) An objectively reasonable effort has been made to identify individuals engaged in violent acts and those who are not, and kinetic energy projectiles or chemical agents are targeted toward those individuals engaged in violent acts. Projectiles shall not be aimed indiscriminately into a crowd or group of individuals.
- (e) Kinetic energy projectiles and chemical agents are used only with the frequency, intensity, and in a manner that is proportional to the threat and objectively reasonable.
- (f) Officers shall minimize the possible incidental impact of their use of kinetic energy projectiles and chemical agents on bystanders, medical personnel, journalists, or other unintended targets.
- (g) An objectively reasonable effort has been made to extract individuals in distress.
- (h) Medical assistance is promptly provided, if properly trained personnel are present, or procured, for injured persons, when it is reasonable and safe to do so.
- (i) Kinetic energy projectiles shall not be aimed at the head, neck, or any other vital organs.
- (j) Kinetic energy projectiles or chemical agents shall not be used solely due to any of the following:
  - 1. A violation of an imposed curfew.
  - 2. A verbal threat.
  - 3. Noncompliance with a law enforcement directive.
- (k) If the chemical agent to be deployed is tear gas, only an Incident Commander at the scene of the assembly, protest, or demonstration may authorize its use.

#### 465.13.1 USE SUMMARY

The Field Services Division Chief or the authorized designee should ensure that a summary of each deployment of kinetic energy projectiles or chemical agents for crowd control purposes is prepared and published on the department website within 60 days of each incident. The time frame may be extended for another 30 days where just cause is demonstrated, but no longer than 90 days from the time of the incident. The summary shall be limited to the information known to the Department at the time of the report and include the information required in Penal Code § 13652.1.



## Civil Disputes

### 466.1 PURPOSE AND SCOPE

This policy provides members of the Indio Police Department with guidance for addressing conflicts between persons when no criminal investigation or enforcement action is warranted (e.g., civil matters), with the goal of minimizing any potential for violence or criminal acts.

The Domestic Violence Policy will address specific legal mandates related to domestic violence court orders. References in this policy to “court orders” apply to any order of a court that does not require arrest or enforcement by the terms of the order or by California law.

### 466.2 POLICY

The Indio Police Department recognizes that a law enforcement presence at a civil dispute can play an important role in the peace and safety of the community. Subject to available resources, members of this department will assist at the scene of civil disputes with the primary goal of safeguarding persons and property, preventing criminal activity and maintaining the peace. When handling civil disputes, members will remain impartial, maintain a calm presence, give consideration to all sides and refrain from giving legal or inappropriate advice.

### 466.3 GENERAL CONSIDERATIONS

When appropriate, members handling a civil dispute should encourage the involved parties to seek the assistance of resolution services or take the matter to the civil courts. Members must not become personally involved in disputes and shall at all times remain impartial and avoid being baited into situations that can lead to potential civil liability.

While not intended to be an exhaustive list, members should give considerations to the following when handling civil disputes:

- (a) Civil disputes tend to be confrontational and members should be alert that they can escalate to violence very quickly. De-escalation techniques should be used when appropriate.
- (b) Members should not dismiss alleged or observed criminal violations as a civil matter and should initiate the appropriate investigation and report when criminal activity is apparent.
- (c) Members shall not provide legal advice, however, when appropriate, members should inform the parties when they are at risk of violating criminal laws.
- (d) Members are reminded that they shall not enter a residence or other non-public location without legal authority including valid consent.
- (e) Members should not take an unreasonable amount of time assisting in these matters and generally should contact a supervisor if it appears that peacekeeping efforts longer than 30 minutes are warranted.

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#### **466.4 COURT ORDERS**

Disputes involving court orders can be complex. Where no mandate exists for an officer to make an arrest for a violation of a court order, the matter should be addressed by documenting any apparent court order violation in a report. If there appears to be a more immediate need for enforcement action, the investigating officer should consult a supervisor prior to making any arrest.

If a person appears to be violating the terms of a court order but is disputing the validity of the order or its applicability, the investigating officer should document the following:

- (a) The person's knowledge of the court order or whether proof of service exists.
- (b) Any specific reason or rationale the involved person offers for not complying with the terms of the order.

A copy of the court order should be attached to the report when available. The report should be forwarded to the appropriate prosecutor. The report should also be forwarded to the court issuing the order with a notice that the report was also forwarded to the prosecutor for review.

##### **466.4.1 STANDBY REQUESTS**

Officer responding to a call for standby assistance to retrieve property should meet the person requesting assistance at a neutral location to discuss the process. The person should be advised that items that are disputed will not be allowed to be removed. The member may advise the person to seek private legal advice as to the distribution of disputed property. These request should normally be fulfilled during the reasonable hours of 7 am to 10 pm, unless approved by a supervisor.

Members should accompany the person to the location of the property. Members should ask if the other party will allow removal of the property or whether the other party would remove the property.

If the other party is uncooperative, the person requesting standby assistance should be instructed to seek private legal advice and obtain a court order to obtain the items. Officers should not order the other party to allow entry or the removal of any items. If there is a restraining or similar order against the person requesting standby assistance, that person should be asked to leave the scene or they may be subject to arrest for violation of the order.

If the other party is not present at the location, the member will not allow entry into the location or the removal of property from the location.

#### **466.5 VEHICLES AND PERSONAL PROPERTY**

Officers may be faced with disputes regarding possession or ownership of vehicles or other personal property. Officers may review documents provided by parties or available databases (e.g., vehicle registration), but should be aware that legal possession of vehicles or personal property can be complex. Generally, officers should not take any enforcement action unless a crime is apparent. The people and the vehicle or personal property involved should be identified and the incident documented.

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#### **466.6 REAL PROPERTY**

Disputes over possession or occupancy of real property (e.g., land, homes, apartments) should generally be handled through a person seeking a court order.

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# Suspicious Activity Reporting

## 467.1 PURPOSE AND SCOPE

This policy provides guidelines for reporting and investigating suspicious and criminal activity.

### 467.1.1 DEFINITIONS

Definitions related to this policy include:

**Involved party** - An individual who has been observed engaging in suspicious activity, as defined in this policy, when no definitive criminal activity can be identified, thus precluding the person's identification as a suspect.

**Suspicious activity** - Any reported or observed activity that a member reasonably believes may have a nexus to any criminal act or attempted criminal act, or to foreign or domestic terrorism. Race, ethnicity, national origin or religious affiliation should not be considered as factors that create suspicion (although these factors may be used as specific suspect descriptions). Examples of suspicious activity may include, but are not limited to:

- Suspected pre-operational surveillance or intelligence gathering (e.g., photographing security features, asking questions about sensitive security-related subjects).
- Tests of security measures and response to incidents (e.g., "dry run," creating false alarms, attempts to enter secure areas without authorization).
- Suspicious purchases (e.g., purchasing large quantities of otherwise legal items, such as fertilizer, that could be used to create an explosive or other dangerous device).
- An individual in possession of such things as a hoax explosive or dispersal device, sensitive materials (e.g., passwords, access codes, classified government information), or coded or ciphered literature or correspondence.

**Suspicious Activity Report (SAR)** - An incident report used to document suspicious activity.

## 467.2 POLICY

The Indio Police Department recognizes the need to protect the public from criminal conduct and acts of terrorism and shall lawfully collect, maintain and disseminate information regarding suspicious activities, while safeguarding civil liberties and privacy protections.

## 467.3 RESPONSIBILITIES

The Investigative Services Division Chief and authorized designees will manage SAR activities. Authorized designees should include supervisors who are responsible for department participation in criminal intelligence systems as outlined in the Criminal Organizations Policy.

The responsibilities of the Investigative Services Division Chief include, but are not limited to:

- (a) Remaining familiar with those databases available to the Department that would facilitate the purpose of this policy.

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- (b) Maintaining adequate training in the area of intelligence gathering to ensure no information is being maintained that would violate the law or civil rights of any individual.
- (c) Ensuring a process is available that would allow members to report relevant information. The process should be designed to promote efficient and quick reporting, and should not be cumbersome, duplicative or complicated.
- (d) Ensuring that members are made aware of the purpose and value of documenting information regarding suspicious activity, as well as the databases and other information resources that are available to the Department.
- (e) Ensuring that SAR information is appropriately disseminated to members in accordance with their job responsibilities.
- (f) Coordinating investigative follow-up, if appropriate.
- (g) Coordinating with any appropriate agency or fusion center.
- (h) Ensuring that, as resources are available, the Department conducts outreach that is designed to encourage members of the community to report suspicious activity and that outlines what they should look for and how they should report it (e.g., website, public service announcements).

#### **467.4 REPORTING AND INVESTIGATION**

Any department member receiving information regarding suspicious activity should take any necessary immediate and appropriate action, including a request for tactical response or immediate notification of specialized entities, when applicable. Any non-sworn member who receives such information should ensure that it is passed on to an officer in a timely manner.

If the suspicious activity is not directly related to a reportable crime, the member should prepare a SAR and include information about involved parties and the circumstances of the incident. If, during any investigation, an officer becomes aware of suspicious activity that is unrelated to the current investigation, the information should be documented separately in a SAR and not included in the original incident report. The report number of the original incident should be included in the SAR as a cross reference. A SAR should be processed as any other incident report.

#### **467.5 HANDLING INFORMATION**

The Records Bureau will forward copies of SARs, in a timely manner, to the following:

- Major Crimes Unit or Street Crimes Unit supervisor
- Crime Analysis Unit
- Other authorized designees

## Medical Aid and Response

### 468.1 PURPOSE AND SCOPE

This policy recognizes that members often encounter persons in need of medical aid and establishes a law enforcement response to such situations.

### 468.2 POLICY

It is the policy of the Indio Police Department that all officers and other designated members be trained to provide emergency medical aid and to facilitate an emergency medical response. Recognizing the urgency of providing medical aid and the importance of preserving human life, officers will request medical alert identification, if needed, and render appropriate medical aid within the scope of their training. A call for medical aid is not required for apparent injuries that can be treated by basic first aid (e.g. minor cuts and abrasions).

### 468.3 FIRST RESPONDING MEMBER RESPONSIBILITIES

Whenever practicable, members should take appropriate steps to provide initial medical aid (e.g., first aid, CPR, use of an automated external defibrillator (AED)) in accordance with their training and current certification levels. This should be done for those in need of immediate care and only when the member can safely do so.

Prior to initiating medical aid, the member should contact the Dispatch Center and request response by Emergency Medical Services (EMS) as the member deems appropriate.

Members should follow universal precautions when providing medical aid, such as wearing gloves and avoiding contact with bodily fluids, consistent with the Communicable Diseases Policy. Members should use a barrier or bag device to perform rescue breathing.

When requesting EMS, the member should provide the Dispatch Center with information for relay to EMS personnel in order to enable an appropriate response, including:

- (a) The location where EMS is needed.
- (b) The nature of the incident.
- (c) Any known scene hazards.
- (d) Information on the person in need of EMS, such as:
  1. Signs and symptoms as observed by the member.
  2. Changes in apparent condition.
  3. Number of patients, sex, and age, if known.
  4. Whether the person is conscious, breathing, and alert, or is believed to have consumed drugs or alcohol.
  5. Whether the person is showing signs or symptoms of extreme agitation or is engaging in violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain.

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Members should stabilize the scene whenever practicable while awaiting the arrival of EMS.

Members should not direct EMS personnel whether to transport the person for treatment.

#### **468.4 TRANSPORTING ILL AND INJURED PERSONS**

Except in extraordinary cases where alternatives are not reasonably available, members shall not transport persons who are unconscious, who have serious injuries or who may be seriously ill. EMS personnel should be called to handle patient transportation.

Officers should search any person who is in custody before releasing that person to EMS for transport.

An officer should accompany any person in custody during transport in an ambulance when requested by EMS personnel, when it reasonably appears necessary to provide security, when it is necessary for investigative purposes or when so directed by a supervisor.

Members should not provide emergency escort for medical transport or civilian vehicles unless approved by a supervisor.

#### **468.5 PERSONS REFUSING EMS CARE**

If a person who is not in custody refuses EMS care or refuses to be transported to a medical facility, an officer shall not force that person to receive care or be transported. However, members may assist EMS personnel when EMS personnel determine the person lacks mental capacity to understand the consequences of refusing medical care or to make an informed decision and the lack of immediate medical attention may result in serious bodily injury or the death of the person.

In cases where mental illness may be a factor, the officer should consider proceeding with a 72-hour treatment and evaluation commitment (5150 commitment) process in accordance with the Mental Illness Commitments Policy.

If an officer believes that a person who is in custody requires EMS care and the person refuses, he/she should encourage the person to receive medical treatment. The officer may also consider contacting a family member to help persuade the person to agree to treatment or who may be able to authorize treatment for the person.

If the person who is in custody still refuses, the officer will require the person to be transported to the nearest medical facility. In such cases, the officer should consult with a supervisor prior to the transport.

Members shall not sign refusal-for-treatment forms or forms accepting financial responsibility for treatment.

#### **468.6 MEDICAL ATTENTION RELATED TO USE OF FORCE**

Specific guidelines for medical attention for injuries sustained from a use of force may be found in the Use of Force, Handcuffing and Restraints, Control Devices and Techniques, and Conducted Energy Device policies.

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#### **468.7 AIR AMBULANCE**

Generally, when on-scene, EMS personnel will be responsible for determining whether an air ambulance response should be requested. An air ambulance may be appropriate when there are victims with life-threatening injuries or who require specialized treatment (e.g., gunshot wounds, burns, obstetrical cases), and distance or other known delays will affect the EMS response.

The Field Services Division Chief should develop guidelines for air ambulance landings or enter into local operating agreements for the use of air ambulances, as applicable. In creating those guidelines, the Department should identify:

- Responsibility and authority for designating a landing zone and determining the size of the landing zone.
- Responsibility for securing the area and maintaining that security once the landing zone is identified.
- Consideration of the air ambulance provider's minimum standards for proximity to vertical obstructions and surface composition (e.g., dirt, gravel, pavement, concrete, grass).
- Consideration of the air ambulance provider's minimum standards for horizontal clearance from structures, fences, power poles, antennas or roadways.
- Responsibility for notifying the appropriate highway or transportation agencies if a roadway is selected as a landing zone.
- Procedures for ground personnel to communicate with flight personnel during the operation.

One department member at the scene should be designated as the air ambulance communications contact. Headlights, spotlights and flashlights should not be aimed upward at the air ambulance. Members should direct vehicle and pedestrian traffic away from the landing zone.

Members should follow these cautions when near an air ambulance:

- Never approach the aircraft until signaled by the flight crew.
- Always approach the aircraft from the front.
- Avoid the aircraft's tail rotor area.
- Wear eye protection during landing and take-off.
- Do not carry or hold items, such as IV bags, above the head.
- Ensure that no one smokes near the aircraft.

#### **468.8 AUTOMATED EXTERNAL DEFIBRILLATOR (AED) USE**

A member may use an AED only after receiving appropriate training from an approved public safety first aid and CPR course (22 CCR 100014; 22 CCR 100017; 22 CCR 100018).



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#### 468.8.1 AED USER RESPONSIBILITY

Members who are issued AEDs for use in department vehicles should check the AED at the beginning of the shift to ensure it is properly charged and functioning. Any AED that is not functioning properly will be taken out of service and given to the Training Coordinator who is responsible for ensuring appropriate maintenance.

Following use of an AED, the device shall be cleaned and/or decontaminated as required. The electrodes and/or pads will be replaced as recommended by the AED manufacturer.

Any member who uses an AED should contact the Dispatch Center as soon as possible and request response by EMS.

#### 468.8.2 AED REPORTING

Any member using an AED will complete an incident report detailing its use.

#### 468.8.3 AED TRAINING AND MAINTENANCE

The Training Coordinator should ensure appropriate training and refresher training is provided to members authorized to use an AED. A list of authorized members and training records shall be made available for inspection by the local EMS agency (LEMSA) or EMS authority upon request (22 CCR 100021; 22 CCR 100022; 22 CCR 100029).

The Training Coordinator is responsible for ensuring AED devices are appropriately maintained and will retain records of all maintenance in accordance with the established records retention schedule (22 CCR 100021).

#### **468.8.4 RESPONDING TO MEDICAL AID, CARDIAC ARREST, OR CPR IN PROGRESS**

These guidelines apply to all sworn personnel;

- a. Personnel with proper certification and current training shall perform CPR when feasible during the scope of their law enforcement duties and when dispatched to a medical aid where such life saving measures are needed pending the arrival of medical aid.
- b. If an "on view" situation occurs, the officer will advise communications via police radio or direct another person to call 9-1-1 in order to request a (CDF) California Department of Forestry medical response.
- c. Upon the arrival of CDF Paramedics, patients care will be transferred to CDF Paramedics in the same manner that other medical or traumatic injury cases are handled.

#### **468.9 SICK OR INJURED ARRESTEE**

If an arrestee appears ill or injured, or claims illness or injury, they should be medically cleared prior to booking at a local hospital (JFK Hospital). If the officer has reason to believe the arrestee is feigning injury or illness, the officer should contact a supervisor, who will determine whether medical clearance will be obtained prior to booking.

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If the jail or detention facility refuses to accept custody of an arrestee based on medical screening, the officer should note the name of the facility person refusing to accept custody and the reason for refusal, and should notify a supervisor to determine the appropriate action.

Arrestees who appear to have a serious medical issue should be transported by ambulance. Officers should not transport an arrestee to a hospital without a supervisor's notification.

Nothing in this section should delay an officer from requesting EMS when an arrestee reasonably appears to be exhibiting symptoms that appear to be life threatening, including breathing problems or an altered level of consciousness, or is claiming an illness or injury that reasonably warrants an EMS response in accordance with the officer's training.

#### **468.10 FIRST AID TRAINING**

The Police Training Specialist should ensure officers receive initial first aid training within one year of employment and refresher training every two years thereafter (22 CCR 100016; 22 CCR 100022) per POST guidelines in order to ensure compliance. In addition, the Police Training Specialist shall maintain a current log of all CPR certified sworn staff.

#### **468.11 ADMINISTRATION OF NALOXONE (NARCAN) OPIOID OVERDOSE MEDICATION**

Trained Indio Police Department members may administer opioid overdose **medication (Civil Code § 1714.22; Business and Professions Code § 4119.9). Assembly Bill No.635 (Ammiano. Drug overdose treatment: liability) eliminates liability** for administering such medication.

1. If a trained officer administers nasal naloxone (Narcan), the officer shall complete the **Narcan Administration Form** and submit it to the watch commander for forwarding to the training staff supervisors, specifically the **Naloxone Coordinator** by end of shift. A copy shall be attached to a police report if one was written, otherwise if the call for service was simply a medical aid the attached completed documented with an incident number shall be satisfactory. The training supervisor or their **Naloxone Coordinator / designee** shall keep a log with a copy of all **Narcan Administration Forms** for record keeping.
2. The Naloxone Coordinator will capture all required data and follow direction under the section titled **Medication Reporting** in this policy.
3. The Naloxone coordinator will verify the forms are complete and stored in a log for record keeping.
4. The training supervisor will review the Naloxone Administration form logs and conduct a monthly audit to verify accuracy and compliance with these protocols. Any issue(s) noted by this review will be communicated back to the Naloxone Coordinator.
5. The Naloxone Coordinator will review the issue with the treating officer. He will also make notification to all Watch Commanders and Sergeant's for review at shift briefing (excluding officer information). This will allow for continuous quality improvement of the program and enable officers to enhance their knowledge and skills from such learning opportunities.

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6. Nothing in this policy prohibits Indio Police Department Employees (sworn and non-sworn) from using Naloxone on any person, or animal, in case of a medical emergency induced by a suspected exposure to an opioid. Refer to section 468.13 of this policy for guidance on objective symptoms of a suspected opioid exposure.

#### **468.12 NALOXONE COORDINATOR**

The Chief of Police or their designee shall appoint a Naloxone Coordinator to administer the law enforcement program. The coordinator's responsibilities will include:

- (a) Ensuring opioid medication is assigned, current, logged, and tracked
  - (a) **(NOTE: FDA - U.S. Food and Drug Administration has approved the extension of the shelf life of NARCAN<sup>®</sup> (naloxone HCl) Nasal Spray from 24 months to 36 months).**
- (b) Ensuring members of the Indio Police Department are adequately trained in use and storage.
- (c) Ensure that any use of opioid medication on a subject is documented in a police report, usage / application forms and reported to the training supervisor or Naloxone coordinator or their designee within 24 hours
- (d) Ensure that opioid medication is replaced if used, lost, damaged, or expired. This should be tracked in a log attached to the Narcan Administration Form log.
- (e) Ensure excess product (naloxone) is properly stored and conduct a quarterly inventory.

#### **468.13 NALOXONE - OPIOID OVERDOSE MEDICATION USER RESPONSIBILITIES**

Members who are properly trained and qualified to administer opioid overdose medication, such as naloxone, should handle, store and administer the medication consistent with their training. Members should check the medication and associated administration equipment at the beginning of their shift to ensure they are serviceable and not expired. Any expired medication or unserviceable administration equipment should be removed from service and given to the Naloxone Coordinator for replacement.

**Watch commanders should conduct quarterly shift audits to ensure their employees equipment / Naloxone is serviceable.**

Authorized employees should use opioid overdose medication on subjects believed to be suffering from an opioid overdose.

Information that a subject is suffering from an opioid overdose includes, but is not limited to:

- (a) Pinpoint pupils
- (b) Depressed respiratory rate
- (c) Shallow or absent breathing
- (d) Respiratory arrest

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- (e) Lips and fingernails appear blue
- (f) Skin is pale and clammy
- (g) Lethargic or unresponsive mental status
- (h) Evidence of opioid use

Any member who administers an opioid overdose medication shall contact Dispatch as soon as possible and request response by EMS. Members should notify a supervisor as soon as practical when opioid medication has been used

#### **468.14 NALOXONE - OPIOID OVERDOSE MEDICATION REPORTING**

In accordance with this policy, the designated Naloxone Coordinator will be responsible for all data collection and reporting to the (CDHS) **California Department of Health Care Services (Naloxone Distribution Project)** if requested to do so. The data shall be retained by the Naloxone Coordinator until requested by CDHS:

See attachment: NARCAN Administration Report.pdf

Instructions for Use of Narcan / Naloxone nasal Spray

In addition, Officers who deploy Naloxone shall document their usage via the REMSA Policy 3309 Reporting Form Link listed below, in addition to the IPD Naloxone Administration Forms:

<https://forms.office.com/g/CaDY22ycFA>

#### **468.15 NALOXONE - OPIOID OVERDOSE MEDICATION TRAINING**

The Naloxone Coordinator should ensure initial and refresher training is provided to members authorized to administer opioid overdose medication. Training should be coordinated with the local health department and comply with the requirements in **22 CCR 100019** and any applicable POST standards (**Civil Code § 1714.22**).

Refer to <https://www.GetNaloxoneNow.org/#resources> for naloxone training resources.

The Naloxone Coordinator will communicate all issues that occurred over the year with the lead training instructor(s). Issues will be covered as part of annual training to assist with continuous quality improvement.

#### **468.16 DESTRUCTION OF NALOXONE MEDICATION**

The Naloxone Coordinator shall ensure the destruction of any expired opioid overdose medication (**Business and Professions Code § 4119.9**). All destruction of expired medication shall be documented via a documentation report and an entry shall be made into the departments evidence data base system for documentation purposes and chain of custody issues for accountability purposes in addition to documenting such in the designated Naloxone log / binder.

#### **468.17 NALOXONE RECORD MANAGEMENT**

Records regarding acquisition, use and disposition of opioid overdose medications shall be maintained and retained in accordance with the established records retention schedule and at a

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minimum of three years from the date the record was created (**Business and Professions Code § 4119.9**).

#### **468.18 OBTAINING NALOXONE**

Refer to - <https://www.dhcs.ca.gov> (Naloxone distribution project) or send email to [Naloxone@dhcs.ca.gov](mailto:Naloxone@dhcs.ca.gov).

To obtaining a medical standing order refer to - (CDPH) California Department of Public Health ([Naloxone Application Information](#) / standing order).

The standing order is required to be obtained annually and a copy shall be kept in the Naloxone log.

## 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 Indio Police Department. Information provided by the California Statewide Integrated Traffic Reporting System (SWITRS) is a valuable resource for traffic accident occurrences and therefore officer deployment. Some of the factors for analysis include:

- Location
- Time
- Day
- Violation factors

All officers assigned to patrol or traffic enforcement functions will emphasize enforcement of accident causing violations during high accident hours and at locations of occurrence. All officers will take directed enforcement action on request, and random enforcement action when appropriate against violators as a matter of routine. All officers shall maintain high visibility while working general enforcement, especially at high accident locations.

Other factors to be considered for deployment are requests from the public, construction zones or special events.

### 500.3 ENFORCEMENT

Enforcement actions are commensurate with applicable laws and take into account the degree and severity of the violation committed. This department does not establish ticket quotas and the number of arrests or citations issued by any officer shall not be used as the sole criterion for evaluating officer overall performance (Vehicle Code § 41603). The visibility and quality of an officer's work effort will be commensurate with the philosophy of this policy. Several methods are effective in the reduction of collisions:

#### 500.3.1 WARNINGS

Warnings or other non-punitive enforcement actions should be considered in each situation and substituted for arrests or citations when circumstances warrant, especially in the case of inadvertent violations.

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### *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) Notice of whether the motorist can enter a plea and pay the fine by mail or at the court

#### 500.3.3 PHYSICAL ARREST

Physical arrest can be made on a number of criminal traffic offenses outlined in the Vehicle Code or Penal Code. These physical arrest cases usually deal with, but are not limited to:

- (a) Vehicular manslaughter
- (b) Felony and misdemeanor driving under the influence of alcohol/drugs
- (c) Felony or misdemeanor hit-and-run
- (d) Refusal to sign notice to appear
- (e) Any other misdemeanor at the discretion of the officer, such as reckless driving with extenuating circumstances

#### **500.4 SUSPENDED OR REVOKED DRIVERS LICENSES**

If an officer contacts a traffic violator for driving on a suspended or revoked license, the officer may issue a traffic citation pursuant to Vehicle Code § 14601.

If a computer check of a traffic violator's license status reveals a suspended or revoked driver license and the traffic violator still has his or her license in possession, the license shall be seized by the officer. The officer shall verbally advise the traffic violator of the suspension or revocation and issue the citation. The officer will be responsible for filling out the Verbal Notice form (DMV form DL-310) and causing that form and license to be forwarded to the Department of Motor Vehicles.

#### **500.5 HIGH-VISIBILITY VESTS**

The Department has provided American National Standards Institute (ANSI) Class II high-visibility vests to increase the visibility of department members who may be exposed to hazards presented by passing traffic, maneuvering or operating vehicles, machinery and equipment (23 CFR 655.601; 8 CCR 1598).

Although intended primarily for use while performing traffic related assignments, high-visibility vests should be worn at any time increased visibility would improve the safety or efficiency of the member.



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#### 500.5.1 REQUIRED USE

Except when working in a potentially adversarial or confrontational role, such as during vehicle stops, high-visibility vests should be worn at any time it is anticipated that an employee will be exposed to the hazards of approaching traffic or construction and recovery equipment. Examples of when high-visibility vests should be worn include traffic control duties, accident investigations, lane closures and while at disaster scenes, or anytime high visibility is desirable. When emergency conditions preclude the immediate donning of the vest, officers should retrieve and wear the vest as soon as conditions reasonably permit. Use of the vests shall also be mandatory when directed by a supervisor.

Vests maintained in the investigation units may be used any time a plainclothes officer might benefit from being readily identified as a member of law enforcement.

#### 500.5.2 CARE AND STORAGE OF HIGH-VISIBILITY VESTS

High-visibility vests shall be maintained in the trunk of each patrol and investigation unit, in the side box of each police motorcycle and in the saddlebag or gear bag of each police bicycle. Each vest should be stored inside the re-sealable plastic bag provided to protect and maintain the vest in a serviceable condition. Before going into service each employee shall ensure a serviceable high-visibility vest is properly stored.

A supply of high-visibility vests will be maintained in the equipment room for replacement of damaged or unserviceable vests. The Training Coordinator should be promptly notified whenever the supply of vests in the equipment room needs replenishing.

#### 500.5.3 MOTORIZED POLICE ESCORT

All requests for Department personnel and equipment for escort service shall be referred to the Traffic Unit Supervisor.

Motorized police escorts may be granted under the following circumstances:

- (a) For the personal safety of individuals or groups, such as the President, Vice President, or Cabinet Members of the United States, or Ambassadors of foreign nations, when requested by an official government agency.
- (b) For a private or public event, such as an officially approved street parade, when a serious disruption of normal traffic flow exists.
- (c) At the discretion of the Chief of Police or the on duty watch commander, when the safety of the public, an individual, or a group is of concern to the Department.
- (d) For allied agency in the line of duty related police funerals.

# Traffic Collision Reporting

## 502.1 PURPOSE AND SCOPE

The Indio 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 Sergeant will be responsible for ensuring a digital copy of the Collision Investigation Manual is available for all employees. The Traffic Sergeant will receive all changes in the state manual and ensure conformity with this policy.

### 502.2.1 INJURY DEFINITIONS

Injuries are classified in the following categories:

**a. Fatal Injury-** A fatal injury is any injury that results in death within 30 days after the motor vehicle collision in which the injury occurred. If the person did not die at the scene but died within 30 days of the motor vehicle collision in which the injury occurred, the injury classification should be changed from the injury previously assigned to "Fatal Injury".

**NOTE:** The death of a fetus involved in a traffic collision will be documented as a fatal injury if the coroner classifies the injury as a death and attributes the death to the collision.

**b.Suspected Serious Injury-** A suspected serious injury is any injury other than fatal which results in one or more of the following:

- (1) Severe laceration resulting in exposure of underlying tissues/muscles/organs or resulting in significant loss of blood.
- (2) Broken or distorted extremity (arm or leg).
- (3) Crush injuries.
- (4) Suspected skull, chest or abdominal injury other than bruises or minor lacerations.
- (5) Significant burns (second and third degree burns over 10% or more of the body).
- (6) Unconsciousness when taken from the collision scene.
- (7) Paralysis.

**c. Suspected minor injury-** A minor injury is any injury that is evident at the scene of the collision, other than fatal or serious injuries. Examples include lump on the head, abrasions, bruises, and minor lacerations (cuts on the skin surface with minimal bleeding and no exposure of deeper tissue / muscle).

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### *Traffic Collision Reporting*

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**d. Possible Injury-** A possible injury is any injury reported or claimed which is not a fatal, suspected serious, or suspected minor injury. Examples include momentary loss of consciousness, claim of injury, limping, or complaint of pain or nausea. Possible injuries are those which are reported by the person or are indicated by their behavior, but no wounds or injuries are readily evident.

#### **502.3 TRAFFIC COLLISION REPORTING**

All traffic collision reports taken by members of this department shall be forwarded to the Traffic Sergeant for approval and data entry into the Records Management System. The Traffic Sergeant will be responsible for monthly and quarterly reports on traffic collision statistics to be forwarded to the Field Services Division Chief, or other persons as required.

##### **502.3.1 TRAFFIC COLLISION REPORTING FORMATS**

Traffic collisions shall be documented using one of the following reporting formats:

(a) **Investigation Report-** Completed when one or more of the following are met:

1. Motor vehicle collision resulting in serious injury or death.
2. Motor vehicle collision with an identifiable violation and prosecution will be sought.
3. Hit and Run collisions where prosecution is likely and suspect can be identified and prosecution will be sought.
4. A City of Indio vehicle and/or employee is involved (see section 502.4 for details).

(b) **Summary Report-** Completed when one or more of the following conditions apply:

1. Motor vehicle collision resulting in minor injury or complain of pain.
2. Motor vehicle collision with an identifiable violation and no prosecution will be sought.
3. Misdemeanor hit and run collisions where no information is available to identify the hit-and-run driver, or follow-up has been conducted through all means available and the identity of the hit-and-run driver is still unattainable.

(c) **Property Damage Only (PDO) Report-** Completed in the field or at the public counter when the collision involves:

1. One or up to four parties,
2. No injuries or fatalities, and
3. No anticipated prosecution

Collisions reported after parties have left the scene can be completed on a PDO if the collision meets the PDO criteria.

PDO's shall not be used for DUI related collisions

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Personnel responding to a traffic scene will take the following steps to gather relevant information to assist in completing traffic accident reports if the collision meets the requirements to generate a traffic collision report;

1. Each driver and all witnesses will be interviewed by the investigating officer. Assigned personnel will record all information obtained on the traffic accident report if the circumstances require a report is to be generated.
2. Investigating personnel will determine vehicle damages and document the information in the CAD/RMS software. Damages to city property will be noted, and the appropriate city department will be notified.
3. Assigned personnel will determine the cause of the accident but, should not issue a citation for the primary collision factor unless they have completed a POST certified basic traffic investigation school per CVC 40600(a), however they may issue citations for driver license and insurance related vehicle code violations.
4. Assigned personnel will obtain measurements by use of roll-a-tape, Lidar, Laser, GPS or tape measures, or by pacing and record this information on the traffic collision digital forms.
5. Assigned personnel should photograph or record the scene with body-worn camera video. If photos and or body-worn video are taken, the items will be downloaded into FileOnQ when a report is generated.
6. Any items of evidence of evidentiary value shall be measured, collected, packaged and placed into Property and Evidence following department procedures.
7. Assigned personnel will assist in the exchange of required information at property damage and non-injury collision scenes.
8. Assigned personnel will attempt to locate and interview any potential witness.
9. Reconstruction and skid analysis will be conducted on a case-by-case basis by the traffic accident investigator or his designee trained in those areas
10. Should a driver be disabled as a result of their injuries, investigating personnel should, at their discretion, remove any property of apparent obvious value and hold the property in evidence for safekeeping. All property removed from vehicles will be noted on the FileOnQ evidence storage system.

#### **502.4 REPORTING SITUATIONS**

##### **502.4.1 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 one or more vehicles needs to be towed due to the driver being incapacitated

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Exceptions to this are non-injury private property accidents; minor damage, non-injury accidents on the roadway where officers will only provide assistance with traffic control and keeping the peace if needed.

#### **502.4.2 TRAFFIC COLLISIONS ON PRIVATE PROPERTY**

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 other Vehicle Code violation such as reckless driving or driving under the influence. An Incident Report or Property Damage Only report may be taken at the discretion of the Supervisor.

### **502.5 REPORTING SITUATIONS WITH CITY OWNED VEHICLES, EMPLOYEES AND CITY OFFICIALS**

#### **502.5.1 TRAFFIC COLLISIONS INVOLVING CITY VEHICLES**

Investigation reports shall be taken when a City-owned vehicle is involved in a traffic collision upon a roadway or highway and any injury results or where there is more than minor damage. In cases where there is no or minor damage and no injuries a summary report should be completed. A supervisor incident report may be taken in lieu of a traffic collision report (CHP 555 form) at the direction of a supervisor when the non-injury collision occurs on private property or does not involve damage to any privately owned vehicle or property.

Photographs of the collision scene and vehicle damage shall be taken on all collisions and a Supervisor Incident / Accident Investigation report shall be completed.

The supervisor of the employee operating the City vehicle must enter the incident in Blue Team and forward it to the appropriate Division or Watch Commander upon completion.

#### **502.5.2 TRAFFIC COLLISIONS WITH POLICE DEPARTMENT EMPLOYEES**

When an employee of this department, either on-duty or off-duty while driving a city owned vehicle, is involved in a traffic collision within the jurisdiction of the Indio Police Department, it will be investigated by a Traffic Officer, CSO or Patrol Officer.

When an employee of this department, either on-duty or off-duty, is involved in a traffic collision within the jurisdiction of the Indio Police Department resulting in a serious injury or fatality, the Traffic Sergeant or Watch Commander, shall notify the California Highway Patrol or other allied agency for assistance.

#### **502.5.3 TRAFFIC COLLISIONS WITH OTHER CITY EMPLOYEES OR OFFICIALS**

When a City official or employee, either on-duty or off-duty, is involved in a traffic collision within the jurisdiction of the Indio Police Department it will be investigated by a Traffic Officer, CSO or Patrol Officer. The Traffic Sergeant or on-duty Watch Commander shall 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 or the potential for criminal prosecution exists.

#### **502.5.4 BLUE TEAM GUIDELINES**

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In cases involving a traffic collision where an Indio Police Department employee/volunteer is driving a City owned vehicle, a Blue Team entry should be made by the supervisor as soon as possible, and must be created before the end of the investigating supervisor's shift. Investigations will be completed within 14 calendar days from the date of the incident by the investigating supervisor and forwarded to a lieutenant or next level supervisor. The investigations should include the following items as applicable: BWC footage, interviews, photos, reports, other documents as appropriate. The lieutenant/next level supervisor must complete his or her review within 10 calendar days from receiving the investigation from the investigating supervisor. After the second level of review is complete, the investigation will be forwarded to an Assistant Chief/Chief Administrative Officer (CAO), who will complete their review and provide a recommendation to the Chief of Police.

An employee must receive an extension from their supervisor in order to exceed the established timeline.

#### **502.6 NOTIFICATION OF TRAFFIC TEAM SUPERVISION**

In the event of a traffic collision involving fatalities or serious injury, the Watch Commander or designee shall notify the Traffic Sergeant to relate the circumstances of the traffic collision and seek assistance from the Traffic Bureau.

The Traffic Sergeant, shall be notified of collisions under the following circumstances:

- (a) Fatal collisions
- (b) Potential fatal collisions
- (c) Suspected injury collisions (including, but not limited to, serious injury collisions involving IPD personnel (on-duty or off-duty) and City of Indio personnel
- (d) Significant DUI or Hit & Run collisions requiring accident reconstruction
- (e) Collisions involving significant liability concerns

## Administrative Per Se Law (APS)

### 503.1 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 dealing with Zero Tolerance laws.

### 503.2 SUSPENSION OF CALIFORNIA DRIVER'S LICENSE

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.

### 503.3 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 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.

### 503.4 PEACE OFFICER RESPONSIBILITY

In any of the above situations, the peace officer, acting on behalf of the Department of Motor Vehicles, shall do the following:

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(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 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.

#### **503.5 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

#### **503.6 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:

##### **503.6.1 SUPERVISOR APPROVAL**

The Watch Commander, or the supervisor responsible for approving reports, shall collect the documents mentioned, review for completeness (dates, times, signatures, etc.) and forward the originals of the documents to the Traffic Bureau Sergeant for review.

##### **503.6.2 TRAFFIC BUREAU RESPONSIBILITY**

The Traffic Bureau is responsible for the following:

- (a) Copies of documents required by DMV are to be made and then to be forwarded to the Department of Motor Vehicles by the Records Bureau;
- (b) Providing a copy of DMV form DS367, DS367m or DS367s to the Records Bureau



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(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 Records Bureau. 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.

#### **503.7 PROPERTY AND EVIDENCE TECHNICIAN RESPONSIBILITY**

It is the responsibility of the property and evidence technician 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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## Vehicle Towing and Release

### 510.1 PURPOSE AND SCOPE

This policy provides the procedures for towing a vehicle by or at the direction of the Indio 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 Dispatch center as soon as practicable after the vehicle is stored and prior to the end of shift of the individual officer authorizing the tow. Dispatch shall then forward the documents to the Records Bureau for processing.

#### 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 Dispatch 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 Indio. 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).

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The following are examples of situations where consideration should be given to leaving a vehicle at the scene in lieu of storing, provided the vehicle can be lawfully parked and left in a reasonably secured and safe condition:

- Traffic-related warrant arrest.
- Situations where the vehicle was not used to further the offense for which the driver was arrested.
- Whenever the licensed owner of the vehicle is present, willing, and able to take control of any vehicle not involved in criminal activity.
- Whenever the vehicle otherwise does not need to be stored and the owner requests that it be left at the scene. In such cases, the owner shall be informed that the Department will not be responsible for theft or damages.
- Whenever the registered owner requests that their vehicle be released to another licensed driver at a scene if it is a reasonable request and the vehicle in question was not involved in criminal activity. If such a request is fulfilled by an officer, the individual officer shall provide dispatchers with that individual's name and driver's license number for documentation via call logs or radio traffic.

#### 510.2.4 IMPOUNDMENT AT SOBRIETY CHECKPOINTS

Whenever a driver is stopped at a sobriety checkpoint and the only violation is that the operator is driving without a valid driver's license, the officer shall make a reasonable attempt to identify the registered owner of the vehicle (Vehicle Code § 2814.2). The officer shall release the vehicle to the registered owner if the person is a licensed driver, or to another licensed driver authorized by the registered owner, provided the vehicle is claimed prior to the conclusion of the checkpoint operation.

If the vehicle is released at the checkpoint, the officer shall list on his/her copy of the notice to appear the name and driver's license number of the person to whom the vehicle is released.

When a vehicle cannot be released at the checkpoint, it shall be towed (Vehicle Code § 22651(p)). When a vehicle is removed at the checkpoint, it shall be released during the normal business hours of the storage facility to the registered owner or his/her agent, upon presentation of a valid driver's license and current vehicle registration.

#### 510.2.5 DRIVING A NON-CITY VEHICLE

Vehicles which have been towed by or at the direction of the Department should not be driven by police personnel unless it is necessary to move a vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant or to comply with posted signs.

#### 510.2.6 DISPATCHER'S RESPONSIBILITIES

Upon receiving a request for towing, the dispatcher shall promptly telephone the specified authorized towing service. The officer shall be advised when the request has been made and the towing service has been dispatched.

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When there is no preferred company requested, the dispatcher shall call the next tow company 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.

Prior to having a recovered stolen vehicle towed from the recovery scene, dispatchers shall make an effort to locate the registered owner in an effort to allow them an opportunity to respond to the scene to take possession of their recovered vehicle. If the owner is not located, dispatchers shall then contact the next tow company in the rotation list so that the vehicle can be towed and stored pending notification of the registered owner.

#### **510.2.7 RECORDS BUREAU RESPONSIBILITY**

Dispatch 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 Traffic Sergeant for approval (Vehicle Code § 22651.5(b); Vehicle Code § 22851.3(b); Vehicle Code § 22854.5).

Approved storage forms shall be promptly placed into the auto-file so that they are immediately available for release or review should inquiries be made.

Within 48 hours, excluding weekends and holidays, of the storage of any such vehicle it shall be the responsibility of the Records Bureau to determine the names and addresses of any individuals having an interest in the vehicle through DMV or CLETS systems. Notice shall be sent to all such individuals by first-class mail (Vehicle Code § 22851.3(d); Vehicle Code § 22852(a); Vehicle Code § 14602.6(a)(2)). The notice shall include the following (Vehicle Code § 22852(b)):

- (a) The name, address, and telephone number of this Department.
- (b) The location of the place of storage and description of the vehicle, which shall include, if available, the name or make, the manufacturer, the license plate number, and the mileage.
- (c) The authority and purpose for the removal of the vehicle.
- (d) A statement that, in order to receive their post-storage hearing, the owners, or their agents, shall request the hearing in person, in writing, or by telephone within 10 days of the date appearing on the notice.

#### **510.3 TOWING SERVICES**

The City of Indio periodically selects firms to act as official tow services and awards a contract to those firms. These firms will be used in the following situations:

- (a) When it is necessary to safeguard a vehicle due to the inability of the owner or operator to take the required action.
- (b) When a vehicle is being held as evidence in connection with an investigation.
- (c) When it is otherwise necessary to store a motor vehicle. This would include situations involving the recovery of stolen or abandoned vehicles, and the removal from the streets of vehicles obstructing traffic in violation of state or local regulations.

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#### **510.4 VEHICLE INVENTORY**

All property in a stored or impounded vehicle shall be inventoried and listed on the CHP -180 form. This includes the trunk and any compartments or containers, even if closed and/or locked during a vehicle inventory search for inventory documentation. 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) that are not considered evidence or contraband. Officers should retrieve the items in question for the individual requesting their property so as to avoid any officer safety issues or releasing any property not proven to belong to the individual in question.

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. If necessary, officers shall secure such property of value in evidence for safekeeping.

#### **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; 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; 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 impoundment period under any of the following circumstances:
  1. The vehicle was stolen.
  2. If the driver reinstates his/her driver's license or acquires a license and provides proof of proper insurance.

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3. Any other circumstance as set forth in Vehicle Code § 14602.6.
4. When there is no remaining community caretaking need to continue impound of the vehicle or the continued impound would not otherwise comply with the Fourth Amendment.
  - (d) An autonomous vehicle removed under authority of Vehicle Code § 22651(o)(1)(D) shall be released to the registered owner or person in control of the autonomous vehicle if the requirements of Vehicle Code § 22651(o)(3)(B) are met.

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 shall 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.

#### **510.7 TOWING FOR EXPIRED REGISTRATION**

Prior to a member removing a vehicle that is found to have expired registration for more than six months, the member shall verify that no current registration exists with the Department of Motor Vehicles (DMV). If current registration exists with the DMV, the vehicle shall not be removed (Vehicle Code § 22651(o)(1)(A)).

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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 Indio 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); Vehicle Code § 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(b)). The Traffic Sergeant will generally serve as the hearing officer. The person requesting the hearing may record the hearing at his/her own expense.

The failure of either the registered or legal owner or interested person or his/her agent to request a hearing in a timely manner or to attend a scheduled hearing shall be considered a waiver of and satisfaction of the post-storage hearing requirement (Vehicle Code § 22851.3(e)(2); Vehicle Code § 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); Vehicle Code § 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 14602.8(b), warranting release of the vehicle. This mitigating circumstance exception is not limited to situations

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where the owner made a reasonable inquiry as to the licensed status of the driver before lending the vehicle.

The legislative intent and this department's policy is to prevent unlicensed driving pursuant to Vehicle Code §14602.6. If this purpose is not furthered by the continued impoundment of a vehicle, release is most often appropriate.

- (a) If a decision is made that reasonable grounds for storage or impound have been established, the hearing officer 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 Chief. The hearing officer will recommend to the appropriate Division Chief that the fees paid by the registered or legal owner of the vehicle in question or their agent be reimbursed by the Department.



## Impaired Driving

### 514.1 PURPOSE AND SCOPE

This policy provides guidance to those department members who play a role in the detection and investigation of driving under the influence (DUI).

### 514.2 POLICY

The Indio Police Department is committed to the safety of the roadways and the community and will pursue fair but aggressive enforcement of California's impaired driving laws.

### 514.3 INVESTIGATIONS

Officers should not enforce DUI laws to the exclusion of their other duties unless specifically assigned to DUI enforcement. All officers are expected to enforce these laws with due diligence.

The Traffic Sergeant will develop and maintain, in consultation with the prosecuting attorney, report forms with appropriate checklists to assist investigating officers in documenting relevant information and maximizing efficiency. Any DUI investigation will be documented using these forms. Information documented elsewhere on the form does not need to be duplicated in the report narrative. Information that should be documented includes, at a minimum:

- (a) The field sobriety tests (FSTs) administered and the results.
- (b) The officer's observations that indicate impairment on the part of the individual, and the officer's health-related inquiries that may help to identify any serious health concerns (e.g., diabetic shock).
- (c) Sources of additional information (e.g., reporting party, witnesses) and their observations.
- (d) Information about any audio and/or video recording of the individual's driving or subsequent actions.
- (e) The location and time frame of the individual's vehicle operation and how this was determined.
- (f) Any prior related convictions in California or another jurisdiction.

### 514.4 FIELD TESTS

The Traffic Sergeant should identify standardized FSTs and any approved alternate tests for officers to use when investigating violations of DUI laws.

### 514.5 CHEMICAL TESTS

A person implies consent to a chemical test or tests, and to providing the associated chemical sample, under any of the following (Vehicle Code § 23612):

- (a) The person is arrested for driving a vehicle while under the influence, pursuant to Vehicle Code § 23152.

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- (b) The person is under 21 years of age and is arrested by an officer having reasonable cause to believe that the person's blood alcohol content is 0.05 or more (Vehicle Code § 23140).
- (c) The person is under 21 years of age and detained by an officer having reasonable cause to believe that the person was driving a vehicle while having a blood alcohol content of 0.01 or more (Vehicle Code § 23136).
- (d) The person was operating a vehicle while under the influence and proximately caused bodily injury to another person (Vehicle Code § 23153).

If a person withdraws this implied consent, or is unable to withdraw consent (e.g., the person is unconscious), the officer should consider implied consent revoked and proceed as though the person has refused to provide a chemical sample.

#### 514.5.1 CHOICE OF TESTS

Officers shall respect a viable choice of chemical test made by an arrestee, as provided for by law (e.g., breath will not be acceptable for suspected narcotics influence).

A person arrested for DUI has the choice of whether the test is of his/her blood or breath, and the officer shall advise the person that he/she has that choice. If the person arrested either is incapable, or states that he/she is incapable, of completing the chosen test, the person shall submit to the remaining test.

If the person chooses to submit to a breath test and there is reasonable cause to believe that the person is under the influence of a drug or the combined influence of alcohol and any drug, the officer may also request that the person submit to a blood test. If the person is incapable of completing a blood test, the person shall submit to and complete a urine test (Vehicle Code § 23612(2)(C)).

#### 514.5.2 BREATH SAMPLES

The Traffic Sergeant should ensure that all devices used for the collection and analysis of breath samples are properly serviced and tested, and that a record of such service and testing is properly maintained.

Officers obtaining a breath sample should monitor the device for any sign of malfunction. Any anomalies or equipment failures should be noted in the appropriate report and promptly reported to the Traffic Sergeant.

When the arrested person chooses a breath test, the handling officer shall advise the person that the breath-testing equipment does not retain a sample, and the person may, if desired, provide a blood or urine specimen, which will be retained to facilitate subsequent verification testing (Vehicle Code § 23614). 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 Indio Police Department for breath testing prior to booking. At the Department, 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.

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The officer should also require the person to submit to a blood test if the officer has a clear indication that a blood test will reveal evidence of any drug or the combined influence of an alcoholic beverage and any drug. Evidence of the officer's belief shall be included in the officer's report (Vehicle Code § 23612(2)(C)).

#### 514.5.3 BLOOD SAMPLES

Only persons authorized by law to draw blood shall collect blood samples (Vehicle Code § 23158). The blood draw should be witnessed by the assigned officer. No officer, even if properly certified, should perform this task.

Officers should inform an arrestee that if he/she chooses to provide a blood sample, a separate sample can be collected for alternate testing. Unless medical personnel object, two samples should be collected and retained as evidence, so long as only one puncture is required.

The blood sample shall be packaged, marked, handled, stored and transported as required by the testing facility.

If an arrestee cannot submit to a blood draw because he/she has a bleeding disorder or has taken medication that inhibits coagulation, he/she shall not be required to take a blood test. Such inability to take a blood test should not be considered a refusal. However, that arrestee may be required to complete another available and viable test.

Whether such evidence is collected at the Department or other location, the withdrawal of the blood sample shall be witnessed by the assigned officer.

Once the blood sample is obtained, officers are to place the sample in a secured evidence bin located at the Indio Police Department. Officers shall document all evidence in File on Q.

#### 514.5.4 URINE SAMPLES

If a urine test will be performed, the arrestee should be promptly transported to the appropriate testing site. The officer shall follow any directions accompanying the urine evidence collection kit.

Urine samples shall be collected and witnessed by an officer or jail staff member of the same sex as the individual giving the sample. The arrestee should be allowed sufficient privacy to maintain his/her dignity, to the extent possible, while still ensuring the accuracy of the sample (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.

#### **514.5.4 (a) TESTING OF CONSCIOUS PERSON AT A HOSPITAL**

Most blood, breath and urine tests will be administered at the Department. 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)).

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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.

#### **514.5.4 (b) 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, a search warrant shall be obtained from a magistrate. Once obtained, the officer shall provide the person with a copy of the search warrant stating a sample shall be obtained pursuant to that warrant. Officers shall outline in their arrest report the details surrounding why a search warrant for the blood draw was required.

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)).

#### **514.5.4 (c) 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.

#### **514.5.5 STATUTORY NOTIFICATIONS**

Officers requesting that a person submit to chemical testing shall provide the person with the mandatory warning pursuant to Vehicle Code § 23612(a)(1)(D) and Vehicle Code § 23612(a)(4).

#### **514.5.6 PRELIMINARY ALCOHOL SCREENING**

Officers may use a preliminary alcohol screening (PAS) test to assist in establishing reasonable cause to believe a person is DUI. The officer shall advise the person that the PAS test is being requested to assist in determining whether the person is under the influence of alcohol or drugs, or a combination of the two. Unless the person is under the age of 21, he/she shall be advised that the PAS test is voluntary. The officer shall also advise the person that submitting to a PAS test does not satisfy his/her obligation to submit to a chemical test as otherwise required by law (Vehicle Code § 23612).

#### **514.5.7 PRELIMINARY ALCOHOL SCREENING FOR A PERSON UNDER AGE 21**

If an officer lawfully detains a person under 21 years of age who is driving a motor vehicle and the officer has reasonable cause to believe that the person has a blood alcohol content of 0.01 or more, the officer shall request that the person take a PAS test to determine the presence of alcohol in the person, if a PAS test device is immediately available. If a PAS test device is not

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immediately available, the officer may request the person to submit to chemical testing of his/her blood, breath or urine, conducted pursuant to Vehicle Code § 23612 (Vehicle Code § 13388).

If the person refuses to take or fails to complete the PAS test or other chemical test, or if the result of either test reveals a blood alcohol content of 0.01 or more, the officer shall proceed to serve the person with a notice of order of suspension pursuant to this policy (Vehicle Code § 13388).

#### **514.6 REFUSALS**

When an arrestee refuses to provide a viable chemical sample, officers should:

- (a) Advise the arrestee of the requirement to provide a sample (Vehicle Code § 23612).
- (b) Audio- and/or video-record the admonishment when it is practicable.
- (c) Document the refusal in the appropriate report.

##### **514.6.1 BLOOD SAMPLE WITHOUT CONSENT**

A blood sample may be obtained from a person who refuses a chemical test when any of the following conditions exist:

- (a) A search warrant has been obtained (Penal Code § 1524).
- (b) The officer can articulate that exigent circumstances exist. Exigency does not exist solely because of the short time period associated with the natural dissipation of alcohol or controlled or prohibited substances in the person's bloodstream. Exigency can be established by the existence of special facts such as a lengthy time delay in obtaining a blood sample due to an accident investigation or medical treatment of the person.

##### **514.6.2 FORCED BLOOD SAMPLE**

If an arrestee indicates by word or action that he/she will physically resist a blood draw, the officer should request a supervisor to respond.

The responding supervisor should:

- (a) Evaluate whether using force to obtain a blood sample is appropriate under the circumstances.
- (b) Ensure that all attempts to obtain a blood sample through force cease if the person agrees to, and completes a viable form of testing in a timely manner.
- (c) Advise the person of his/her duty to provide a sample (even if this advisement was previously done by another officer) and attempt to persuade the individual to submit to such a sample without physical resistance.
  - 1. This dialogue should be recorded on audio and/or video if practicable.
- (d) Ensure that the blood sample is taken in a medically approved manner.
- (e) Ensure the forced blood draw is recorded on audio and/or video when practicable.

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- (f) Monitor and ensure that the type and level of force applied appears reasonable under the circumstances:
  - 1. Unless otherwise provided in a warrant, force should generally be limited to handcuffing or similar restraint methods.
  - 2. In misdemeanor cases, if the arrestee becomes violent or more resistant, no additional force will be used and a refusal should be noted in the report.
  - 3. In felony cases, force which reasonably appears necessary to overcome the resistance to the blood draw may be permitted.
- (g) Ensure the use of force and methods used to accomplish the collection of the blood sample are documented in the related report.

If a supervisor is unavailable, officers are expected to use sound judgment and perform as a responding supervisor, as set forth above.

#### 514.6.3 STATUTORY NOTIFICATIONS UPON REFUSAL

Upon refusal to submit to a chemical test as required by law, officers shall personally serve the notice of order of suspension upon the arrestee and take possession of any state-issued license to operate a motor vehicle that is held by that individual (Vehicle Code § 23612(e); Vehicle Code § 23612(f)).

#### 514.7 RECORDS BUREAU RESPONSIBILITIES

The Records Supervisor will ensure that all case-related records are transmitted according to current records procedures and as required by the prosecuting attorney's office.

#### 514.8 ADMINISTRATIVE HEARINGS

The Records Supervisor will ensure that all appropriate reports and documents related to administrative license suspensions are reviewed and forwarded to DMV.

#### 514.9 TRAINING

The Training Coordinator should ensure that officers participating in the enforcement of DUI laws receive regular training. Training should include, at minimum, current laws on impaired driving, investigative techniques and rules of evidence pertaining to DUI investigations. The Training Coordinator should confer with the prosecuting attorney's office and update training topics as needed.

#### 514.10 ARREST AND INVESTIGATION

##### 514.10.1 WARRANTLESS ARREST

In addition to the arrest authority granted to officers pursuant to Penal Code § 836, an officer may make a warrantless arrest of a person that the officer has reasonable cause to believe has been driving under the influence of an alcoholic beverage or any drug, or under the combined influence of the same when (Vehicle Code § 40300.5):

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- (a) The person is involved in a traffic accident.
- (b) The person is observed in or about a vehicle that is obstructing the roadway.
- (c) The person will not be apprehended unless immediately arrested.
- (d) The person may cause injury to him/herself or damage property unless immediately arrested.
- (e) The person may destroy or conceal evidence of a crime unless immediately arrested.

#### 514.10.2 OFFICER RESPONSIBILITIES

The officer serving the arrested person with a notice of an order of suspension shall immediately (Vehicle Code § 23612):

- (a) Forward a copy of the completed notice of suspension or revocation form and any confiscated driver's license to the Department of Motor Vehicles (DMV).
- (b) Forward a sworn report to DMV that contains the required information in Vehicle Code § 13380.
- (c) Forward the results to the appropriate forensic laboratory if the person submitted to a blood or urine test.

## 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 Sergeant shall be responsible for the development and design of all Department traffic citations in compliance with state law and the Judicial Council.

The Records Bureau shall be responsible for the supply and accounting of all traffic citations issued to employees of this department.

#### 516.2.1 CITATION BOOK ISSUE

(a) Upon receiving a citation book, the officer should write, in ink, his/her name, serial number, division, and date of receipt on the front cover of the book.

(b) LOST - When a citation book is lost, a memorandum shall be submitted to the employee's supervisor for routing and then be forwarded to the Division Chief.

#### 516.2.2(b) LOST CITATIONS

When a completed citation has been lost, the citing officer shall:

(a) Submit a memorandum to the immediate supervisor for review and forwarded to the Division Chief, stating that the citation was lost.

### 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 Sergeant. Upon a review of the circumstances involving the issuance of the traffic citation, the Traffic Sergeant may request the Field Services Division Chief 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 as directed or required.

### 516.4 VOIDING TRAFFIC CITATIONS

Voiding a traffic citation may occur when a traffic citation has not been completed or where it is completed, but not issued. All copies of the citation shall be presented to a supervisor to approve



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the voiding of the citation. The citation and copies shall then be forwarded to the Field Services Division Chief for review and then on to the Records Bureau for filing.

#### 516.4(a) SUPERVISORY REVIEW

Supervisors should routinely review citations issued by their subordinates, with special attention given to completeness, legibility and accuracy, to ensure the following is correct in order to avoid errors, as errors

or an omission in certain items may invalidate the citation, a positive check shall be made on the:

1. Date of the offense.
2. Correct section cited.
3. Cited speed and speed zone in speed violations.
4. Signature of the violator.
5. Valid court appearance date.
6. Confirm that the violator is cited into proper court by checking listed date of birth.

#### **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 or form requesting a specific correction to his/her immediate supervisor. The citation and letter shall then be forwarded to the Records Bureau. The Traffic Bureau shall forward the letter or form to the court having jurisdiction and to the recipient of the citation.

#### **516.6 DISPOSITION OF TRAFFIC CITATIONS**

The court and file copies of all traffic citations issued by members of this department shall be forwarded to the employee's immediate supervisor for review. The citation copies shall then be filed with the Records Bureau.

Upon separation from employment with this department, all employees issued traffic citation books shall return any unused citations to the Records 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 (Vehicle Code § 40215; Vehicle Code § 40230):

- (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 Indio 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.

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- (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; Vehicle Code § 40210).

#### **516.7.3 COSTS**

- (a) There is no cost for an administrative review.
- (b) Appellants must deposit the full amount due for the citation before receiving an administrative hearing, unless the person is indigent, as defined in Vehicle Code § 40220, and provides satisfactory proof of inability to pay (Vehicle Code § 40215).
- (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. Juvenile traffic citations shall be referred to traffic court and officers must check off the box on the citation indicating a parent or guardian must accompany the juvenile on the given court date.

## 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.

#### 520.3.2 RELOCATION OF DISABLED VEHICLES

The relocation of disabled vehicles by members of this department by pushing or pulling a vehicle should only occur when the conditions reasonably indicate that immediate movement is necessary to reduce a hazard presented by the disabled vehicle.

#### 520.3.3 RELOCATION OF DISABLED MOTORIST

The relocation of a disabled motorist should only occur with the person's consent and should be suggested when conditions reasonably indicate that immediate movement is necessary to mitigate a potential hazard. The department member may stay with the disabled motorist or transport him/her to a safe area to await pickup.

### 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 Indio City Ordinance regulating 72-hour parking violations and abandoned vehicles under the authority of Vehicle Code § 22669.

### 524.2 MARKING VEHICLES

Vehicles suspected of being in violation of the City of Indio 72-Hour Parking Ordinance shall be marked and noted on the Indio Police Department Intent to Tow Card. A 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 Intent to Tow 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.

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 Intent to Tow Card completed and forwarded to Code Enforcement.

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 INTENT TO TOW CARD FILE

The Code Enforcement Bureau shall be responsible for maintaining a file for all Intent to Tow Cards.

Community Service Officers, Code Enforcement Officers or others authorized by the Chief of Police shall be responsible for the follow up investigation of all 72-hour parking violations noted on the Intent to Tow 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 Dispatch immediately following the storage of the vehicle. It shall be the responsibility of Dispatch Personnel to immediately notify the Stolen Vehicle System (SVS) of the Department of Justice in Sacramento ( Vehicle Code § 22851.3(b)). Notification may also be made to the National Law Enforcement Telecommunications System (NLETS)(Vehicle Code § 22854.5).

Within 48 hours of the storage of any such vehicle, excluding weekends and holidays, it shall be the responsibility of the Records Bureau to determine the names and addresses of any individuals

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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).

## **Chapter 6 - Investigation Operations**

## Investigation and Prosecution

### 600.1 PURPOSE AND SCOPE

The purpose of this policy is to set guidelines and requirements pertaining to the handling and disposition of criminal investigations.

### 600.2 POLICY

It is the policy of the Indio Police Department to investigate crimes thoroughly and with due diligence, and to evaluate and prepare criminal cases for appropriate clearance or submission to a prosecutor.

### 600.3 INITIAL INVESTIGATION

#### 600.3.1 OFFICER RESPONSIBILITIES

An officer responsible for an initial investigation shall complete no less than the following:

- (a) Make a preliminary determination of whether a crime has been committed by completing, at a minimum:
  - 1. An initial statement from any witnesses or complainants.
  - 2. A cursory examination for evidence.
- (b) If information indicates a crime has occurred, the officer shall:
  - 1. Preserve the scene and any evidence as required to complete the initial and follow-up investigation.
  - 2. Determine if additional investigative resources (e.g., investigators or scene processing) are necessary and request assistance as required.
  - 3. If assistance is warranted, or if the incident is not routine, notify a supervisor or the Watch Commander.
  - 4. Make reasonable attempts to locate, identify and interview all available victims, complainants, witnesses and suspects.
  - 5. Collect any evidence.
  - 6. Take any appropriate law enforcement action.
  - 7. Complete and submit the appropriate reports and documentation.
- (c) If the preliminary determination is that no crime occurred, determine what other action may be necessary, what other resources may be available, and advise the informant or complainant of this information.

#### 600.3.2 NON-SWORN MEMBER RESPONSIBILITIES

A non-sworn member assigned to any preliminary investigation is responsible for all investigative steps, except making any attempt to locate, contact or interview a suspect face-to-face or take any enforcement action. Should an initial investigation indicate that those steps are required, the assistance of an officer shall be requested.

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#### **600.4 CUSTODIAL INTERROGATION REQUIREMENTS**

Suspects who are in custody and subjected to an interrogation shall be given the *Miranda* warning, unless an exception applies. Interview or interrogation of a juvenile shall be in accordance with the Temporary Custody of Juveniles Policy.

##### **600.4.1 AUDIO/VIDEO RECORDINGS**

Any custodial interrogation of an individual who is suspected of having committed any violent felony offense should be recorded (audio or video with audio as available) in its entirety. Regardless of where the interrogation occurs, every reasonable effort should be made to secure functional recording equipment to accomplish such recordings.

Consideration should also be given to recording a custodial interrogation, or any investigative interview, for any other offense when it is reasonable to believe it would be appropriate and beneficial to the investigation and is otherwise allowed by law.

No recording of a custodial interrogation should be destroyed or altered without written authorization from the prosecuting attorney and the Major Crimes Unit or Street Crimes Unit supervisor. Copies of recorded interrogations or interviews may be made in the same or a different format as the original recording, provided the copies are true, accurate and complete and are made only for authorized and legitimate law enforcement purposes.

Recordings should not take the place of a thorough report and investigative interviews. Written statements from suspects should continue to be obtained when applicable.

##### **600.4.2 MANDATORY RECORDING OF ADULTS**

Any custodial interrogation of an adult who is suspected of having committed any murder shall be recorded in its entirety. The recording should be video with audio if reasonably feasible (Penal Code § 859.5).

This recording is not mandatory when (Penal Code § 859.5):

- (a) Recording is not feasible because of exigent circumstances that are later documented in a report.
- (b) The suspect refuses to have the interrogation recorded, including a refusal any time during the interrogation, and the refusal is documented in a report. If feasible, the refusal shall be electronically recorded.
- (c) The custodial interrogation occurred in another state by law enforcement officers of that state, unless the interrogation was conducted with the intent to avoid the requirements of Penal Code § 859.5.
- (d) The interrogation occurs when no member conducting the interrogation has a reason to believe that the individual may have committed murder. Continued custodial interrogation concerning that offense shall be electronically recorded if the interrogating member develops a reason to believe the individual committed murder.



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- (e) The interrogation would disclose the identity of a confidential informant or would jeopardize the safety of an officer, the individual being interrogated or another individual. Such circumstances shall be documented in a report.
- (f) A recording device fails despite reasonable maintenance and the timely repair or replacement is not feasible.
- (g) The questions are part of a routine processing or booking, and are not an interrogation.
- (h) The suspect is in custody for murder and the interrogation is unrelated to a murder. However, if any information concerning a murder is mentioned during the interrogation, the remainder of the interrogation shall be recorded.

The Department shall maintain an original or an exact copy of the recording until a conviction relating to the interrogation is final and all appeals are exhausted or prosecution is barred by law (Penal Code § 859.5).

#### **600.5 COMPUTERS AND DIGITAL EVIDENCE**

The collection, preservation, transportation and storage of computers, cell phones and other digital devices may require specialized handling to preserve the value of the related evidence. If it is anticipated that computers or similar equipment will be seized, officers should consult with a supervisor regarding a request that the Major Crimes Unit or Street Crimes Unit assist with seizing computers and related evidence. If a detective is unavailable, officers should take reasonable steps to prepare for such seizure and use the resources that are available.

#### **600.6 INVESTIGATIVE USE OF SOCIAL MEDIA AND INTERNET SOURCES**

Use of social media and any other Internet source to access information for the purpose of criminal investigation shall comply with applicable laws and policies regarding privacy, civil rights and civil liberties. Information gathered via the Internet should only be accessed by members while on-duty and for purposes related to the mission of this department. If a member encounters information relevant to a criminal investigation while off-duty or while using his/her own equipment, the member should note the dates, times and locations of the information and report the discovery to his/her supervisor as soon as practicable. The member, or others who have been assigned to do so, should attempt to replicate the finding when on-duty and using department equipment. Information obtained via the Internet should not be archived or stored in any manner other than department-established record keeping systems (see the Records Maintenance and Release and the Criminal Organizations policies).

##### **600.6.1 ACCESS RESTRICTIONS**

Information that can be accessed from any department computer, without the need of an account, password, email address, alias or other identifier (unrestricted websites), may be accessed and used for legitimate investigative purposes without supervisory approval.

Accessing information from any Internet source that requires the use or creation of an account, password, email address, alias or other identifier, or the use of nongovernment IP addresses, requires supervisor approval prior to access. The supervisor will review the justification for accessing the information and consult with legal counsel as necessary to identify any policy or

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legal restrictions. Any such access and the supervisor approval shall be documented in the related investigative report.

Accessing information that requires the use of a third party's account or online identifier requires supervisor approval and the consent of the third party. The consent must be voluntary and shall be documented in the related investigative report.

Information gathered from any Internet source should be evaluated for its validity, authenticity, accuracy and reliability. Corroborative evidence should be sought and documented in the related investigative report.

Any information collected in furtherance of an investigation through an Internet source should be documented in the related report. Documentation should include the source of information and the dates and times that the information was gathered.

#### **600.6.2 INTERCEPTING ELECTRONIC COMMUNICATION**

Intercepting social media communications in real time may be subject to federal and state wiretap laws. Officers should seek legal counsel before any such interception.

#### **600.7 CELLULAR COMMUNICATIONS INTERCEPTION TECHNOLOGY**

The Investigative Services Division Chief is responsible for ensuring the following for cellular communications interception technology operations (Government Code § 53166):

- (a) Security procedures are developed to protect information gathered through the use of the technology.
- (b) A usage and privacy policy is developed that includes:
  1. The purposes for which using cellular communications interception technology and collecting information is authorized.
  2. Identification by job title or other designation of employees who are authorized to use or access information collected through the use of cellular communications interception technology.
  3. Training requirements necessary for those authorized employees.
  4. A description of how the Department will monitor the use of its cellular communications interception technology to ensure the accuracy of the information collected and compliance with all applicable laws.
  5. Process and time period system audits.
  6. Identification of the existence of any memorandum of understanding or other agreement with any other local agency or other party for the shared use of cellular communications interception technology or the sharing of information collected through its use, including the identity of signatory parties.
  7. The purpose of, process for and restrictions on the sharing of information gathered through the use of cellular communications interception technology with other local agencies and persons.

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8. The length of time information gathered through the use of cellular communications interception technology will be retained, and the process the local agency will utilize to determine if and when to destroy retained information.

Members shall only use approved devices and usage shall be in compliance with department security procedures, the department's usage and privacy procedures and all applicable laws.

#### **600.8 MODIFICATION OF CHARGES FILED**

Members are not authorized to recommend to the prosecutor or to any other official of the court that charges on a pending case be amended or dismissed without the authorization of a Division Chief or the Chief of Police. Any authorized request to modify the charges or to recommend dismissal of charges shall be made to the prosecutor.

#### **600.9 USE OF CERTAIN DNA SAMPLES**

Known samples of DNA collected from a victim of a crime or alleged crime, and known reference samples of DNA from any individual that were voluntarily provided for the purpose of exclusion are to be used only for the purpose directly related to the incident being investigated and in compliance with the procedures identified in Penal Code § 679.12.

#### **600.10 ANTI-REPRODUCTIVE RIGHTS CRIMES**

A member should take a report any time a person living within the jurisdiction of the Indio Police Department reports that the person has been a victim of an anti-reproductive rights crime as defined by Penal Code § 13776 and Penal Code § 423.3. This includes:

- (a) Taking a report, even if the location of the crime is outside the jurisdiction of this department or has not been determined (e.g., online harassment).
- (b) Providing the victim with the appropriate information, as set forth in the Victim and Witness Assistance Policy. Members should encourage the person to review the material and should assist with any questions.

A report should also be taken if a person living outside department jurisdiction reports an anti-reproductive rights crime that may have been committed or facilitated within this jurisdiction (e.g., use of a post office box in the [city/county] to facilitate the crime).

A member investigating an anti-reproductive rights crime should ensure that the case is referred to the appropriate agency if it is determined that this department should not be the investigating agency. The victim should be advised that the case is being transferred to the agency of jurisdiction. The appropriate entries should be made into any databases that have been authorized for department use and are specific to this type of investigation.

The Major Crimes Unit or Street Crimes Unit supervisor should provide the Records Supervisor with enough information regarding the number of calls for assistance and number of arrests to meet the reporting requirements to the California Department of Justice as required by Penal Code § 13777. See the Records Bureau Policy for additional guidance.

#### **600.11 STATE REQUIREMENTS FOR FIREARM INVESTIGATIONS**

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#### 600.11.1 CALIFORNIA DOJ NOTICE OF LOCATION OF REPORTED LOST OR STOLEN FIREARM

When notification is received from the California Department of Justice (DOJ) that a firearm purchase matches an entry made into the Automated Firearms System by the Department as lost or stolen, the Major Crimes Unit or Street Crimes Unit supervisor shall assign an officer to retrieve the firearm and book the firearm into evidence in accordance with the Property and Evidence Policy. Recovery of the firearm shall be reported pursuant to Penal Code § 11108.2, Penal Code §11108.3, and Penal Code § 11108.5. If appropriate, arrangements may be made to have another state or local law enforcement agency retrieve the firearm on behalf of the Department (Penal Code § 28220).

#### 600.11.2 RELINQUISHMENT OF FIREARMS VERIFICATION

The Major Crimes Unit or Street Crimes Unit supervisor shall designate a member to have access to the Armed Prohibited Persons System (APPS) to receive information regarding individuals in the jurisdiction of the Department who have become a prohibited possessor of a firearm registered in their name and have not provided proof of relinquishment. The member shall document steps taken to verify that the individual is no longer in possession of firearms and provide the information to the Records Bureau for preparation of a quarterly report to the California DOJ (Penal Code § 29813) (see the Records Bureau Policy for additional guidance).

# Sexual Assault Investigations

## 602.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the investigation of sexual assaults. These guidelines will address some of the unique aspects of such cases and the effects that these crimes have on the victims.

Mandatory notifications requirements are addressed in the Child Abuse and Senior and Disability Victimization Policy.

### 602.1.1 DEFINITIONS

Definitions related to this policy include:

**Sexual assault** - Any crime or attempted crime of a sexual nature, to include but not limited to offenses defined in Penal Code § 243.4, Penal Code § 261 et seq., and Penal Code § 285 et seq.

**Sexual Assault Response Team (SART)** - A multidisciplinary team generally comprised of advocates; law enforcement officers; forensic medical examiners, including sexual assault forensic examiners (SAFEs) or sexual assault nurse examiners (SANEs) if possible; forensic laboratory personnel; and prosecutors. The team is designed to coordinate a broad response to sexual assault victims.

**Consent:** Words or overt actions by a person who is legally and functionally competent to give informed approval, indicating a freely given agreement to engage in sexual acts.

**Medical Forensic Examiner:** The health care provider conducting a sexual assault medical forensic examination.

**Sexual Assault Medical Forensic Examination:** An examination of a sexual assault patient by a health care provider, ideally one who has specialized education and clinical experience in the collection of forensic evidence and treatment of these patients.

**Victim Advocate:** A service provider, rape crisis counselor, social worker, victim witness provider within a prosecutor's office, or law enforcement officer, including an agency victim assistant, who is trained to assess and address the needs of the victim as well as to provide counseling, advocacy, resources, information and support

## 602.2 POLICY

It is the policy of the Indio Police Department that its members, when responding to reports of sexual assaults, will strive to minimize the trauma experienced by the victims, and will aggressively investigate sexual assaults, pursue expeditious apprehension and conviction of perpetrators, and protect the safety of the victims and the community.

## 602.3 QUALIFIED INVESTIGATORS

Qualified investigators should be available for assignment of sexual assault investigations. These investigators should:

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- (a) Have specialized training in, and be familiar with, interview techniques and the medical and legal issues that are specific to sexual assault investigations.
- (b) Conduct follow-up interviews and investigation.
- (c) Present appropriate cases of alleged sexual assault to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies and medical personnel as needed.
- (e) Provide referrals to therapy services, victim advocates and support for the victim.
- (f) Participate in or coordinate with SART.

#### **602.4 INVESTIGATION AND REPORTING**

In all reported or suspected cases of sexual assaults, a report shall be written and forwarded to the Major Crimes Unit for review. This includes incidents in which the allegations appear unfounded or unsubstantiated. On duty supervisors shall ensure officers document their findings in a report that shall be submitted for approval prior to the end of an officers shift. On duty supervisors shall ensure these reports are forwarded to the Major Crimes Unit prior to the end of their shift.

##### **602.4.1 PROCEDURES**

###### **A. Special Considerations—Minors and Incompetent Adults**

Prior to responding to calls for service involving the sexual assault of minors or incompetent adults, the on duty supervisor shall identify the appropriate resources or personnel with the necessary knowledge and experience to respond to these sensitive situations. The Major Crimes Unit shall be notified as soon as reasonably possible when investigations of potential sexual assaults of minors and incompetent adults are initiated by patrol officers. Officers responding to reports of sexual assaults involving these sensitive population groups shall limit their actions to the following:

- (a) ensuring that the scene is safe;
- (b) safeguarding evidence where appropriate;
- (c) collecting any information necessary to identify the suspect;
- (d) addressing the immediate medical needs of individuals at the scene.
- (e) obtain a preliminary interview of the victim if possible, witnesses or reporting parties.
- (f) write a report documenting the preliminary investigation.

###### **B. Communications Personnel Response**

When a caller reports a sexual assault, communications personnel should follow the dispatch standard incident response policy. Communications personnel should inform the victim of ways to ensure critical evidence is not lost, to include the following:

- (a) Advising the victim not to bathe, urinate, or clean him- or herself if the assault has been recent (less than 24 hours).

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- (b) Asking the victim to collect any clothing that was worn during the assault and, if possible, place in a paper bag and bring them to the exam site—and instructing the victim not to wash the clothing.
- (c) Informing the victim that other evidence may still be identified and recovered even if he or she has bathed or made other physical changes.

#### **C. Initial Officer Response**

When responding to a scene involving a sexual assault, officers shall follow standard incident response procedures;

- (a) Recognize that the victim experienced a traumatic incident and may not be willing or able to immediately assist with the criminal investigation.
- (b) Clearly explain the reporting process including the roles of the first responder, investigator, and anyone else with whom the victim will likely interact.
- (c) Offer to contact local support or advocacy agencies for the victim.
- (d) If none are available, provide information regarding national resource agencies that provide sexual assault support.
- (e) Make reasonable efforts to allow the victim to determine the location, time and date where the initial report is made.
- (f) Collaborate with victims during the investigative process and respect a victim's right to decline future participation in the investigation.
- (g) Offer to contact a victim advocate as soon as practicable.
- (h) Questions should be tailored to the victim's emotional and physical state. Where resources are available, inform the victim that a second interview might occur at a later time and be conducted by a trained investigator.
- (i) Officers shall record via video and audio the initial statement and all subsequent interviews, when reasonable and practical.
- (j) Ask about and document signs and symptoms of injury, to include strangulation.
- (k) Arrange for transportation to the designated facility if a forensic medical exam is needed and the victim consents.
- (l) Consider the victim's body a crime scene and ensure the chain of custody remains intact during transportation.
- (m) Identify and interview anyone the victim told about the sexual assault.
- (n) Understand that recantation of any or all aspects of the initial disclosure is not necessarily indicative of a false report. Victims who recant or decline participation in the investigation should not be asked to sign a non-prosecution statement. In addition, the facts of the case, as provided by the victim may change over time. Officers should understand that this does not indicate deception.
- (o) Collect any and all items of evidentiary value.
- (p) Notify their supervisor and provide a summary of the facts.

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- (q) Document the interview in their written report.

#### **D. Supervisors shall do the following:**

- (a) Respond to assist officers investigating incidents of sexual assault when possible or if requested by an officer.
- (b) Assess if Detectives need to be called out to the scene depending on the facts and severity of the case.
- (c) Review all sexual assault reports for accuracy and consistency and conduct after action reviews and sexual assault case audits.
- (d) Encourage officers to look for co-occurring and interconnected crimes when responding to sexual assault.
- (e) Ensure officers and investigators understand case coding and appropriately code sexual assault cases.
- (f) Ensure officer complete and submit their sexual assault report before the end of shift.
- (g) Ensure the sexual assault report is approved and submitted to the Major Crimes Unit before their end of shift.

#### **(E) Report Writing for Sexual Assault Cases**

When documenting sexual assault cases, officers should take the following actions:

- (a) Complete a confidentiality form.
- (b) If the victim is a minor, contact Child Protective Services and cross report the incident.
- (c) Capture details necessary to establish any premeditation or grooming behavior by the perpetrator.
- (d) Capture details necessary to establish any coercion, threats, and force used by the perpetrator.
- (e) Document attempts by the perpetrator to intimidate or discourage the victim from reporting the assault.
- (f) Document details regarding the victim's reaction during and after the incident (e.g., victim demeanor, emotional response, changes in routines or habits).
- (g) Fully document fear by recording all fight, flight, freeze, or submit reactions the victim expressed or exhibited before, during, and after the assault.
- (h) Unless they are direct quotes (in which case, place them in quotation marks) avoid using terms that indicate consensual behavior (such as participated or engaged in) when describing the specific actions of the suspect.
- (i) If a consensual encounter turned nonconsensual, clearly document the details of how and when the suspect's behavior changed and how the victim expressed or demonstrated non-consent to the continued acts.
- (j) Document any injuries and medical aid.
- (k) Document any evidence collection.



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- (l) Document any witness interviews and knowledge of any potential digital evidence available.
- (m) Document any evidence of potential additional victims.

#### **602.5 RELEASING INFORMATION TO THE PUBLIC**

In cases where the perpetrator is not known to the victim, and especially if there are multiple crimes where more than one appear to be related, consideration should be given to releasing information to the public whenever there is a reasonable likelihood that doing so may result in developing helpful investigative leads. The Major Crimes Unit or Street Crimes Unit supervisor should consult with the Department's public information officer..

#### **602.6 TRAINING**

Subject to available resources, quarterly briefing training should be provided to:

- (a) Patrol Officers who are first responders. Training should be provided by patrol supervisors, sex crimes detectives or the supervisors designee which shall include:
  - (a) Initial response to sexual assaults.
  - (b) Legal issues.
  - (c) Victim advocacy.
  - (d) Victim's response to trauma.
  - (e) Proper use and handling of the California standardized SAFE kit (Penal Code § 13823.14).
  - (f) This training should specifically address the provisions of this policy, as well as the realities, dynamics, and investigations of these crimes and legal or scientific developments pertaining to sexual assault.
- (b) Qualified investigators, should receive advanced training on additional topics. Advanced training should include:
  - (a) Interviewing sexual assault victims.
  - (b) SART.
  - (c) Medical and legal aspects of sexual assault investigations.
  - (d) Serial crimes investigations.
  - (e) Use of community and other federal and state investigative resources, such as the Violent Criminal Apprehension Program (ViCAP).
  - (f) Techniques for communicating with victims to minimize trauma.
  - (g) Post accredited Sexual assault Investigation course.
  - (h) Post accredited Advanced sexual assault investigations course.

#### **602.7 VICTIM INTERVIEWS**

The primary considerations in sexual assault investigations, which begin with the initial call to the Dispatch Center, should be the health and safety of the victim, the preservation of evidence, and

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preliminary interviews to determine if a crime has been committed and to attempt to identify the suspect.

Whenever possible, a member of SART should be included in the initial victim interviews. An in-depth follow-up interview should not be conducted until after the medical and forensic examinations are completed and the personal needs of the victim have been met (e.g., change of clothes, bathing). The follow-up interview may be delayed to the following day based upon the circumstances. Whenever practicable, the follow-up interview shall be conducted by a qualified investigator.

No opinion of whether the case is unfounded shall be included in the report.

Victims shall not be asked or required to take a polygraph examination (34 USC § 10451; Penal Code § 637.4).

Victims should be apprised of applicable victim's rights provisions, as outlined in the Victim and Witness Assistance Policy.

#### **During victim interviews, personnel shall note the following information:**

- (a) If the suspect was known by the victim, determine the following facts.
- (b) How long the victim knew the suspect
- (c) The circumstances of their meeting
- (d) The extent of their previous or current relationship
- (e) Any behavioral changes that led the situation from one based on consent to one of submission, coercion, fear, or force
- (f) The location where the assault took place, including any isolation strategies used by the suspect.
- (g) Actions, threats (real, perceived, or implied), gestures, coercion, and other behaviors used by the suspect to cause the victim to submit.
- (h) Ways in which the victim resisted or indicated non-consent, both verbally and nonverbally.
- (i) The victim's actions and responses before, during, and after the sexual assault including indications of his or her state of mind during the assault.
- (j) The victim's thoughts and feelings during the assault.
- (k) Sensory evidence and peripheral details of the victim's experience.
- (l) The victim's behavior and thoughts since or after the assault, including changes in routine, depression, mood instability, sleep and diet disturbances, flashbacks, nightmares, and stress.
- (m) Circumstances that may indicate the use of drugs or alcohol to facilitate the sexual assault, including memory loss, disorientation, severe illness, or hallucinations.
- (n) If any prescription drugs were taken.

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- (o) Any pre- or post-assault contact, monitoring, stalking, or other behaviors of the suspect.
- (p) If any weapons were used.
- (q) If the victim ingested alcohol or recreational drugs prior to the assault on her own terms.
- (r) if the victim has any visible injuries.
- (s) If the victim was moved by force or fear prior to the sexual assault.

### **Contacting and Interviewing Suspects**

Prior to contacting the suspect, personnel should do the following:

- (a) Conduct a background and criminal history check specifically looking for accusations, criminal charges, and convictions for interconnected crimes, especially crimes involving violence.
- (b) Consider conducting a pretext or confrontational call or messaging in coordination with the district attorney's office.
- (c) Involvement of a victim should be based on strong consideration of the victim's emotional and physical state.
- (d) A victim advocate should be present whenever possible to offer support.

#### **602.7.1 VICTIM RIGHTS**

Whenever there is an alleged sexual assault, the assigned officer shall accomplish the following:

- (a) Advise the victim in writing of the right to have a victim advocate and a support person of the victim's choosing present at any interview or contact by law enforcement, any other rights of a sexual assault victim pursuant to Penal Code § 680.2, and the right to have a person of the same or opposite gender present in the room during any interview with a law enforcement official unless no such person is reasonably available (Penal Code § 679.04).
- (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).
  1. The officer shall not discourage a victim from receiving a medical evidentiary or physical examination (Penal Code § 679.04).
  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).

#### **602.7.2 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 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

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related response made by the victim, or if a minor, any response made by the victim's parent or guardian (Penal Code § 293).

Except as authorized by law, members of this department shall not publicly disclose the name of any victim of a sex crime who has exercised his/her right to confidentiality (Penal Code § 293).

#### **602.8 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE**

Whenever possible, a SART member should be involved in the collection of forensic evidence from the victim.

When the facts of the case indicate that collection of biological evidence is warranted, it should be collected regardless of how much time has elapsed since the reported assault.

If a drug-facilitated sexual assault is suspected, urine and blood samples should be collected from the victim as soon as practicable.

Subject to requirements set forth in this policy, biological evidence from all sexual assault cases, including cases where the suspect is known by the victim, should be submitted for testing.

Victims who choose not to assist with an investigation, do not desire that the matter be investigated, or wish to remain anonymous may still consent to the collection of evidence under their control. In these circumstances, the evidence should be collected and stored appropriately (Penal Code § 680).

##### **602.8.1 COLLECTION AND TESTING REQUIREMENTS**

Members investigating a sexual assault offense 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). SAFE kits should be submitted to the crime lab within 20 days after being booked into evidence (Penal Code § 680).

In order to maximize the effectiveness of such testing and identify the perpetrator of any sexual assault, the assigned officer shall ensure that an information profile for the SAFE kit evidence has been created in the California Department of Justice (DOJ) SAFE-T database within 120 days of collection and should further ensure that the results of any such test have been timely entered into and checked against both the DOJ Cal-DNA database and the Combined DNA Index System (CODIS) (Penal Code § 680.3).

If the assigned officer determines that a SAFE kit submitted to a private vendor laboratory for analysis has not been tested within 120 days after submission, the officer shall update the SAFE-T database to reflect the reason for the delay in testing. The assigned officer shall continue to update the status every 120 days thereafter until the testing is complete, the statute of limitations has run, or the SAFE kit is exempt from the update requirement (Penal Code § 680.3).

If, for any reason, DNA evidence in a sexual assault case in which the identity of the perpetrator is in issue and is not going to be analyzed within 18 months of the crime, the assigned officer shall notify the victim of such fact in writing no less than 60 days prior to the expiration of the 18-month period (Penal Code § 680).

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Additional guidance regarding evidence retention and destruction is found in the Property and Evidence Policy.

#### 602.8.2 DNA TEST RESULTS

A SART member should be consulted regarding the best way to deliver biological testing results to a victim so as to minimize victim trauma, especially in cases where there has been a significant delay in getting biological testing results (e.g., delays in testing the evidence or delayed DNA databank hits). Members should make reasonable efforts to assist the victim by providing available information on local assistance programs and organizations as provided in the Victim and Witness Assistance Policy.

- (a) Upon receipt of a written request from a sexual assault victim or the victim's authorized designee, members investigating sexual assault cases shall inform the victim of the status of the DNA testing of any evidence from the victim's case (Penal Code § 680).
  - 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 the victim's authorized designee regarding the status of any DNA testing.
- (b) Sexual assault victims shall further have the following rights (Penal Code § 680):
  - 1. To be informed if a DNA profile of the assailant was obtained from the testing of the SAFE kit or other crime scene evidence from their case.
  - 2. To be informed if there is a confirmed match between the DNA profile of the assailant developed from the evidence and a DNA profile contained in the DOJ Convicted Offender DNA Database, providing that disclosure would not impede or compromise an ongoing investigation.
  - 3. To be informed if the DNA profile of the assailant developed from the evidence has been entered into the DOJ Databank or the federal Department of Justice or Federal Bureau of Investigation CODIS database of case evidence.
  - 4. To access the DOJ SAFE-T database portal consistent with Penal Code § 680.3(e) for information involving their own forensic kit and the status of the kit.
- (c) Provided that the sexual assault victim or the victim's authorized designee has kept the assigned officer informed with regard to current address, telephone number, and email address (if available), any victim or the victim's authorized designee shall, upon request, be advised of any known significant changes regarding the victim's case (Penal Code § 680).
  - 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 or expected to release any information which might impede or compromise any ongoing investigation.

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#### **602.8.3 STANDARDIZED SEXUAL ASSAULT FORENSIC MEDICAL EVIDENCE KIT**

The Property and Evidence Section supervisor should make California standardized sexual assault forensic medical evidence (SAFE) kits available to members who may investigate sexual assault cases. Members investigating a sexual assault should use these SAFE kits when appropriate and follow related usage guidelines issued by the California Clinical Forensic Medical Training Center (Penal Code § 13823.14).

#### **602.8.4 COLLECTION OF DNA REFERENCE SAMPLES**

Reference samples of DNA collected directly from a victim of sexual assault, and reference samples of DNA collected from any individual that were voluntarily provided for the purpose of exclusion, shall be protected as provided in Penal Code § 679.12 (Penal Code § 680).

#### **602.9 DISPOSITION OF CASES**

If the assigned investigator has reason to believe the case is without merit, the case may be classified as unfounded only upon review and approval of the Major Crimes Unit or Street Crimes Unit supervisor.

Classification of a sexual assault case as unfounded requires the Major Crimes Unit or Street Crimes Unit supervisor to determine that the facts have significant irregularities with reported information and that the incident could not have happened as it was reported. When a victim has recanted his/her original statement, there must be corroborating evidence that the allegations were false or baseless (i.e., no crime occurred) before the case should be determined as unfounded.

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# OPERATIONS PLANNING AND DECONFLICTION POLICY

## 603.1 PURPOSE AND SCOPE

This policy provides guidelines for planning, deconfliction and execution of high-risk operations. Additional guidance on planning and serving high-risk warrants is provided in the Swat Policy (Lexipol #409).

## 603.2 DEFINITIONS

Definitions related to this policy include:

**High-risk operations** - Operations, including service of search and arrest warrants and sting operations, that are likely to present higher risks than are commonly faced by officers on a daily basis, including suspected fortified locations, reasonable risk of violence or confrontation with multiple persons, or reason to suspect that persons anticipate the operation.

**Case agent** - Officer or detective responsible for the operation who oversees the overall planning and execution of the plan in question.

**Affected supervisor** - The supervisor with overall supervisory authority over the operation and the case agent.

**WSIN** - Western States Information Network / Regional Information Sharing System

**LA CLEAR** - Los Angeles Regional Criminal Information Clearing House

## 603.3 POLICY

It is the policy of the Indio Police Department to properly plan and carry out high-risk operations, including participation in a regional deconfliction system (LA CLEAR, WSIN), in order to provide coordination, enhance the safety of members and the public, decrease the risk of compromising investigations and prevent duplicating efforts.

## 603.4 DECONFLICTION

Deconfliction systems are designed to identify persons and locations associated with investigations or law enforcement operations and alert participating agencies when others are planning or conducting operations in close proximity or time or are investigating the same individuals, groups or locations. The case agent shall ensure the subject of investigation and operations information have been entered in an applicable deconfliction system to determine if there is reported conflicting activity. This should occur as early in the process as practicable. The officer should also enter relevant updated information when it is received. If any conflict is discovered, the case agent will contact the involved jurisdiction and resolve the potential conflict before proceeding.

Access to LA CLEAR or WSIN shall only be approved by the individual unit / special assignment supervisor (Sergeant or Lieutenant) or their designee upon completion of the appropriate LA

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CLEAR / WSIN documentation and clearance once verified by LA CLEAR / WSIN staff. See below contacts for LA CLEAR / WSIN access.

**Contacts;**

[info@lclear.org](mailto:info@lclear.org)

[helpdesk@lclear.ca.gov](mailto:helpdesk@lclear.ca.gov)

[info@wsin.riss.net](mailto:info@wsin.riss.net)

Phone; (800) 952-5258



## Asset Forfeiture

### 606.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with designated offenses.

#### 606.1.1 DEFINITIONS

Definitions related to this policy include:

**Fiscal agent** - The person designated by the Chief of Police to be responsible for securing and maintaining seized assets and distributing any proceeds realized from any forfeiture proceedings. This includes any time the Indio Police Department seizes property for forfeiture or when the Indio Police Department is acting as the fiscal agent pursuant to a multi-agency agreement.

**Forfeiture** - The process by which legal ownership of an asset is transferred to a government or other authority.

**Forfeiture reviewer** - The department member assigned by the Chief of Police who is responsible for reviewing all forfeiture cases and for acting as the liaison between the Department and the assigned attorney.

**Property subject to forfeiture** - The following may be subject to forfeiture:

- (a) Property related to a narcotics offense, which includes (Heath and Safety Code § 11470; Health and Safety Code § 11470.1):
  1. Property (not including real property or vehicles) used, or intended for use, as a container for controlled substances, materials to manufacture controlled substances, etc.
  2. Interest in a vehicle (car, boat, airplane, other vehicle) used to facilitate the manufacture, possession for sale or sale of specified quantities of controlled substances.
  3. Money, negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance, proceeds traceable to an exchange, etc.
  4. Real property when the owner is convicted of violating Health and Safety Code § 11366, Health and Safety Code § 11366.5 or Health and Safety Code § 11366.6 (drug houses) when the property was not used as a family residence or for other lawful purposes, or property owned by two or more persons, one of whom had no knowledge of its unlawful use.
  5. The expenses of seizing, eradicating, destroying or taking remedial action with respect to any controlled substance or its precursors upon conviction for the unlawful manufacture or cultivation of any controlled substance or its precursors.
- (b) Property related to criminal profiteering (may include gang crimes), to include (Penal Code § 186.2; Penal Code § 186.3):

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1. Any property interest, whether tangible or intangible, acquired through a pattern of criminal profiteering activity.
2. All proceeds acquired through a pattern of criminal profiteering activity, including all things of value that may have been received in exchange for the proceeds immediately derived from the pattern of criminal profiteering activity.

**Seizure** - The act of law enforcement officials taking property, cash or assets that have been used in connection with or acquired by specified illegal activities.

#### **Minimum Thresholds:**

**Currency:** Generally, \$1,000+

**Vehicles:** Generally, \$10,000+ in value/equity (based on low Blue Book)

**Facilitation Theory-** requires minimum of 57 grams of substances containing Cocaine HCL or Meth or 28.5 grams of Cocaine HCL or Meth or 14.25 grams of a substance containing Heroin or Cocaine Base or 10 pounds of Marijuana, Peyote, or Psilocybin. No weight requirements for “proceeds” or “exchange” theories.

**Personal Property:** Generally, \$1,000+ (value in current condition)

- (a) Do not seize anything that is alive or breathing.
- (b) Do not seize anything that is expensive to maintain or store like an airplane.

#### **606.2 POLICY**

The Indio Police Department recognizes that appropriately applied forfeiture laws are helpful to enforce the law, deter crime and reduce the economic incentive of crime. However, the potential for revenue should never compromise the effective investigation of criminal offenses, officer safety or any person’s due process rights.

It is the policy of the Indio Police Department that all members, including those assigned to internal or external law enforcement task force operations, shall comply with all state and federal laws pertaining to forfeiture.

#### **606.3 ASSET SEIZURE**

Property may be seized for forfeiture as provided in this policy.

##### **606.3.1 PROPERTY SUBJECT TO SEIZURE**

The following may be seized upon review and approval of a supervisor and in coordination with the forfeiture reviewer:

- (a) Property subject to forfeiture authorized for seizure under the authority of a search warrant or court order.
- (b) Property subject to forfeiture not authorized for seizure under the authority of a search warrant or court order when any of the following apply (Health and Safety Code § 11471; Health and Safety Code § 11488):

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1. The property subject to forfeiture is legally seized incident to an arrest.
2. There is probable cause to believe that the property was used or is intended to be used in a violation of the Uniform Controlled Substances Act and the seizing officer can articulate a nexus between the property and the controlled substance offense that would lead to the item being property subject for forfeiture.

Officers aware of assets that may be forfeitable as a result of criminal profiteering or human trafficking should consider contacting the district attorney regarding a court order to protect the assets (Penal Code § 186.6; Penal Code § 236.6).

Whenever practicable, a search warrant or court order for seizure prior to making a seizure is the preferred method.

A large amount of money standing alone is insufficient to establish the probable cause required to make a seizure.

#### **606.3.2 PROPERTY NOT SUBJECT TO SEIZURE**

The following property should not be seized for forfeiture:

- (a) Cash and property that does not meet the forfeiture counsel's current minimum forfeiture thresholds should not be seized.
- (b) Real property is not subject to seizure, absent exigent circumstances, without a court order (Health and Safety Code § 11471).
- (c) A vehicle which may be lawfully driven on the highway if there is a community property interest in the vehicle by a person other than the suspect and the vehicle is the sole vehicle available to the suspect's immediate family (Health and Safety Code § 11470).
- (d) Vehicles, boats or airplanes owned by an "innocent owner," such as a common carrier with no knowledge of the suspected offense (Health and Safety Code § 11490).
- (e) Any property when the associated activity involves the possession of marijuana or related paraphernalia that is permissible under the Control, Regulate and Tax Adult Use of Marijuana Act (Health and Safety Code § 11362.1).

#### **606.4 PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS**

When property or cash subject to this policy is seized, the officer making the seizure should ensure compliance with the following:

- (a) Complete applicable seizure forms and present the appropriate copy to the person from whom the property is seized. If cash or property is seized from more than one person, a separate copy must be provided to each person, specifying the items seized. When property is seized and no one claims an interest in the property, the officer must leave the copy in the place where the property was found, if it is reasonable to do so.
- (b) Complete and submit a report and original seizure forms within 24 hours of the seizure, if practicable.

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- (c) Forward the original seizure forms and related reports to the forfeiture reviewer within two days of seizure.

The officer will book seized property as evidence with the notation in the comment section of the property form, "Seized Subject to Forfeiture." Property seized subject to forfeiture should be booked on a separate property form. No other evidence from the case should be booked on this form.

Photographs should be taken of items seized, particularly cash, jewelry and other valuable items.

Officers who suspect property may be subject to seizure but are not able to seize the property (e.g., the property is located elsewhere, the whereabouts of the property is unknown, it is real estate, bank accounts, non-tangible assets) should document and forward the information in the appropriate report to the forfeiture reviewer.

#### **606.4 (a) SEIZURE CASE DETECTIVE DUTIES**

- (a) If the seizure involves assets worth less than \$25,000, completion and service of the "Notice of Seizure and Notice of Intended Forfeiture" and the blank "Claim Opposing Forfeiture" can be accomplished in the field. For purposes of proving due diligence, Notice should be provided to all potential claimants.
- (b) Obtain approval from a Deputy District Attorney for initiation of forfeiture after notifying the DDA of the pertinent facts of the seizure and how the assets are reasonably related to narcotic sales activity.
- (c) Fill out the "Notice of Seizure and Notice of Intended Forfeiture" and provide it along with a blank "Claim Opposing Forfeiture" form to the person from whom the assets were seized and to anyone else who reasonably may have a possessory interest in the assets.
- (d) If any interested party wishes to disclaim the seized assets, that person should be permitted to sign a Disclaimer of Ownership form in addition to being served with the notice and claim forms.
- (e) Provide a receipt for the seized assets in accordance with Penal Code section 1412.
- (f) Advise the person(s) the seizure is a civil matter and ask questions about the origin of the assets and any other financial information relevant to the source of the assets.
- (g) Thereafter, provide copies of the served notices with a proof of service along with the reports and Asset Seizure Packet to the District Attorney within 30 days of the seizure.
- (h) In order to successfully forfeit assets of less than **\$40,000** when a claim is filed, there must be a narcotic sales-related conviction (H&S §§ 11351, 11351.5, 11352, 11355, 11359, 11360, 11366.8, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11382, or 11383, or PC 182 relating to these charges) or such a conviction within five years of the seizure.

#### **606.4 (b) SPEEDY RESOLUTION OF THIRD-PARTY CLAIMS**

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1. It is the policy of the Indio Police Department to promptly resolve claims of innocent ownership, and where appropriate, expeditiously release seized property. In order to so, the following procedures will be followed:
2. Upon receipt of a third-party claim of ownership, the Investigative Services Lieutenant or their designee shall conduct an investigation to validate all claims. This will include interviews with the claimant, and a request for documentation, as well as a utilization of all other investigatory means available to determine the validity of the claim. In the event the claim is shown to be valid, and the third party is shown to be an "innocent owner", it is the policy of the Indio Police Department to return such property to the "innocent owner" as expeditiously as possible.
3. When releasing property, the releasing officer shall ask for documentation of ownership, as well as positive identification of the person to whom the property is released. The releasing officer shall have the receiving party sign a Indio Police Department property form prior to release. The releasing officer shall document the release in the case file and write a supplemental report,

#### **606.4 (c) RECEIVING AND ACCOUNTING FOR FORFEITURE PROCEEDS**

1. The proceeds of property seized by this agency and subsequently forfeited will be maintained in a separate account with the City Treasurer. The use of such funds will be accounted for in such a way as to allow audits by City of Indio.
2. The City Treasurer will maintain an account for funds delivered by the District Attorney as proceeds upon resolution of forfeitures filed in State Superior Court.
3. The City Treasurer will maintain a separate account for funds delivered by the United States Marshall's Service as proceeds upon resolution of forfeitures filed in Federal District Court.
4. The Investigative Services Lieutenant shall notify the Chief of Police or their designee of receipt of funds from the District Attorney's Office representing the successful conclusion of a forfeiture case. The Investigative Services Lieutenant will place a copy in the active forfeiture file in MCU / SCU, and close the file. The Investigative Services Lieutenant or his designee shall also notify the Chief of Police or their designee of the successful resolution and funds received in federal forfeitures for the same purpose.

#### **606.4 (d) FEDERAL FORFEITURE PROCEDURES (SEIZURE ADOPTIONS)**

- The decision to proceed with a forfeiture case in State Superior Court or to request federal adoption shall be made by the Investigative Services Lieutenant, or their designee. In making this decision, and in procedural performance in the event of a requested federal adoption, the following two manuals will be used as a policy guideline:
- "Guide to Federal Adopted Forfeitures" (<https://www.justice.gov/jm/jm-9-116000-equitable-sharing-and-federal-adoption>) prepared by the United States Department of Justice.
- "A Guide to Equitable Sharing of Federally Forfeited Property for State and Local Law Enforcement Agencies" (<https://www.justice.gov/criminal-afmls/>)

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file/794696/download) by the Executive Office for Asset Forfeiture, Office of the Attorney General, United States Department of Justice, Washington D.C.

- For federal asset forfeiture adoptions, the Investigative Services Lieutenant or their designee shall contact the DEA group supervisor at the Palm Springs Narcotic Task Force Group-1 (PSNTF) for their assistance and guidance.

#### **606.4 (e) ASSET FORFEITURE CASE STATUS DETAIL**

- The Investigative Services Lieutenant or their designee will maintain a detailed report of the fiscal status of all seizures. A copy of the detail status report will be forwarded to the Chief of Police whenever the status of any case changes. At the end of each fiscal year, the Investigative Services Lieutenant or their designee will provide the Chief of Police a summary of the Asset Forfeiture Case Status detail report and the activity of the Asset Forfeiture Trust accounts in the City Treasury.

#### **606.5 MAINTAINING SEIZED PROPERTY**

The Property and Evidence Section Supervisor is responsible for ensuring compliance with the following:

- (a) All property received for forfeiture is reasonably secured and properly stored to prevent waste and preserve its condition.
- (b) All property received for forfeiture is checked to determine if the property has been stolen.
- (c) All property received for forfeiture is retained in the same manner as evidence until forfeiture is finalized or the property is returned to the claimant or the person with an ownership interest.
- (d) Property received for forfeiture is not used unless the forfeiture action has been completed.

#### **606.6 FORFEITURE REVIEWER**

The Investigative Services Division Lieutenant or their designee will serve as the forfeiture reviewer. Prior to assuming duties, or as soon as practicable thereafter, the forfeiture reviewer should attend a department-approved course on asset forfeiture.

The responsibilities of the forfeiture reviewer include:

- (a) Remaining familiar with forfeiture laws, particularly Health and Safety Code § 11469 et seq. and Penal Code § 186.2 et seq. and the forfeiture policies of the forfeiture counsel.
- (b) Serving as the liaison between the Department and the forfeiture counsel and ensuring prompt legal review of all seizures.
- (c) Making reasonable efforts to obtain annual training that includes best practices in pursuing, seizing and tracking forfeitures.
- (d) Ensuring that property seized under state law is not referred or otherwise transferred to a federal agency seeking the property for federal forfeiture as prohibited by Health and Safety Code § 11471.2.

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- (e) Ensuring that responsibilities, including the designation of a fiscal agent, are clearly established whenever multiple agencies are cooperating in a forfeiture case.
- (f) Ensuring that seizure forms are available and appropriate for department use. These should include notice forms, a receipt form and a checklist that provides relevant guidance to officers. The forms should be available in languages appropriate for the region and should contain spaces for:
  - 1. Names and contact information for all relevant persons and law enforcement officers involved.
  - 2. Information as to how ownership or other property interests may have been determined (e.g., verbal claims of ownership, titles, public records).
  - 3. A space for the signature of the person from whom cash or property is being seized.
  - 4. A tear-off portion or copy, which should be given to the person from whom cash or property is being seized, that includes the legal authority for the seizure, information regarding the process to contest the seizure and a detailed description of the items seized.
- (g) Ensuring that officers who may be involved in asset forfeiture receive training in the proper use of the seizure forms and the forfeiture process. The training should be developed in consultation with the appropriate legal counsel and may be accomplished through traditional classroom education, electronic media, Daily Training Bulletins (DTBs) or Department Directives. The training should cover this policy and address any relevant statutory changes and court decisions.
- (h) Reviewing each asset forfeiture case to ensure that:
  - 1. Written documentation of the seizure and the items seized is in the case file.
  - 2. Independent legal review of the circumstances and propriety of the seizure is made in a timely manner.
  - 3. Notice of seizure has been given in a timely manner to those who hold an interest in the seized property (Health and Safety Code § 11488.4).
  - 4. Property is promptly released to those entitled to its return (Health and Safety Code § 11488.2).
  - 5. All changes to forfeiture status are forwarded to any supervisor who initiates a forfeiture case.
  - 6. Any cash received is deposited with the fiscal agent.
  - 7. Assistance with the resolution of ownership claims and the release of property to those entitled is provided.
  - 8. Current minimum forfeiture thresholds are communicated appropriately to officers.
  - 9. This policy and any related policies are periodically reviewed and updated to reflect current federal and state statutes and case law.

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- (i) Ensuring that a written plan that enables the Chief of Police to address any extended absence of the forfeiture reviewer, thereby ensuring that contact information for other law enforcement officers and attorneys who may assist in these matters is available.
- (j) Ensuring that the process of selling or adding forfeited property to the department's regular inventory is in accordance with all applicable laws and consistent with the department's use and disposition of similar property.
- (k) Keeping a manual that details the statutory grounds for forfeitures and department procedures related to asset forfeiture, including procedures for prompt notice to interest holders, the expeditious release of seized property, where appropriate, and the prompt resolution of claims of innocent ownership (Heath and Safety Code § 11469).
- (l) Providing copies of seized business records to the person or business from whom such records were seized, when requested (Heath and Safety Code §11471).
- (m) Notifying the California Franchise Tax Board when there is reasonable cause to believe that the value of seized property exceeds \$5,000.00 (Health and Safety Code § 11471.5).

Forfeiture proceeds should be maintained in a separate fund or account subject to appropriate accounting control, with regular reviews or audits of all deposits and expenditures.

Forfeiture reporting and expenditures should be completed in the manner prescribed by the law and City financial directives (Health and Safety Code § 11495).

#### **606.7 DISPOSITION OF FORFEITED PROPERTY**

Forfeited funds distributed under Health and Safety Code § 11489 et seq. shall only be used for purposes allowed by law, but in no case shall a peace officer's employment or salary depend upon the level of seizures or forfeitures he/she achieves (Heath and Safety Code § 11469).

The Department may request a court order so that certain uncontaminated science equipment is relinquished to a school or school district for science classroom education in lieu of destruction (Health and Safety Code § 11473; Health and Safety Code § 11473.5).

##### **606.7.1 RECEIVING EQUITABLE SHARES**

When participating in a joint investigation with a federal agency, the Indio Police Department shall not receive an equitable share from the federal agency of all or a portion of the forfeiture proceeds absent either a required conviction under Health and Safety Code § 11471.2 or the flight, death or willful failure to appear of the defendant. This does not apply to forfeited cash or negotiable instruments of \$40,000 or more.

#### **606.8 CLAIM INVESTIGATIONS**

An investigation shall be made as to any claimant of a vehicle, boat or airplane whose right, title, interest or lien is on the record in the Department of Motor Vehicles or in an appropriate federal agency. If investigation reveals that any person, other than the registered owner, is the legal owner, and that ownership did not arise subsequent to the date and time of arrest or notification of the forfeiture proceedings or seizure of the vehicle, boat or airplane, notice shall be made to



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the legal owner at his/her address appearing on the records of the Department of Motor Vehicles or the appropriate federal agency (Health and Safety Code § 11488.4).

## Informants

### 608.1 PURPOSE AND SCOPE

In some instances, a successful investigation cannot be conducted without the use of confidential informants (CIs). While the use of CIs can be an effective tool, it can be undermined by misconduct of the CI or improper management by the handler. The purpose of this policy is to provide guidelines for the proper use of confidential informants to avoid misconduct of the CI or improper management by the handler.

#### 608.1.1 DEFINITIONS

Definitions related to this policy include:

**Informant** - A person who covertly interacts with other individuals or suspects at the direction of, request of, or by agreement with, the Indio Police Department for law enforcement purposes. This also includes a person agreeing to supply information to the Indio Police Department for a benefit (e.g., a quid pro quo in the form of a reduced criminal penalty, money).

**Confidential Informant (CI)**: An individual requiring anonymity who provides useful information, directed assistance, or both, that enhances criminal investigations and furthers the mission of the agency, usually in exchange for financial or other consideration.

**Confidential Informant File**: File maintained to document all information that pertains to a CI.

**Unreliable Informant File**: File containing information pertaining to an individual who has failed at following an established written CI agreement and has been determined to be generally unfit to serve as a CI.

**Compelling Public Interest**: For purposes of this policy, situations in which failure to act would result or likely result in loss of life, serious injury, or have some serious negative consequence for persons, property, or public safety and therefore demand action.

**Handler**: The officer primarily responsible for supervision and management of a CI.

### 608.2 POLICY

The Indio Police Department recognizes the value of informants to law enforcement efforts and will strive to protect the integrity of the informant process. It is the policy of this department that all funds related to informant payments will be audited quarterly and that payments to informants will be made according to the criteria outlined in this policy. In addition, this law enforcement agency shall take necessary precautions when utilizing CIs by developing sound informant control procedures.

### 608.3 USE OF INFORMANTS

#### 608.3.1 INITIAL APPROVAL

Before using an individual as an informant, an officer must receive approval from his/her supervisor as well as the Street Crimes Unit supervisor. The officer shall compile sufficient information

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through a background investigation and experience with the informant in order to determine the suitability of the individual, including but not limited to the following;

- a. Age, sex, and residence
- b. Employment status or occupation
- c. Affiliation with legitimate businesses and illegal or suspicious enterprises
- d. Extent to which potential information, associations, or other assistance could benefit a present or future investigation
- e. Relationship with the target of an investigation
- f. Motivation in providing information or assistance
- g. Risk of adversely affecting an existing or future investigation
- h. Extent to which provided information can be corroborated
- i. Prior record as a witness
- j. Criminal history, to include whether he or she is the subject of a pending investigation, is under arrest, or has been charged with a crime
- k. Risk to the public or as a flight risk
- l. Substance abuse concerns
- m. Relationship to anyone in law enforcement
- n. Risk of physical harm to the potential CI or his or her immediate family or relatives for cooperating with law enforcement should the relationship be revealed
- o. Any prior or current service as a CI with this or another law enforcement organization
- p. Verification of the subjects reliability

Members of this department should not guarantee absolute safety or confidentiality to an informant. Prior to an individual's use as a CI, a supervisor or other designated authority shall review the Initial Suitability Report and determine if the individual is authorized to serve as a CI.

#### 608.3.2 JUVENILE INFORMANTS

**The use of informants under the age of 13 is prohibited.**

Except for the enforcement of laws related to the commercial sale of alcohol, marijuana or tobacco products, a juvenile 13 years of age or older may only be used as an informant with the written consent of each of the following:

- (a) The juvenile's parents or legal guardians
- (b) The juvenile's attorney, if any
- (c) The court in which the juvenile's case is being handled, if applicable (Penal Code § 701.5)

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- (d) The Chief of Police or the authorized designee

#### **608.3.3 INFORMANT AGREEMENTS**

All informants are required to sign and abide by the provisions of the designated department informant agreement. The officer using the informant shall discuss each of the provisions of the agreement with the informant, with particular emphasis on the following:

- a. CIs are not law enforcement officers. They have no arrest powers, are not permitted to conduct searches and seizures, and may not carry a weapon while performing activities as a CI.
- b. CIs found engaging in any illegal activity beyond what is authorized by the agency and conducted while under the supervision of a handler, will be subject to prosecution.
- c. CIs are prohibited from engaging in actions or activities that could be deemed entrapment. The meaning of the term and implications of such actions shall be explained to each CI.
- d. CIs are prohibited from engaging in self-initiated information or intelligence gathering without agency direction and approval.
- e. Every reasonable effort will be taken to ensure the confidentiality of the CI but, upon judicial order, he or she may be required to testify in open court.
- f. CIs may be directed to wear a listening and recording device.
- g. CIs shall be required to submit to a search before and after a controlled purchase of weapons, stolen goods, or narcotics.

Details of the agreement are to be approved in writing by a supervisor before being finalized with the informant.

#### **608.4 INFORMANT INTEGRITY**

To maintain the integrity of the informant process, the following must be adhered to:

- (a) The identity of an informant acting in a confidential capacity shall not be withheld from the Chief of Police, Division Chief, Street Crimes Unit supervisor or their authorized designees.
  - 1. Identities of informants acting in a confidential capacity shall otherwise be kept confidential.
- (b) Criminal activity by informants shall not be condoned.
- (c) Informants shall be told they are not acting as police officers, employees or agents of the Indio Police Department, and that they shall not represent themselves as such.
- (d) The relationship between department members and informants shall always be ethical and professional.
  - 1. Members shall not become intimately involved with an informant.

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2. Social contact shall be avoided unless it is necessary to conduct an official investigation, and only with prior approval of the Street Crimes Unit supervisor.
  3. Members shall neither solicit nor accept gratuities or engage in any private business transaction with an informant.
- (e) Officers shall not meet with informants in a private place unless accompanied by at least one additional officer or with prior approval of the Street Crimes Unit supervisor.
1. Officers may meet informants alone in an occupied public place, such as a restaurant.
- (f) When contacting informants for the purpose of making payments, officers shall arrange for the presence of another officer.
- (g) In all instances when department funds are paid to informants, a voucher shall be completed in advance, itemizing the expenses.
- (h) Since the decision rests with the appropriate prosecutor, officers shall not promise that the informant will receive any form of leniency or immunity from criminal prosecution.

#### 608.4.1 UNSUITABLE INFORMANTS

The suitability of any informant should be considered before engaging him/her in any way in a covert or other investigative process. Members who become aware that an informant may be unsuitable will notify the supervisor, who will initiate a review to determine suitability. Until a determination has been made by a supervisor, the informant should not be used by any member. The supervisor shall determine whether the informant should be used by the Department and, if so, what conditions will be placed on his/her participation or any information the informant provides. The supervisor shall document the decision and conditions in file notes and mark the file "unsuitable" when appropriate.

Considerations for determining whether an informant is unsuitable include, but are not limited to, the following:

- (a) The informant has provided untruthful or unreliable information in the past.
- (b) The informant behaves in a way that may endanger the safety of an officer.
- (c) The informant reveals to suspects the identity of an officer or the existence of an investigation.
- (d) The informant appears to be using his/her affiliation with this department to further criminal objectives.
- (e) The informant creates officer-safety issues by providing information to multiple law enforcement agencies simultaneously, without prior notification and approval of each agency.
- (f) The informant engages in any other behavior that could jeopardize the safety of officers or the integrity of a criminal investigation.
- (g) The informant commits criminal acts subsequent to entering into an informant agreement.

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#### **608.5 INFORMANT FILES**

Informant files shall be utilized as a source of background information about the informant, to enable review and evaluation of information provided by the informant, and to minimize incidents that could be used to question the integrity of department members or the reliability of the informant.

Informant files shall be maintained in a secure area within the Street Crimes Unit. The Street Crimes Unit supervisor or the authorized designee shall be responsible for maintaining informant files. Access to the informant files shall be restricted to the Chief of Police, Division Chief, Street Crimes Unit supervisor or their authorized designees.

The Investigative Services Division Chief should arrange for an audit using a representative sample of randomly selected informant files on a periodic basis, but no less than one time per year. If the Street Crimes Unit supervisor is replaced, the files will be audited before the new supervisor takes over management of the files. The purpose of the audit is to ensure compliance with file content and updating provisions of this policy. The audit should be conducted by the MCU Lieutenant who does not have normal access to the informant files.

In addition, unit supervisors shall attend debriefings of CIs periodically as part of the informant management process. CI contracts shall be terminated and the CI file placed in inactive status when the CI has not been used for one year or more. Inactive CIs may be reactivated as needed.

##### **608.5.1 FILE SYSTEM PROCEDURE**

A separate file shall be maintained on each informant and shall be coded with an assigned informant control number. An informant history that includes the following information shall be prepared for each file:

- (a) Name and aliases
- (b) Date of birth
- (c) Physical description: sex, race, height, weight, hair color, eye color, scars, tattoos or other distinguishing features
- (d) Photograph
- (e) Current home address and telephone numbers
- (f) Current employers, positions, addresses and telephone numbers
- (g) Vehicles owned and registration information
- (h) Places frequented
- (i) Briefs of information provided by the informant and his/her subsequent reliability
  1. If an informant is determined to be unsuitable, the informant's file is to be marked "unsuitable" and notations included detailing the issues that caused this classification.
- (j) Name of the officer initiating use of the informant
- (k) Signed informant agreement

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- (l) Update on active or inactive status of informant

#### **608.6 INFORMANT PAYMENTS**

No informant will be told in advance or given an exact amount or percentage for his/her service. All CI payments shall be approved in advance by the officer in charge of confidential funds. The amount of funds to be paid to any informant will be evaluated against the following criteria:

- The extent of the informant's personal involvement in the case
- The significance, value or effect on crime
- The value of assets seized
- The quantity of the drugs or other contraband seized
- The informant's previous criminal activity
- The level of risk taken by the informant
- Officers shall provide accounting of monies received and documentation for confidential funds expended.
- Two officers shall be present when making payments or providing funds to CIs.
- The appropriate individual, as designated by the agency chief executive shall ensure that the process for authorization, disbursement, and documentation of CI payments, as well as the accounting and reconciliation of confidential funds, is consistent with agency policy.
- If a CI is authorized to work with another law enforcement or prosecutorial agency, financial payments shall be coordinated between the agencies in a manner that is proportionate to the assistance rendered to each agency before an operation ensues.

The Street Crimes Unit supervisor will discuss the above factors with the handling officer and recommend the type and level of payment. Payments made in excess of \$500 will be made subject to approval by the Investigation Services Division Lieutenant.

##### **608.6.1 PAYMENT PROCESS**

Approved payments to an informant should be in cash using the following process:

Payments may be paid in cash from the Street Crimes Unit buy/expense fund.

The Street Crimes Unit supervisor shall sign the voucher for cash payouts from the buy/expense fund.

- (a) To complete the payment process for any amount, the officer delivering the payment shall complete a cash transfer form.
  - 1. The cash transfer form shall include the following:
    - (a) Date
    - (b) Payment amount
    - (c) Indio Police Department case number

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- (d) A statement that the informant is receiving funds in payment for information voluntarily rendered.
- 2. The cash transfer form shall be signed by the informant.
- 3. The cash transfer form will be kept in the informant's file.

#### 608.6.2 REPORTING OF PAYMENTS

Each informant receiving a cash payment shall be advised of his/her responsibility to report the cash to the Internal Revenue Service (IRS) as income. If funds distributed exceed \$600 in any reporting year, the informant should be provided IRS Form 1099 (26 CFR 1.6041-1). If such documentation or reporting may reveal the identity of the informant and by doing so jeopardize any investigation, the safety of officers or the safety of the informant (26 CFR 1.6041-3), then IRS Form 1099 should not be issued.

In such cases, the informant shall be provided a letter identifying the amount he/she must report on a tax return as "other income" and shall be required to provide a signed acknowledgement of receipt of the letter. The completed acknowledgement form and a copy of the letter shall be retained in the informant's file.

#### 608.6.3 AUDIT OF PAYMENTS

The Street Crimes Unit supervisor or the authorized designee shall be responsible for compliance with any audit requirements associated with grant provisions and applicable state and federal law.

At least once every six months, the Chief of Police or the authorized designee should conduct an audit of all informant funds for the purpose of accountability and security of the funds. The funds and related documents (e.g., buy/expense fund records, cash transfer forms, invoices, receipts and logs) will assist with the audit process.



# Eyewitness Identification

## 610.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when members of this department employ eyewitness identification techniques (Penal Code § 859.7).

### 610.1.1 DEFINITIONS

Definitions related to the policy include:

**Eyewitness identification process** - Any field identification, live lineup or photographic identification.

**Field identification** - A live presentation of a single individual to a witness following the commission of a criminal offense for the purpose of identifying or eliminating the person as the suspect.

**Live lineup** - A live presentation of individuals to a witness for the purpose of identifying or eliminating an individual as the suspect.

**Photographic lineup** - Presentation of photographs to a witness for the purpose of identifying or eliminating an individual as the suspect.

**Showup** - The presentation of a suspect to an eyewitness within a short time frame following the commission of a crime to either confirm or eliminate him or her as a possible perpetrator. Showups, sometimes referred to as field identifications, are conducted in a contemporaneous time frame and proximity to the crime.

**Administrator** - The law enforcement official conducting the identification procedure.

## 610.2 POLICY

The Indio Police Department will strive to use eyewitness identification techniques, when appropriate, to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent. Officers shall adhere to the procedures for conducting eyewitness identifications set forth herein, in order to maximize the reliability of identifications, minimize erroneous identifications, and gather evidence that conforms to contemporary eyewitness identification protocols

## 610.3 INTERPRETIVE SERVICES

Members should make a reasonable effort to arrange for an interpreter before proceeding with eyewitness identification if communication with a witness is impeded due to language or hearing barriers.

Before the interpreter is permitted to discuss any matter with the witness, the investigating member should explain the identification process to the interpreter. Once it is determined that the interpreter comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy.

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#### **610.4 EYEWITNESS IDENTIFICATION PROCESS AND FORM**

The Major Crimes Unit or Street Crimes Unit supervisor shall be responsible for the development and maintenance of an eyewitness identification process for use by members when they are conducting eyewitness identifications.

The process should include appropriate forms or reports that provide (Penal Code § 859.7):

- (a) The date, time and location of the eyewitness identification procedure.
- (b) The name and identifying information of the witness.
- (c) The name of the person administering the identification procedure.
- (d) If applicable, the names of all of the individuals present during the identification procedure.
- (e) An instruction to the witness that it is as important to exclude innocent persons as it is to identify a perpetrator.
- (f) An instruction to the witness that the perpetrator may or may not be among those presented and that the witness is not obligated to make an identification.
- (g) If the identification process is a photographic or live lineup, an instruction to the witness that the perpetrator may not appear exactly as he/she did on the date of the incident.
- (h) An instruction to the witness that the investigation will continue regardless of whether an identification is made by the witness.
- (i) A signature line where the witness acknowledges that he/she understands the identification procedures and instructions.
- (j) A statement from the witness in the witness's own words describing how certain he/she is of the identification or non-identification. This statement should be taken at the time of the identification procedure.
- (k) Any other direction to meet the requirements of Penal Code § 859.7, including direction regarding blind or blinded administrations and filler selection.

The process and related forms should be reviewed at least annually and modified when necessary.

#### **610.5 EYEWITNESS IDENTIFICATION**

Members are cautioned not to, in any way, influence a witness as to whether any subject or photo presented in a lineup is in any way connected to the case.

Members should avoid mentioning that:

- The individual was apprehended near the crime scene.
- The evidence points to the individual as the suspect.
- Other witnesses have identified or failed to identify the individual as the suspect.

In order to avoid undue influence, witnesses should view suspects or a lineup individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses.

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Whenever feasible, the eyewitness identification procedure should be audio and video recorded and the recording should be retained according to current evidence procedures (Penal Code § 859.7).

#### **610.6 DOCUMENTATION**

A thorough description of the eyewitness process and the result of any eyewitness identification should be documented in the case report or supplemental report.

If a photographic lineup is utilized, a copy of the photographic lineup presented to the witness should be included in the case report and the original shall be booked in evidence and documented in FileonQ. In addition, the order in which the photographs were presented to the witness should be documented in the case report.

##### **610.6.1 DOCUMENTATION RELATED TO RECORDINGS**

The handling member shall document the reason that a video recording or any other recording of an identification was not obtained (Penal Code § 859.7).

##### **610.6.2 DOCUMENTATION RELATED TO BLIND ADMINISTRATION**

If a presentation of a lineup is not conducted using blind administration, the handling member shall document the reason (Penal Code § 859.7).

#### **610.7 PHOTOGRAPHIC LINEUP AND LIVE LINEUP CONSIDERATIONS**

When practicable, the member presenting the lineup should not be involved in the investigation of the case or know the identity of the suspect. In no case should the member presenting a lineup to a witness know which photograph or person in the lineup is being viewed by the witness (Penal Code § 859.7). Techniques to achieve this include randomly numbering photographs, shuffling folders, or using a computer program to order the persons in the lineup.

Individuals in the lineup should reasonably match the description of the perpetrator provided by the witness and should bear similar characteristics to avoid causing any person to unreasonably stand out. In cases involving multiple suspects, a separate lineup should be conducted for each suspect. The suspects should be placed in a different order within each lineup (Penal Code § 859.7).

The member presenting the lineup should do so sequentially (i.e., show the witness one person at a time) and not simultaneously. The witness should view all persons in the lineup.

A live lineup should only be used before criminal proceedings have been initiated against the suspect. If there is any question as to whether any criminal proceedings have begun, the investigating member should contact the appropriate prosecuting attorney before proceeding.

##### **610.7.1 OTHER SAFEGUARDS**

Witnesses should be asked for suspect descriptions as close in time to the incident as possible and before conducting an eyewitness identification. No information concerning a suspect should be given prior to obtaining a statement from the witness describing how certain he/she is of the identification or non-identification. Members should not say anything to a witness that may validate or invalidate an eyewitness' identification. In photographic lineups, writings or information

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concerning any previous arrest of a suspect shall not be visible to the witness (Penal Code § 859.7).

#### **610.8 FIELD IDENTIFICATION CONSIDERATIONS**

Field identifications, also known as field elimination show-ups or one-on-one identifications, may be helpful in certain cases, where exigent circumstances make it impracticable to conduct a photo or live lineup identifications. A field elimination show-up or one-on-one identification should not be used when independent probable cause exists to arrest a suspect. In such cases a live or photo lineup is the preferred course of action if eyewitness identification is contemplated.

When initiating a field identification, the member should observe the following guidelines:

- (a) Obtain a complete description of the suspect from the witness.
- (b) Assess whether a witness should be included in a field identification process by considering:
  - (a) The length of time the witness observed the suspect.
  - (b) The distance between the witness and the suspect.
  - (c) Whether the witness could view the suspect's face.
  - (d) The quality of the lighting when the suspect was observed by the witness.
  - (e) Whether there were distracting noises or activity during the observation.
  - (f) Any other circumstances affecting the witness's opportunity to observe the suspect.
  - (g) The length of time that has elapsed since the witness observed the suspect.
- (c) If safe and practicable, the person who is the subject of the show-up should not be handcuffed or in a patrol vehicle.
- (d) When feasible, members should bring the witness to the location of the subject of the show-up, rather than bring the subject of the show-up to the witness.
- (e) The person who is the subject of the show-up should not be shown to the same witness more than once.
- (f) In cases involving multiple suspects, witnesses should only be permitted to view the subjects of the show-up one at a time.
- (g) The person who is the subject of the show-up should not be required to put on clothing worn by the suspect, to speak words uttered by the suspect or to perform other actions mimicking those of the suspect.
- (h) If a witness positively identifies a subject of the show-up as the suspect, members should not conduct any further field identifications with other witnesses for that suspect. In such instances members should document the contact information for any additional witnesses for follow up, if necessary.

#### **610.8.1 CONDUCTING A FIELD LINEUP**

When conducting a field lineup, the officers should perform the following:

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1. Document a description of the suspect prior to the lineup.
2. Attempt to obtain the suspect's cooperation in the lineup procedure by requesting the suspect's voluntary participation in the lineup if feasible.
3. If feasible record the process with your body worn camera or fellow officer's body worn camera.
4. Transport the witness to the location of the suspect.
5. Provides instructions to the witness and read them the Simmons admonishment.
6. Document the circumstances of the lineup to include:
  - Time.
  - Location.
  - Distance.
  - Lighting.
  - Weather conditions.
  - If suspect has changed his or her appearance since the time of the crime.
8. Document the suspect's cooperation or lack of cooperation.
9. Documents both identification and non-identification results in writing, including facts such as:
  - The witness's own words regarding how certain he or she is.
  - How quickly the witness identified the individual(s).

#### **610.8.2 SIMMONS ADMONISHMENT**

The courts have ruled it is a violation of due process under the Fifth and Fourteenth Amendments for police to suggest in any way, that a suspect to be observed at a lineup or show-up committed the crime. To avoid being suggestive, officers should admonish the witness(s) and or victim(s) prior to viewing the suspect. The following are samples of "Simmons Admonishments" in reference to in-field show-ups, photo line-ups, and line-ups (in custody). These samples are provided as guidelines only.

##### **(a) In-Field Show-ups**

(1) You will be asked to look at a person or persons. The fact the person/persons are shown to you should not influence your judgment. You should not conclude or guess the person/persons have committed the crime. You are not obligated to identify anyone. It is just as important to free innocent persons from suspicion as to identify parties. Please do not discuss the case with other witnesses nor indicate in any way that you have or have not identified someone.

##### **(b) Photo Line-ups**

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(1) You will be asked to look at a group of photographs. The fact the photographs are shown to you should not influence your judgment. You should not conclude or guess the photographs contain the picture of the person who committed the crime. You are not obligated to identify anyone. It is just as important to free innocent persons from suspicion as to identify guilty parties. Please do not discuss the case with other witnesses nor indicate in any way that you have or have not identified someone.

#### **(c) Line-ups (In Custody)**

(1) You will be asked to look at a group of people. The fact the people are shown to you should not influence your judgment. You should not conclude or guess the group of people contain the person who committed the crime. You are not obligated to identify anyone. It is just as important to free innocent persons from suspicion as to identify guilty parties. Please do not discuss the case with other witnesses nor indicate in any way that you have or have not identified someone.

## Investigative Case Screening

### 611.1 PURPOSE AND SCOPE

It is the policy of this Department to use a case screening system based on solvability factors to determine whether a case will be assigned for continued investigative effort. It should be remembered that solvability factors only serve as a guideline for case assignment. Determination for case assignment must be made after careful consideration of all factors regarding a particular case, including solvability factors.

### 611.2 PRELIMINARY INVESTIGATIONS BY PATROL

The preliminary investigation of all criminal offenses and the entire investigation of some offenses reported to or known to employees of the Department shall be the responsibility of the employee(s) of assigned to the Field Services Division. An exception is an investigation initiated and conducted entirely by personnel from the Support Services Division.

Each preliminary investigation shall be conducted promptly and as thoroughly as may be permitted, by the facts and circumstances of the offense, and by the time available to the investigating officer and other employees of the Field Services Division. Every reasonable effort shall be made by the investigating officer and the Field Services Division to identify and apprehend the perpetrator of the offense.

Officers, with supervisor approval, may hold a case for patrol follow-up if there is reason to believe that the case may be solved with minimal investigation, without Investigative Services Division resources, and there will be no impact on the duties or responsibilities of the shift. All reports being held for patrol follow-up shall be completed within the investigating officer's work week.

All cases that are not retained for immediate follow-up by patrol will be forwarded to the Major Crimes Unit for review.

### 611.3 CASE SCREENING PROCESS

The objectives of the Investigative Case Screening Process are:

- (a) To establish the policies and procedures for determining whether to assign a case for additional follow-up investigation or to suspend any further investigation.
- (b) To establish the responsibility and accountability for the decision to assign or screen out a case.
- (c) To manage the investigative caseload so that the potential for solving cases is improved.
- (d) To assign for additional follow-up investigation only those cases with sufficient solvability factors, in order to increase the probability of case clearance.
- (e) To provide procedures for notifying crime victims of the current status of their case.

### 611.4 SOLVABILITY FACTORS

Solvability Factors are elements of information about a crime which have proven in the past to be important in the successful conclusion of a case. Case screening is designed to provide sufficient

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information about a case at the earliest possible time in the investigative process in order to permit a decision to be made regarding the value of continuing an investigation. The outcomes of case screening will be either: early suspension of unpromising cases or, a follow-up investigation of those cases with a reasonable probability of case clearance.

The following solvability factors have been identified as those most frequently associated with the successful solution of cases:

(a) Basic facts are known about the suspect(s) to include:

1. Name or nickname,
2. Physical description,
3. Vehicle information,
4. Work or home address,
5. Known associates,
- 6 Suspect previously seen,

(b) Traceable physical evidence recovered at the crime scene including latent fingerprints and DNA,

(c) A significant method of operation which fits an established crime pattern,

(d) Officer has personal knowledge that provides substantial leads for clearing the case,

(e) Limited opportunity for anyone other than the suspect to commit the crime,

(f) Witnesses reliability, and

(g) Traceable property.

#### **611.5 CASE SCREENING RESPONSIBILITY**

The responsibility for screening criminal cases lies with the Patrol Watch Commander / Sergeant and the Major Crimes Unit Sergeant.

(a) Patrol Watch Commander / Sergeant will be responsible for the following:

1. Reviewing crime reports for completeness of the initial investigation and accuracy of the information contained on the offense report.
2. Reviewing cases forwarded by officers under his/her command, to ensure that they have been followed up to the extent practical under the particular circumstances.
3. Assigning cases to officers that do not merit an investigative reassignment, however, do need additional follow-up.
4. If, under exceptional circumstances, and in the Watch Commander's / Sergeant's opinion an immediate follow-up investigation would substantially increase the likelihood of suspect



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apprehension or case clearance, the Watch Commander / Sergeant may reassign the case for an immediate follow-up investigation.

(b) The Major Crimes Unit Sergeant will be responsible for the following:

1. To review all offense reports forwarded to the investigative section.
2. To determine whether sufficient solvability factors and values are present in the case; and,
3. To either assign the case for follow-up investigation or suspend the case.

#### **611.6 EXCEPTIONAL CIRCUMSTANCES**

While the case screening criteria are somewhat specific, the Investigative Case Screening Process will be flexible enough to allow for exceptional circumstances including, but not limited to:

- (a) Offenses of significant importance to the community.
- (b) Potential danger to victim(s) or witness(es).
- (c) Seriousness of offense.
- (d) Pattern, frequency, or M.O. characteristics of offense.
- (e) Management decisions to pursue a case regardless of solvability factors.

While there is a degree of flexibility in the case screening process, exceptional circumstances such as those described above shall be the exception, rather than a standard procedure.

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## Brady Material Disclosure

### 612.1 PURPOSE AND SCOPE

This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called “*Brady* information”) to a prosecuting attorney.

#### 612.1.1 DEFINITIONS

Definitions related to this policy include:

**Brady information** -Information known or possessed by the Indio Police Department that is both favorable and material to the current prosecution or defense of a criminal defendant.

### 612.2 POLICY

The Indio Police Department will conduct fair and impartial criminal investigations and will provide the prosecution with both incriminating and exculpatory evidence, as well as information that may adversely affect the credibility of a witness. In addition to reporting all evidence of guilt, the Indio Police Department will assist the prosecution by complying with its obligation to disclose information that is both favorable and material to the defense. The Department will identify and disclose to the prosecution potentially exculpatory information, as provided in this policy.

### 612.3 DISCLOSURE OF INVESTIGATIVE INFORMATION

Officers must include in their investigative reports adequate investigative information and reference to all material evidence and facts that are reasonably believed to be either incriminating or exculpatory to any individual in the case. If an officer learns of potentially incriminating or exculpatory information any time after submission of a case, the officer or the handling investigator must prepare and submit a supplemental report documenting such information as soon as practicable. Supplemental reports shall be promptly processed and transmitted to the prosecutor's office.

If information is believed to be privileged or confidential (e.g., confidential informant or protected personnel files), the officer should discuss the matter with a supervisor and/or prosecutor to determine the appropriate manner in which to proceed.

Evidence or facts are considered material if there is a reasonable probability that they would affect the outcome of a criminal proceeding or trial. Determining whether evidence or facts are material often requires legal or even judicial review. If an officer is unsure whether evidence or facts are material, the officer should address the issue with a supervisor.

Supervisors who are uncertain about whether evidence or facts are material should address the issue in a written memo to an appropriate prosecutor. A copy of the memo should be retained in the Department case file.

### 612.4 DISCLOSURE OF PERSONNEL INFORMATION

Whenever it is determined that *Brady* information is located in the personnel file of a member of this department who is a material witness in a criminal case, the following procedure shall apply:

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- (a) In the event that a *Pitchess* motion has not already been filed by the criminal defendant or other party pursuant to Evidence Code § 1043, the prosecuting attorney shall be notified of the potential presence of *Brady* information in the officer's personnel file.
- (b) The prosecuting attorney should then be requested to file a *Pitchess* motion in order to initiate an in camera review by the court.
- (c) Any member who is the subject of such a motion shall be notified in writing that a motion has been filed.
- (d) The Custodian of Records shall accompany all relevant files during any in camera inspection and address any issues or questions raised by the court in determining whether any information contained in the files is both material and favorable to the criminal defendant.
- (e) Brady disclosures to the Riverside County District Attorney's Office are to be in writing from the Office of the Chief.

#### **612.4.1 PITCHESS MOTION COMPLIANCE**

- (a) In order to maintain legal compliance with Assembly Bill 1600 ("AB 1600") which as of January 1, 2020 amended California Evidence Code Sections 1043 and 1047, the Chief of Police, Executive staff, Custodian of Records, or designee shall familiarize themselves with the following amended *Pitchess* motion requirements;
- (b) California Evidence Code Section 1043(a) prescribes the time frames in which *Pitchess* motions are to be noticed, served and filed, in addition to when papers opposing a motion and reply papers are to be filed.
- (c) Evidence Code Section 1043(a)(2) will provide that *Pitchess* motions must be served and filed at least 10 *court* days before the hearing.
- (d) All opposing papers shall be filed at least 5 *court* days before the hearing.
- (e) All reply papers at least 2 *court* days, before the hearing.
- (f) Evidence Code Section 1047 was amended to allow for supervisory officer records to be sought and disclosed if the supervisor had direct oversight of a peace officer or custodial officer and issued command directives or had command influence over the circumstances at issue.
- (g) If these prerequisites are met, the supervisory officer's records shall be subject to disclosure pursuant to Section 1045 if:(a) the peace officer or custodial officer under supervision was present during the arrest; (b) had contact with the party seeking disclosure from the time of the arrest until the time of booking; or (c) was present at the time the conduct at issue is alleged to have occurred within a jail facility.
- (h) Failing to meet time lines may result in waiving any opposition to the *Pitchess* motion if the opposition is not timely filed and the potential unwarranted disclosure of confidential peace officer personnel records.
- (i) Under California Code of Civil Procedure Section 1005, notice and filing requirements for *Pitchess* motions in civil proceedings will not change.

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- (j) Pitches motions in civil cases will still be required to be filed and served at least 16 court days before the hearing, while oppositions must be filed at least 9 court days before the hearing and replies must be filed at least 5 court days before the hearing.

#### **612.5 INVESTIGATING BRADY ISSUES**

If the Department receives information from any source that a member may have issues of credibility, dishonesty or has been engaged in an act of moral turpitude or criminal conduct, the information shall be investigated and processed in accordance with the Personnel Complaints Policy.

#### **612.6 TRAINING**

Department members should receive periodic training on the requirements of this policy.

# Investigative Case Management

## 613.1 PURPOSE AND SCOPE

Case management is a system to manage investigative resources. The process involves regulating case flow, monitoring investigative activities, and assessment of individual performance. Regulating case flow insures that investigative resources are applied to those cases and investigations that can most benefit from expenditure of those resources. This is done by case screening and assignment, establishing deadlines of reporting investigative progress, and managing detective caseloads.

## 613.2 CASE ASSIGNMENTS - PATROL

(a) The Patrol Sergeant, using established solvability factors, will review each case and determine whether further patrol follow-up is justified. Cases returned to the initiating officer or another assigned officer for further follow-up investigation will remain open in the Alliance System. Patrol officer's open cases will be checked on a regular basis. The officer's direct supervisor will be responsible for insuring follow-up investigations are completed in a timely manner.

(b) Cases which merit follow-up investigation beyond the capacity of patrol officers shall be electronically routed to the Major Crimes Unit via the Alliance System.

## 613.3 CASE ASSIGNMENTS - INVESTIGATIONS

(a) The Major Crimes Unit Sergeant or the Street Crimes Unit Sergeant will review all requests for follow-up investigation and apply the established solvability factors to determine if further investigation is warranted.

(b) The Major Crimes Unit Sergeant or the Street Crimes Unit Sergeant will electronically assign cases to a specific detective. Consideration will be given to the nature of the crime, detective expertise, injuries sustained by the victim(s), and the community sensitivity to the offense. The existing case load of each detective may be a consideration when making case assignments.

Additionally, the Sergeant will make every attempt not to assign a case to a detective that is on their last day before days off are set to commence.

## 613.4 INVESTIGATIVE CASE MANAGEMENT

Each detective will use the following case management system to manage their caseload and record their investigative efforts:

(a) When assigned a case, detectives will open an electronic case folder in the Investigations "O" drive. The folder will be named by case number and shall be created as soon as reasonably practical after receiving the assignment. Each specific case folder will contain the following working documents:

1. Investigative Activity Log
2. Any working documents or work product completed by the detective

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3. All investigative work product including, but not limited to digital evidence, audio files, transcripts, photographs, etc.

Note: These folders are to contain working copies only. All original documents and digital evidence will be stored in compliance with Policy 804 of the Indio Police Department Policy Manual.

(b) Detectives shall maintain an Investigative Case Log of all assigned cases. The Investigative Case Log will consist of an electronic spreadsheet maintained in the detective's folder on the Investigations "O" drive. The Investigative Case Log shall be updated as soon as reasonably practical after assignment or disposition of a case.

(c) Any unsolved case shall be closed as soon as reasonably possible, or, within 90 days of assignment unless an extension is granted by the Major Crimes Unit Sergeant or Street Crimes Unit Sergeant. A request for extension should include a detailed plan of the steps a detective expects to take to solve the case.

(d) Detectives shall contact the victim within three days of the case being assigned.

(e) Major Crimes Unit Sergeant and the Street Crimes Unit Sergeant shall meet individually with each of their detectives on a bi-monthly basis to review all of the detective's open cases.

#### **613.5 CASE STATUS AND CLEARANCE DEFINITIONS**

The following case status and clearance definitions will be used by all department components when compiling statistics for both in-house and UCR purposes. The Investigative Sergeant will ensure that the case clearance statistics are being captured and recorded as defined below.

(a) Cleared by Arrest - An offense is cleared by arrest or solved for crime reporting purposes when at least one person is:

1. Arrested
2. Charged with the commission of the offense; and
3. Turned over to the court for prosecution or when an arrest warrant has been served.

Several crimes may be cleared by the arrest of one person, or the arrest of many persons may clear only one crime. Further, if several persons are involved in the commission of a crime and only one is arrested and charged, the crime is listed as cleared by arrest. When the other persons involved in the crime are arrested at a later date, no record will be made of a clearance by arrest since this offense was already cleared following the arrest of the first person.

#### **EXAMPLES:**

Five thieves forcibly break and enter a warehouse; one suspect is arrested and charged. Statistically, this event will be recorded as one burglary and one physical arrest and one burglary clearance. Days later, the other three thieves are arrested and charged. No entry is made for the offense of burglary because the offense has already been recorded and cleared by the first arrest. However, the additional three physical arrests will simply be recorded as three burglary arrests cross referencing the original burglary case number.

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One suspect is arrested and charged with committing five separate burglaries. All five burglaries will be recorded as "cleared by arrest", however, only one physical arrest will be recorded with cross referencing the case numbers.

(b) Cleared by Exception - In certain situations, law enforcement is not able to close a case by arrest. Many times all leads have been exhausted and everything possible has been done in order to clear a case. If the following questions can all be answered "yes", the offense can then be cleared "exceptionally" for crime reporting purposes:

1. Has the investigation definitely established the identity of the offender?
2. Is there enough information to support an arrest, charge, and turning over to the court for prosecution?
3. Is the exact location of the offender known so that the subject could be taken into custody now?
4. Is there some reason outside law enforcement control that precludes arresting, charging, and prosecuting the offender?

#### EXAMPLES:

Generally, an offense can be exceptionally cleared when it falls into one of the following categories. The list is not, however, all inclusive, and there may be other circumstances when a law enforcement agency is entitled to an exceptional clearance.

Suicide of the offender (the person responsible is dead).

Double murder (two persons kill each other).

Deathbed confession (the person responsible dies after making the confession).

Offender killed by police or other citizen.

Confession by offender already in your custody or serving sentence (this is actually a variation of true clearance by arrest " the offender would not be "apprehended" but in most situations would be prosecuted on the new charge).

Offender prosecuted by state or local authorities in another city for a different offense or prosecuted in another city or state by the federal government for an offense which may be the same (an attempt is made to return the offender for prosecution, but the other jurisdiction will not allow the release).

Extradition of the suspect is denied.

Victim refuses to cooperate in the prosecution (this action does not "unfound" the offense, and the answer must also be "yes" to the first three questions listed previously to clear exceptionally).

Warrant is outstanding for felony but before being arrested the offender dies, for instance, of natural causes, as a result of an accident, or is killed in the commission of another offense.

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The handling of a juvenile offender either verbally or by written notice to parents in instances involving minor offenses such as petty larceny. No petition is made to juvenile court as matter of publicly accepted law enforcement policy.

(c) Unfounded or False - On occasion, an agency will receive a complaint, which is determined through investigation to be false or baseless. If the investigation shows that no offense occurred nor was attempted, the reported offense can be unfounded for UCR purposes.

(d) Suspended - Cases that have been actively investigated and all possible leads have been exhausted. In the event any additional information is developed, the case can be reopened for further investigation.

(e) Open - Cases that have workable leads and are actively being investigated.

#### **613.6 MONTHLY REPORTING**

Monthly reporting is an essential tool for command staff to evaluate the performance of investigative units and Detectives. Detectives shall complete a Monthly Recap Report each month and forward it to the Detective Sergeant. The report shall be submitted to the Detective Sergeant, on, or before the 1st day of each month. If the 1st day of the month falls on a non-business day, the report shall be submitted on the next business day. The Monthly Recap Report will capture the following information:

(a) Cases carried over from previous month

(b) Number of new cases assigned in the reporting month

(c) Number of cases cleared using the UCR Case Clearance Definitions

(d) Number of Part 1 and Part 2 cases assigned

(e) Number of homicide cases assigned

(f) Non-investigative hours used in the reporting month (sick leave, vacation time off, training, etc.)

(g) Number of patrol briefings attended and a description of topics discussed (briefing training, wanted subjects, patrol information, etc.)

(h) Any other significant activity that occurred in the reporting month.

#### **613.7 REPORTING ACCURACY**

Detectives should use care in ensuring that all reporting and clearance totals are correct and related categories sum are accurate. Providing accurate and timely reports will serve as a valuable tool for command staff and executives to monitor and improve investigative performance.



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# Unmanned Aerial System (UAS) Operations

## 614.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of an unmanned aerial system (UAS) and for the storage, retrieval and dissemination of images and data captured by the UAS.

### 614.1.1 DEFINITIONS

Definitions related to this policy include:

**Unmanned Aerial System (UAS)** - An unmanned aircraft of any type that is capable of sustaining directed flight, whether preprogrammed or remotely controlled (commonly referred to as an unmanned aerial vehicle (UAV)), and all of the supporting or attached systems designed for gathering information through imaging, recording or any other means.

Digital Multimedia Evidence (DME): Digital recording of images, sounds, and associated data.

Model Aircraft: A remote controlled aircraft used by hobbyists that is built, produced, manufactured, and operated for the purposes of sport, recreation, and/or competition

Unmanned Aircraft System (UAS): A system that includes the necessary equipment, network, and personnel to control an unmanned aircraft.

Small Unmanned Aircraft Systems (sUAS): UAS systems that utilize UAVs weighing less than 55 pounds and are consistent with Federal Aviation Administration (FAA) regulations governing model aircraft.

UAS Flight Crewmember: A pilot, visual observer, payload operator or other person assigned duties for a UAS for the purpose of flight or training exercise.

Unmanned Aircraft Pilot: A person exercising control over a UA/UAV/UAS during flight.

Unmanned Aircraft (UA) or Unmanned Aerial Vehicle (UAV): An aircraft that is intended to navigate in the air without an on-board pilot. Also alternatively called Remotely Piloted Aircraft (RPA), Remotely Operated Vehicle (ROV), or Drone.

## 614.2 POLICY

Unmanned aerial systems may be utilized to enhance the department's mission of protecting lives and property when other means and resources are not available or are less effective. Any use of a UAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations.

## 614.3 PRIVACY

The use of the UAS potentially involves privacy considerations. Absent a warrant or exigent circumstances, operators and observers shall adhere to FAA altitude regulations and shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure). Operators and observers shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where

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### *Unmanned Aerial System (UAS) Operations*

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there is a reasonable expectation of privacy. Reasonable precautions can include, for example, deactivating or turning imaging devices away from such areas or persons during UAS operations.

#### **614.4 PROGRAM COORDINATOR**

The Chief of Police will appoint a program coordinator who will be responsible for the management of the UAS program. The program coordinator will ensure that policies and procedures conform to current laws, regulations, and best practices and will have the following additional responsibilities:

- Coordinating the FAA Certificate of Waiver or Authorization (COA) application process and ensuring that the COA is current, and/or coordinating compliance with FAA Part 107 Remote Pilot Certificate, as appropriate for department operations.
- Ensuring that all authorized operators and required observers have completed all required FAA and department-approved training in the operation, applicable laws, policies, and procedures regarding use of the UAS.
- Developing uniform protocol for submission and evaluation of requests to deploy a UAS, including urgent requests made during ongoing or emerging incidents. Deployment of a UAS shall require written authorization of the Chief of Police or the authorized designee, depending on the type of mission.
- Coordinating the completion of the FAA Emergency Operation Request Form in emergency situations, as applicable (e.g., natural disasters, search and rescue, emergency situations to safeguard human life).
- Developing protocol for conducting criminal investigations involving a UAS, including documentation of time spent monitoring a subject.
- Implementing a system for public notification of UAS deployment.
- Developing an operational protocol governing the deployment and operation of a UAS including but not limited to safety oversight, use of visual observers, establishment of lost link procedures, and secure communication with air traffic control facilities.
- Developing a protocol for fully documenting all missions.
- Developing a UAS inspection, maintenance, and record-keeping protocol to ensure continuing airworthiness of a UAS, up to and including its overhaul or life limits.
- Developing protocols to ensure that all data intended to be used as evidence are accessed, maintained, stored, and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, authenticity certificates, and date and time stamping, shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.
- Developing protocols that ensure retention and purge periods are maintained in accordance with established records retention schedules.
- Facilitating law enforcement access to images and data captured by the UAS.
- Recommending program enhancements, particularly regarding safety and information security.

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- Ensuring that established protocols are followed by monitoring and providing periodic reports on the program to the Chief of Police.
- Maintaining familiarity with FAA regulatory standards, state laws and regulations, and local ordinances regarding the operations of a UAS.

#### **614.5 USE OF UAS**

Only authorized operators who have completed the required training shall be permitted to operate the UAS.

Use of vision enhancement technology (e.g., thermal and other imaging equipment not generally available to the public) is permissible in viewing areas only where there is no protectable privacy interest or when in compliance with a search warrant or court order. In all other instances, legal counsel should be consulted.

Ideally, UAS operations should be conducted during daylight hours and a UAS should not be flown over populated areas without FAA approval. Operations during the hours of darkness may be conducted if consistent with laws, ordinances, and law enforcement UAS training." This agency has adopted the use of UAS to provide an aerial visual perspective in responding to emergency situations and exigent circumstances, and for the following objectives:

- **Situational Awareness:** To assist decision makers (e.g., incident command staff; first responders; city, county, and state officials) in understanding the nature, scale, and scope of an incident—and for planning and coordinating an effective response.
- **Search and Rescue:** To assist missing person investigations, AMBER Alerts, Silver Alerts, and other search and rescue missions.
- **Tactical Deployment:** To support the tactical deployment of officers and equipment in emergency situations (e.g., incidents involving hostages and barricades, support for large scale tactical operations, and other temporary perimeter security situations).
- **Visual Perspective:** To provide an aerial visual perspective to assist officers in providing direction for crowd control, traffic incident management, special circumstances, and temporary perimeter security.
- **Scene Documentation:** To document a crime scene, accident scene, or other major incident scene (e.g., disaster management, incident response, large-scale forensic scene investigation).

#### **614.6 PROHIBITED USE**

The UAS video surveillance equipment shall not be used:

- To conduct random surveillance activities.
- To target a person based solely on actual or perceived characteristics, such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.
- To harass, intimidate, or discriminate against any individual or group.
- To conduct personal business of any type.

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### *Unmanned Aerial System (UAS) Operations*

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The UAS shall not be weaponized.

#### **614.7 RETENTION OF UAS DATA**

1. All Digital Multimedia Evidence (DME) shall be handled in accordance with existing policy on data and record retention, where applicable.
2. All DME shall be securely downloaded at the completion of each mission. The UAS-certified operators will record information for each file that shall include the date, time, location, and case reference numbers or other mission identifiers and identify the UAS personnel involved in mission.
3. Officers shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner UAS DME without prior written authorization and approval of their supervisor or their designee.
4. All access to UAS DME must be specifically authorized by the unit supervisor or their designee, and all access is to be audited to ensure that only authorized users are accessing the data for legitimate and authorized purposes.
5. Files should be securely stored in accordance with agency policy and state records retention laws and retained no longer than necessary for purposes of training or for use in an investigation or prosecution.
6. UAS supervisory personnel shall manage all deployments and uses of UAS to ensure that officers equipped with UAS devices utilize them in accordance with policy and procedures defined herein.
7. All digital evidence collected shall be downloaded and booked in "Evidence.com".

## 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 suffer occasional loss or damage to personal or department property while performing their assigned duty. Certain procedures are required depending on the loss and ownership of the item.

### 700.2 CARE OF DEPARTMENTAL PROPERTY

Employees shall be responsible for the safekeeping, serviceable condition, proper care, use and replacement of department property assigned or entrusted to them. An employee's intentional or negligent abuse or misuse of department property may lead to discipline including, but not limited to the cost of repair or replacement.

- (a) Employees shall promptly report through their chain of command, any loss, damage to, or unserviceable condition of any department issued property or equipment assigned for their use.
- (b) The use of damaged or unserviceable department property should be discontinued as soon as practical and replaced with comparable Department property as soon as available and following notice to a supervisor.
- (c) Except when otherwise directed by competent authority or required by exigent circumstances, department property shall only be used by those to whom it was assigned. Use should be limited to official purposes and in the capacity for which it was designed.
- (d) Department property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority.
- (e) In the event that any Department property becomes damaged or unserviceable, no employee shall attempt to repair the property without prior approval of a supervisor.
- (f) Significant property items such as firearms, less lethal systems, laptop computers, mobile radios, body armor, cell phones, tablets, etc., should not be stored in a privately owned vehicle overnight unless the property is placed in a secure lock box or the vehicle is parked in a secure garage. If these types of items cannot be properly stored in a vehicle overnight, they should be properly stored inside a residence. If an employee is unable to properly store their assigned department property during their time off, and are unable to utilize their assigned department locker, they should consult with their supervisor so arrangements can be made to properly store the property at the police station.

### 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.

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### *Department Owned and Personal Property*

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The supervisor shall direct a memo to the appropriate Division Chief, 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/Management Services 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. The completed report shall then be forwarded onto the Risk Manager.
- (c) Photographs of the damage shall be taken and uploaded into File on Q.
- (d) An incident number and information on how to file a property damage claim should be provided to the property owner,

#### **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 Chief and Risk Manager.

## Personal Communication Devices

### 702.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of mobile telephones and communication devices, whether issued or funded by the Department or personally owned, while on-duty or when used for authorized work-related purposes.

This policy generically refers to all such devices as Personal Communication Devices (PCDs) but is intended to include all mobile telephones, personal digital assistants (PDAs), wireless capable tablets and similar wireless two-way communications and/or portable Internet access devices. PCD use includes, but is not limited to, placing and receiving calls, text messaging, blogging and microblogging, emailing, using video or camera features, playing games and accessing sites or services on the Internet.

### 702.2 POLICY

The Indio Police Department allows members to utilize department-issued or funded PCDs and to possess personally owned PCDs in the workplace, subject to certain limitations. Any PCD used while on-duty, or used off-duty in any manner reasonably related to the business of the Department, will be subject to monitoring and inspection consistent with the standards set forth in this policy.

The inappropriate use of a PCD while on-duty may impair officer safety. Additionally, members are advised and cautioned that the use of a personally owned PCD either on-duty or after duty hours for business-related purposes may subject the member and the member's PCD records to civil or criminal discovery or disclosure under applicable public records laws.

Members who have questions regarding the application of this policy or the guidelines contained herein are encouraged to seek clarification from supervisory personnel.

### 702.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to any communication accessed, transmitted, received, or reviewed on any PCD issued or funded by the Department and shall have no expectation of privacy in their location should the device be equipped with location-detection capabilities. This includes records of all keystrokes or web-browsing history made on the PCD. The fact that access to a database, service, or website requires a username or password will not create an expectation of privacy if it is accessed through department PCDs or networks (see the Information Technology Use Policy for additional guidance).

Members have no expectation of privacy regarding any communications while using a personally owned PCD for department-related business or when the use reasonably implicates work-related misconduct.

#### 702.3.1 CALIFORNIA ELECTRONIC COMMUNICATIONS PRIVACY ACT (CALECPA)

No member is authorized to be the sole possessor of a department-issued PCD. Department-issued PCDs can be retrieved, reassigned, accessed or used by any member as directed by a



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supervisor without notice. Member use of a department-issued PCD and use of a personal PCD at work or for work-related business constitutes specific consent for access for department purposes. Prior to conducting an administrative search of a PCD, supervisors should consult legal counsel to ensure access is consistent with CalECPA (Penal Code § 1546; Penal Code § 1546.1).

#### **702.4 DEPARTMENT-ISSUED PCD**

Depending on a member's assignment and the needs of the position, the Department may, at its discretion, issue or fund a PCD for the member's use to facilitate on-duty performance. Department-issued or funded PCDs may not be used for personal business either on- or off-duty unless authorized by the Chief of Police or the authorized designee. Such devices and the associated telephone number, if any, shall remain the sole property of the Department and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

Unless a member is expressly authorized by the Chief of Police or the authorized designee for off-duty use of the PCD, the PCD will be either secured in the workplace at the completion of the tour of duty or turned off when leaving the workplace.

#### **702.5 PERSONALLY OWNED PCD**

Members may carry a personally owned PCD while on-duty, subject to the following conditions and limitations:

- (a) Permission to carry a personally owned PCD may be revoked if it is used contrary to provisions of this policy.
- (b) The Department accepts no responsibility for loss of or damage to a personally owned PCD.
- (c) The PCD and any associated services shall be purchased, used and maintained solely at the member's expense.
- (d) The device should not be used for work-related purposes except in exigent circumstances (e.g., unavailability of radio communications). Members will have a reduced expectation of privacy when using a personally owned PCD in the workplace and have no expectation of privacy with regard to any department business-related communication.
  1. Members may use personally owned PCDs on-duty for routine administrative work as authorized by the Chief of Police.
- (e) The device shall not be utilized to record or disclose any business-related information, including photographs, video or the recording or transmittal of any information or material obtained or made accessible as a result of employment with the Department, without the express authorization of the Chief of Police or the authorized designee.
- (f) Use of a personally owned PCD while at work or for work-related business constitutes consent for the Department to access the PCD to inspect and copy data to meet the

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### *Personal Communication Devices*

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needs of the Department, which may include litigation, public records retention and release obligations and internal investigations. If the PCD is carried on-duty, members will provide the Department with the telephone number of the device.

- (g) All work-related documents, emails, photographs, recordings or other public records created or received on a member's personally owned PCD should be transferred to the Indio Police Department and deleted from the member's PCD as soon as reasonably practicable but no later than the end of the member's shift.

Except with prior express authorization from their supervisor, members are not obligated or required to carry, access, monitor or respond to electronic communications using a personally owned PCD while off-duty. If a member is in an authorized status that allows for appropriate compensation consistent with policy or existing memorandum of understanding or collective bargaining agreements, or if the member has prior express authorization from his/her supervisor, the member may engage in business-related communications. Should members engage in such approved off-duty communications or work, members entitled to compensation shall promptly document the time worked and communicate the information to their supervisors to ensure appropriate compensation. Members who independently document off-duty department-related business activities in any manner shall promptly provide the Department with a copy of such records to ensure accurate record keeping.

#### **702.6 USE OF PCD**

The following protocols shall apply to all PCDs that are carried while on-duty or used to conduct department business:

- (a) A PCD shall not be carried in a manner that allows it to be visible while in uniform, unless it is in an approved carrier.
- (b) All PCDs in the workplace shall be set to silent or vibrate mode.
- (c) A PCD may not be used to conduct personal business while on-duty, except for brief personal communications (e.g., informing family of extended hours). Members shall endeavor to limit their use of PCDs to authorized break times, unless an emergency exists.
- (d) Members may use a PCD to communicate with other personnel in situations where the use of radio communications is either impracticable or not feasible. PCDs should not be used as a substitute for, as a way to avoid, or in lieu of regular radio communications.
- (e) Members are prohibited from taking pictures, audio or video recordings or making copies of any such picture or recording media unless it is directly related to official department business. Disclosure of any such information to any third party through any means, without the express authorization of the Chief of Police or the authorized designee, may result in discipline.

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- (f) Members will not access social networking sites for any purpose that is not official department business.
- (g) Using PCDs to harass, threaten, coerce or otherwise engage in inappropriate conduct with any third party is prohibited. Any member having knowledge of such conduct shall promptly notify a supervisor.

#### **702.7 SUPERVISOR RESPONSIBILITIES**

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that members under their command are provided appropriate training on the use of PCDs consistent with this policy.
- (b) Monitoring, to the extent practicable, PCD use in the workplace and taking prompt corrective action if a member is observed or reported to be improperly using a PCD.
  1. An investigation into improper conduct should be promptly initiated when circumstances warrant.
  2. Before conducting any administrative search of a member's personally owned device, supervisors should consult with the Chief of Police or the authorized designee.

#### **702.8 USE WHILE DRIVING**

The use of a PCD while driving can adversely affect safety, cause unnecessary distractions and present a negative image to the public. Officers operating emergency vehicles should restrict the use of these devices to matters of an urgent nature and should, where practicable, stop the vehicle at an appropriate location to use the PCD.

Members who are operating department vehicles that are not authorized emergency vehicles shall not use a PCD while driving unless the device is specifically designed and configured to allow hands-free use. In an emergency, a wireless phone may be used to place an emergency call to the Department or other emergency services agency (Vehicle Code § 23123; Vehicle Code § 23123.5). Hands-free use should be restricted to business-related calls or calls of an urgent nature.

#### **702.9 OFFICIAL USE**

Members are reminded that PCDs are not secure devices and conversations may be intercepted or overheard. Caution should be exercised while utilizing PCDs to ensure that sensitive information is not inadvertently transmitted. As soon as reasonably possible, members shall conduct sensitive or private communications on a land-based or other department communications network.

## 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 DAMAGE OR POOR PERFORMANCE

Vehicles that may have been damaged, or perform poorly shall be removed from service for inspections and repairs as soon as practicable.

#### 704.2.2 SEVERE USE

Vehicles operated under severe-use conditions, which include operations for which the vehicle is not designed or that exceed the manufacturer's parameters, should be removed from service and subjected to a safety inspection as soon as practicable. Such conditions may include rough roadway or off-road driving, hard or extended braking, pursuits or prolonged high-speed operation.

#### 704.2.3 REMOVAL OF WEAPONS

All firearms, weapons and control devices shall be removed from a vehicle and properly secured in the department armory prior to the vehicle being released for maintenance, service or repair.

### 704.3 VEHICLE EQUIPMENT

Certain items shall be maintained in all department vehicles for emergency purposes and to perform routine duties.

#### 704.3.1 PATROL VEHICLES

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:

- 20 Emergency road flares
- 2 Sticks yellow crayon or chalk
- 1 Roll Crime Scene Barricade Tape
- 1 First aid kit, CPR mask
- 1 Blanket
- 1 Blood-borne pathogen kit, Incl. protective gloves

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- 1 Sharps container
- 1 Hazardous waste disposal bag
- 1 Traffic Safety Vest
- 1 Hazardous Materials Emergency Response Handbook
- 1 Evidence collection kit
- 1 Camera

#### **704.3.2 UNMARKED VEHICLES**

An employee driving unmarked department vehicles shall ensure that the minimum following equipment is present in the vehicle:

- 1 Roll Crime Scene Barricade Tape
- 1 First aid kit, CPR mask
- 1 Blanket
- 1 Blood-borne pathogen kit, Incl. protective gloves
- 1 Sharps container
- 1 Hazardous waste disposal bag
- 1 Traffic Safety Vest
- 1 Hazardous Materials Emergency Response Handbook
- 1 Evidence collection kit
- 1 Camera

#### **704.4 VEHICLE REFUELING**

Patrol vehicles shall be refueled at the end of every shift to ensure they have at least three-quarters of a tank to start the next shift. Vehicles that have been written up for service should have at least one-quarter tank of fuel if at all possible. Vehicles should normally be refueled at the Corporate Yard, but may be fueled elsewhere with a legitimate reason (e.g., travel out of the area, refueling station at the Corporate Yard is unavailable). Officers shall monitor vehicle fuel level to ensure the vehicle never runs out of gas.

#### **704.5 WASHING OF VEHICLES**

All units shall be kept clean at all times and weather conditions permitting, shall be washed as necessary to enhance their appearance.

Officers in patrol shall obtain clearance from the dispatcher before responding to the car wash. Only one marked unit should be at the car wash at the same time unless otherwise approved by a supervisor.

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Employees using a vehicle shall remove any trash or debris at the end of their shift. Confidential material should be placed in a designated receptacle provided for the shredding of this matter.

#### **704.6 NON-SWORN EMPLOYEE USE**

Non-sworn employees using marked vehicles shall insure all weapons are removed from vehicles before going into service. Non-sworn employees shall not operate the emergency lights or siren while driving any vehicle unless expressly authorized by a supervisor.

## Vehicle Use

### 706.1 PURPOSE AND SCOPE

The purpose of this policy is to establish a system of accountability to ensure department vehicles are used appropriately. This policy provides guidelines for on- and off-duty use of department vehicles and shall not be construed to create or imply any contractual obligation by the City of Indio to provide assigned take-home vehicles.

### 706.2 POLICY

The Indio Police Department provides vehicles for department-related business and may assign patrol and unmarked vehicles based on a determination of operational efficiency, economic impact to the Department, requirements for tactical deployments and other considerations.

### 706.3 USE OF VEHICLES

#### 706.3.1 SHIFT ASSIGNED VEHICLES

The Watch Commander shall ensure a copy of the shift assignment roster indicating member assignments and vehicle numbers is completed for each shift and retained in accordance with the established records retention schedule. If a member exchanges vehicles during his/her shift, the new vehicle number shall be documented on the roster.

#### 706.3.2 UNSCHEDULED USE OF VEHICLES

Members utilizing a City-owned vehicle for any purpose other than their regularly assigned duties shall first notify the Watch Commander of the reason for use and a notation will be made on the shift roster indicating the operator's name and vehicle number. This section does not apply to members permanently assigned an individual vehicle (e.g., command staff, detectives), who regularly use the vehicle on an unscheduled basis as part of their normal assignment.

#### 706.3.3 INSPECTIONS

Members shall be responsible for inspecting the interior and exterior of any assigned vehicle before taking the vehicle into service and at the conclusion of their shifts. 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.

The interior of any vehicle that has been used to transport any person other than a member of this department should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized or personal items have not been left in the vehicle.

When transporting any suspect, prisoner or arrestee, the transporting member shall search all areas of the vehicle that are accessible by the person before and after that person is transported.

All department vehicles are subject to inspection and/or search at any time by a supervisor without notice and without cause. No member assigned to or operating such vehicle shall be entitled to any expectation of privacy with respect to the vehicle or its contents.

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#### 706.3.4 SECURITY AND UNATTENDED VEHICLES

Unattended vehicles should be locked and secured at all times. No key should be left in the vehicle except when it is necessary that the vehicle be left running (e.g., continued activation of emergency lights, canine safety, equipment charging). Officers who exit a vehicle rapidly in an emergency situation or to engage in a foot pursuit must carefully balance the need to exit the vehicle quickly with the need to secure the vehicle.

Members shall ensure all weapons are secured while the vehicle is unattended.

#### 706.3.5 MDC

Members assigned to vehicles equipped with a Mobile Data Computer (MDC) shall log onto the MDC with the required information when going on-duty. If the vehicle is not equipped with a working MDC, the member shall notify the Dispatch Center. Use of the MDC is governed by the Mobile Data Computer Use Policy.

#### 706.3.6 VEHICLE LOCATION SYSTEM

Patrol and other vehicles, at the discretion of the Chief of Police, may be equipped with a system designed to track the vehicle's location. While the system may provide vehicle location and other information, members are not relieved of their responsibility to use required communication practices to report their location and status.

Members shall not make any unauthorized modifications to the system. At the start of each shift, members shall verify that the system is on and report any malfunctions to their supervisor. If the member finds that the system is not functioning properly at any time during the shift, he/she should exchange the vehicle for one with a working system, if available.

System data may be accessed by supervisors at any time. However, access to historical data by other than supervisors will require Division Chief approval.

All data captured by the system shall be retained in accordance with the established records retention schedule.

#### 706.3.7 KEYS

Members approved to operate marked patrol vehicles should be issued a copy of the key as part of their initial equipment distribution. Members who are assigned a specific vehicle should be issued keys for that vehicle.

Members shall not duplicate keys. The loss of a key shall be promptly reported in writing through the member's chain of command.

#### 706.3.8 AUTHORIZED PASSENGERS

Members operating department vehicles shall not permit persons other than City personnel or persons required to be conveyed in the performance of duty, or as otherwise authorized, to ride as passengers in the vehicle, except as stated in the Ride-Along Policy.



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#### 706.3.9 ALCOHOL

Members who have consumed alcohol are prohibited from operating any department vehicle unless it is required by the duty assignment (e.g., task force, undercover work). Regardless of assignment, members may not violate state law regarding vehicle operation while intoxicated.

#### 706.3.10 PARKING

Except when responding to an emergency or when urgent department-related business requires otherwise, members driving department vehicles should obey all parking regulations at all times.

Department vehicles should be parked in assigned stalls. Members shall not park privately owned vehicles in stalls assigned to department vehicles or in other areas of the parking lot that are not so designated unless authorized by a supervisor. Privately owned motorcycles shall be parked in designated areas.

#### 706.3.11 ACCESSORIES AND/OR MODIFICATIONS

There shall be no modifications, additions or removal of any equipment or accessories without written permission from the assigned vehicle program manager.

### **706.4 INDIVIDUAL MEMBER ASSIGNMENT TO VEHICLES**

Department vehicles may be assigned to individual members at the discretion of the Chief of Police. Vehicles may be assigned for on-duty and/or take-home use. Assigned vehicles may be changed at any time. Permission to take home a vehicle may be withdrawn at any time.

The assignment of vehicles may be suspended when the member is unable to perform his/her regular assignment.

#### 706.4.1 ON-DUTY USE

Vehicle assignments shall be based on the nature of the member's duties, job description and essential functions, and employment or appointment status. Vehicles may be reassigned or utilized by other department members at the discretion of the Chief of Police or the authorized designee.

#### 706.4.2 UNSCHEDULED TAKE-HOME USE

Circumstances may arise where department vehicles must be used by members to commute to and from a work assignment. Members may take home department vehicles only with prior approval of a supervisor and shall meet the following criteria:

- (a) The circumstances are unplanned and were created by the needs of the department.
- (b) Other reasonable transportation options are not available.
- (c) The member lives within a reasonable distance (generally not to exceed a 60-minute drive time) of the Indio City limits.
- (d) Off-street parking will be available at the member's residence.
- (e) Vehicles will be locked when not attended.

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- (f) All firearms, weapons and control devices will be removed from the interior of the vehicle and properly secured in the residence when the vehicle is not attended, unless the vehicle is parked in a locked garage.

#### 706.4.3 ASSIGNED VEHICLES

Assignment of take-home vehicles shall be based on the location of the member's residence, the nature of the member's duties, job description and essential functions, and employment or appointment status. Residence in the City of Indio is a prime consideration for assignment of a take-home vehicle. Members who reside outside the City of Indio may be required to secure the vehicle at a designated location or the Department at the discretion of the Chief of Police.

Department members shall sign a take-home vehicle agreement that outlines certain standards, including, but not limited to, how the vehicle shall be used, where it shall be parked when the member is not on-duty, vehicle maintenance responsibilities and member enforcement actions.

Members are cautioned that under federal and local tax rules, personal use of a City vehicle may create an income tax liability for the member. Questions regarding tax rules should be directed to the member's tax adviser.

Criteria for use of take-home vehicles include the following:

- (a) Vehicles shall only be used for work-related purposes and shall not be used for personal errands or transports, unless special circumstances exist and the Chief of Police or a Division Chief gives authorization.
- (b) Vehicles may be used to transport the member to and from the member's residence for work-related purposes.
- (c) Vehicles will not be used when off-duty except:
  1. In circumstances when a member has been placed on call by the Chief of Police or Division Chiefs and there is a high probability that the member will be called back to duty.
  2. When the member is performing a work-related function during what normally would be an off-duty period, including vehicle maintenance or travelling to or from a work-related activity or function.
  3. When the member has received permission from the Chief of Police or Division Chiefs.
  4. When the vehicle is being used by the Chief of Police, Division Chiefs or members who are in on-call administrative positions.
  5. When the vehicle is being used by on-call investigators.
- (d) While operating the vehicle, authorized members will carry and have accessible their duty firearms and be prepared to perform any function they would be expected to perform while on-duty.
- (e) The two-way communications radio, MDC and global positioning satellite device, if equipped, must be on and set to an audible volume when the vehicle is in operation.

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- (f) Unattended vehicles are to be locked and secured at all times.
  - 1. No key should be left in the vehicle except when it is necessary that the vehicle be left running (e.g., continued activation of emergency lights, canine safety, equipment charging).
  - 2. All weapons shall be secured while the vehicle is unattended.
  - 3. All department identification, portable radios and equipment should be secured.
- (g) Vehicles are to be parked off-street at the member's residence unless prior arrangements have been made with the Chief of Police or the authorized designee. If the vehicle is not secured inside a locked garage, all firearms and kinetic impact weapons shall be removed and properly secured in the residence (see the Firearms Policy regarding safe storage of firearms at home).
- (h) Vehicles are to be secured at the member's residence or the appropriate department facility, at the discretion of the Department when a member will be away (e.g., on vacation) for periods exceeding one week.
  - 1. If the vehicle remains at the residence of the member, the Department shall have access to the vehicle.
  - 2. If the member is unable to provide access to the vehicle, it shall be parked at the Department.
- (i) The member is responsible for the care and maintenance of the vehicle.

#### 706.4.4 ENFORCEMENT ACTIONS

When driving a take-home vehicle to and from work outside of the jurisdiction of the Indio Police Department or while off-duty, an officer shall not initiate enforcement actions except in those circumstances where a potential threat to life or serious property damage exists (see the Off-Duty Law Enforcement Actions and Law Enforcement Authority policies).

Officers may render public assistance when it is deemed prudent (e.g., to a stranded motorist).

Officers driving take-home vehicles shall be armed, appropriately attired and carry their department-issued identification. Officers should also ensure that department radio communication capabilities are maintained to the extent feasible.

#### 706.4.5 MAINTENANCE

Members are responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicles. Failure to adhere to these requirements may result in discipline and loss of vehicle assignment. The following should be performed as outlined below:

- (a) Members shall make daily inspections of their assigned vehicles for service/maintenance requirements and damage.
- (b) It is the member's responsibility to ensure that his/her assigned vehicle is maintained according to the established service and maintenance schedule.
- (c) All scheduled vehicle maintenance and car washes shall be performed as necessary at a facility approved by the department supervisor in charge of vehicle maintenance.

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- (d) The Department shall be notified of problems with the vehicle and approve any major repairs before they are performed.
- (e) Vehicles in need of maintenance should be parked at the station if possible. If a vehicle is disabled and must be towed from the field, then it should be towed to the Corporate Yard. An Equipment Repair Order Form should be completed and left in the Unit Maintenance Slips bin at the station, whenever a vehicle is in need of maintenance, repair or inspection.
- (f) All weapons shall be removed from any vehicle left for maintenance.
- (g) Supervisors shall make, at a minimum, monthly inspections of vehicles assigned to members under their command to ensure the vehicles are being maintained in accordance with this policy.

#### **706.5 DAMAGE, ABUSE AND MISUSE**

When any department vehicle is involved in a traffic collision or otherwise incurs damage, the involved member shall promptly notify a supervisor. Any traffic collision report shall be filed with the agency having jurisdiction (see the Traffic Collision Reporting Policy).

Damage to any department vehicle that was not caused by a traffic collision shall be immediately reported during the shift in which the damage was discovered.

#### **706.6 TOLL ROAD USAGE**

Law enforcement vehicles are not routinely exempted from incurring toll road charges.

To avoid unnecessary toll road charges, all members operating department vehicles on a toll road shall adhere to the following:

- (a) Members operating department vehicles for any reason other than in response to an emergency shall pay the appropriate toll charge or utilize the appropriate toll way transponder. Members may submit a request for reimbursement from the City for any toll fees incurred in the course of official business.
- (b) Members passing through a toll plaza or booth during a response to an emergency shall notify, in writing, the appropriate Division Chief within five working days explaining the circumstances.

#### **706.7 ATTIRE AND APPEARANCE**

When operating any department vehicle while off-duty, members may dress in a manner appropriate for their intended activity. Whenever in view of or in contact with the public, attire and appearance, regardless of the activity, should be suitable to reflect positively upon the Department.

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# Personal Protective Equipment

## 707.1 PURPOSE AND SCOPE

This policy identifies the different types of personal protective equipment (PPE) provided by the Department as well the requirements and guidelines for the use of PPE.

This policy does not address ballistic vests or protection from communicable disease, as those issues are addressed in the Body Armor and Communicable Diseases policies.

### 707.1.1 DEFINITIONS

Definitions related to this policy include:

**Personal protective equipment (PPE)** - Equipment that protects a person from serious workplace injuries or illnesses resulting from contact with chemical, radiological, physical, electrical, mechanical or other workplace hazards.

**Respiratory PPE** - Any device that is worn by the user to protect from exposure to atmospheres where there is smoke, low levels of oxygen, high levels of carbon monoxide, or the presence of toxic gases or other respiratory hazards. For purposes of this policy, respiratory PPE does not include particulate-filtering masks such as N95 or N100 masks.

## 707.2 POLICY

The Indio Police Department endeavors to protect members by supplying certain PPE to members as provided in this policy.

## 707.3 OFFICER RESPONSIBILITIES

Members are required to use PPE as provided in this policy and pursuant to their training.

Members are responsible for proper maintenance and storage of issued PPE. PPE should be stored in an appropriate location so that it is available when needed.

Any member who identifies hazards in the workplace is encouraged to utilize the procedures in the Illness and Injury Prevention Policy to recommend new or improved PPE or additional needs for PPE.

## 707.4 HEARING PROTECTION

Approved hearing protection shall be used by members during firearms training.

Hearing protection shall meet or exceed the requirements provided in 8 CCR 5098.

## 707.5 EYE PROTECTION

Approved eye protection, including side protection, shall be used by members during firearms training. Eye protection for members who wear prescription lenses shall incorporate the prescription (e.g., eye protection that can be worn over prescription lenses). Members shall ensure their eye protection does not interfere with the fit of their hearing protection.

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The Rangemaster shall ensure eye protection meets or exceeds the requirements provided in 8 CCR 3382.

#### **707.6 HEAD AND BODY PROTECTION**

Members who make arrests or control crowds should be provided ballistic head protection with an attachable face shield.

Padded body protection consisting of chest, arm, leg and groin protection should be provided as required by any collective bargaining agreement.

#### **707.7 RESPIRATORY PROTECTION**

The Support Services Division Chief is responsible for ensuring a respiratory protection plan is developed and maintained by a trained and qualified member. The plan shall include procedures for (8 CCR 5144):

- (a) Selecting appropriate respiratory PPE based on hazards and risks associated with functions or positions.
- (b) Fit testing, including identification of members or contractors qualified to conduct fit testing.
- (c) Medical evaluations.
- (d) PPE inventory control.
- (e) PPE issuance and replacement.
- (f) Cleaning, disinfecting, storing, inspecting, repairing, discarding and otherwise maintaining respiratory PPE, including schedules for these activities.
- (g) Regularly reviewing the PPE plan.
- (h) Remaining current with applicable National Institute for Occupational Safety and Health (NIOSH), American National Standards Institute (ANSI), Occupational Safety and Health Administration (OSHA), Environmental Protective Agency (EPA) and state PPE standards and guidelines.

##### **707.7.1 RESPIRATORY PROTECTION USE**

Designated members may be issued respiratory PPE based on the member's assignment (e.g., a narcotics investigator who is involved in clandestine lab investigations).

Respiratory PPE may be worn when authorized by a scene commander who will determine the type and level of protection appropriate at a scene based upon an evaluation of the hazards present.

Scene commanders are responsible for monitoring members using respiratory PPE and their degree of exposure or stress. When there is a change in work area conditions or when a member's degree of exposure or stress may affect respirator effectiveness, the scene commander shall reevaluate the continued effectiveness of the respirator and direct the member to leave the respirator use area when the scene commander reasonably believes (8 CCR 5144):

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- (a) It is necessary for the member to wash his/her face and the respirator facepiece to prevent eye or skin irritation associated with respirator use.
- (b) The member detects vapor or gas breakthrough, or there is a change in breathing resistance or leakage of the facepiece.
- (c) The member needs to replace the respirator, filter, cartridge or canister.

#### 707.7.2 MEMBER RESPONSIBILITIES FOR RESPIRATORY PROTECTION

Members shall not use self-contained breathing apparatus (SCBA), full-face respirators or cartridge respirators unless they have completed training requirements for the equipment.

Members exposed to environments that are reasonably known to be harmful due to gases, smoke or vapors shall use respiratory PPE.

Members using respiratory PPE shall (8 CCR 5144):

- (a) Ensure that they have no facial hair between the sealing surface of the facepiece and the face that could interfere with the seal or the valve function. Members also shall ensure that they have no other condition that will interfere with the face-to-facepiece seal or the valve function.
- (b) Not wear corrective glasses, goggles or other PPE that interferes with the seal of the facepiece to the face, or that has not been previously tested for use with that respiratory equipment.
- (c) Perform a user seal check per department-approved procedures recommended by the respirator manufacturer each time they put on a tight-fitting respirator.
- (d) Leave a respiratory use area whenever they detect vapor or gas breakthrough, changes in breathing resistance or leakage of their facepiece and ensure that the respirator is replaced or repaired before returning to the affected area.

#### 707.7.3 GAS MASK

Full-face air-purifying respirators, commonly referred to as gas masks, may be fitted with mechanical pre-filters or combination cartridge/filter assemblies for use in areas where gases, vapors, dusts, fumes or mists are present. Members must identify and use the correct cartridge based on the circumstances (8 CCR 5144).

A scene commander may order the use of gas masks in situations where the use of a SCBA is not necessary. These incidents may include areas where tear gas has or will be used or where a vegetation fire is burning. Gas masks shall not be used if there is a potential for an oxygen-deficient atmosphere.

Members shall ensure their gas mask filters are replaced whenever:

- (a) They smell, taste or are irritated by a contaminant.
- (b) They experience difficulty breathing due to filter loading.
- (c) The cartridges or filters become wet.
- (d) The expiration date on the cartridges or canisters has been reached.

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#### **707.7.4 SELF-CONTAINED BREATHING APPARATUS**

Scene commanders may direct members to use SCBA when entering an atmosphere that may pose an immediate threat to life, would cause irreversible adverse health effects or would impair an individual's ability to escape from a dangerous atmosphere. These situations may include, but are not limited to:

- (a) Entering the hot zone of a hazardous materials incident.
- (b) Entering any area where contaminant levels may become unsafe without warning, or any situation where exposures cannot be identified or reasonably estimated.
- (c) Entering a smoke- or chemical-filled area.

The use of SCBA should not cease until approved by a scene commander.

#### **707.7.5 RESPIRATOR FIT TESTING**

No member shall be issued respiratory PPE until a proper fit testing has been completed by a designated member or contractor (8 CCR 5144).

After initial testing, fit testing for respiratory PPE shall be repeated (8 CCR 5144):

- (a) At least once every 12 months.
- (b) Whenever there are changes in the type of SCBA or facepiece used.
- (c) Whenever there are significant physical changes in the user (e.g., obvious change in body weight, scarring of the face seal area, dental changes, cosmetic surgery or any other condition that may affect the fit of the facepiece seal).

All respirator fit testing shall be conducted in negative-pressure mode.

#### **707.7.6 RESPIRATORY MEDICAL EVALUATION QUESTIONNAIRE**

No member shall be issued respiratory protection that forms a complete seal around the face until (8 CCR 5144):

- (a) The member has completed a medical evaluation that includes a medical evaluation questionnaire.
- (b) A physician or other licensed health care professional has reviewed the questionnaire.
- (c) The member has completed any physical examination recommended by the reviewing physician or health care professional.

#### **707.8 RECORDS**

The Training Coordinator is responsible for maintaining records of all:

- (a) PPE training.
- (b) Initial fit testing for respiratory protection equipment.
- (c) Annual fit testing.
- (d) Respirator medical evaluation questionnaires and any subsequent physical examination results.



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1. These records shall be maintained in a separate confidential medical file.

The records shall be maintained in accordance with the department records retention schedule and 8 CCR 5144.

#### **707.9 TRAINING**

Members should be trained in the respiratory and other hazards to which they may be potentially exposed during routine and emergency situations.

All members shall be trained in the proper use and maintenance of PPE issued to them, including when the use is appropriate; how to put on, remove and adjust PPE; how to care for the PPE; and the limitations (8 CCR 3380).

Members issued respiratory PPE shall attend annual training on the proper use of respiratory protection devices (8 CCR 5144).

# Military Equipment

## 708.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, funding, use, and reporting requirements of specified law enforcement equipment that has been designated as "military equipment" pursuant to Government Code Section 7170, whether such equipment is existing or is to be acquired in the future. In addition, this policy is provided to fulfill the obligations set forth in Assembly Bill No. 481 (Government Code Sections 7070 through 7075). These obligations include, but are not limited to, seeking approval on specified military equipment and requirements related to compliance, annual reporting, cataloging and complaints regarding these items. (See, Government Code §§ 7070, 7071, 7072, 7074 and 7075).

### 708.1.1 POLICY

Members of the Department shall comply with the provisions of this Policy with respect to the use of the Department's military equipment as described herein.

## 708.2 DEFINITIONS

Definitions related to this policy include:

1. **Chief of Police** - The Chief of Police shall mean the City of Indio Chief of Police and his designee.
2. **Department** - Department shall mean the Indio Police Department.
3. **Governing Body** – The Governing Body shall mean the Indio City Council who is the elected body that oversees the Indio Police Department.
4. **Military Equipment** – Military Equipment shall mean the equipment defined in Government Code Section 7070(c)(1) through (c)(16) to include:
  - a. Unmanned, remotely piloted, powered aerial or ground vehicles.
  - b. Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.
  - c. High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.
  - d. Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.
  - e. Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
  - f. Weaponized aircraft, vessels or vehicles of any kind.
  - g. Battering rams, slugs, and breaching apparatuses that are explosive in nature.
  - h. Firearms of .50 caliber or greater, excluding standard issue shotguns.
  - i. Ammunition of .50 caliber or greater, excluding standard issue shotgun ammunition.

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- j. Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the California Penal Code, excluding standard issue service weapons and ammunition of less than .50 caliber.
- k. Any firearm or firearm accessory that is designed to launch explosive projectiles.
- l. Flashbang grenades and explosive breaching tools, tear gas and pepper balls, excluding standard issued handheld pepper spray.
- m. Taser Shockwave, microwave weapons, water cannons, and the Long Range Acoustic Device.
- n. 40mm projectile launchers, bean bag, rubber bullet, and specialty impact munition weapons.
- o. Any other equipment as determined by a governing body to require additional oversight.

Military equipment does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.

**[See attachment: Addendum A - Military equipment policy Final PDF 031122.pdf](#)**

#### **708.3 APPROVAL OF POLICY BY GOVERNING BODY**

1. The Chief of Police shall obtain approval from the governing body, by way of ordinance, the adoption of the Military Equipment Policy prior to engaging in any of the following activities:

- a. Requesting military equipment be made available pursuant to Section 2576a of Title 10 of the United States Code.
- b. Seeking funds for military equipment including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
- c. Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
- d. Collaborating with another law enforcement agency in the deployment or other use of military equipment within the territorial jurisdiction of the governing body.
- e. Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to general order.
- f. Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of, military equipment.

2. In seeking the approval of the Military Equipment Policy by the governing body, the Chief of Police shall submit a proposed Military Equipment Policy and or any subsequent amendments, to the City Council. The policy or any amendments shall also be made available to the public by posting those documents on the City of Indio Police Department internet website at least 30 days prior to any public hearing concerning the military equipment at issue. The Chief of Police shall

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submit the Military Equipment Policy annually to the governing body pursuant to procedures set forth in Government Code Section 7071.

#### **708.4 MILITARY EQUIPMENT USE CONSIDERATIONS**

1. The military equipment acquired and authorized by the Department is:
  - a. Necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
  - b. Reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
2. Military equipment shall only be used by a Department employee only after applicable training, including any course required by the Commission on Peace Officer Standards and Training, has been completed, unless exigent circumstances arise.

#### **708.5 ANNUAL MILITARY EQUIPMENT REPORT**

1. Within **one year of the approval** of this Military Equipment Policy, the Department shall submit a military equipment report to the Governing Body that addresses each type of approved military equipment, and annually thereafter for as long as the military equipment is available for use by the Department.
2. The Department shall also make each annual military equipment report publicly available on its internet website for as long as the military equipment is available for use by the Department.
3. The annual military equipment report shall, at a minimum, include the following information for the immediately preceding calendar year for each type of military equipment:
  - a. A summary of how the military equipment was used and the purpose of its use.
  - b. A summary of any complaints or concerns received concerning the military equipment.
  - c. The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.
  - d. The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.
  - e. The quantity possessed for each type of military equipment.
  - f. If the Department intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.
4. Within **30 days** of submitting and publicly releasing an annual military equipment report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the general public may discuss and ask questions regarding the

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annual military equipment report and the Department's funding, acquisition, or use of military equipment.

#### **708.6 MILITARY EQUIPMENT INVENTORY INCLUDING EQUIPMENT TYPE AND USAGE GUIDELINES**

1. The Department's inventory of qualifying Military Equipment is set forth in Attachment A and includes the various types, descriptions and guidelines for its usage in compliance with Government Code Section 7070(d) in addition to guidelines set forth in paragraph (2) below.

2. The Department's inventory of military equipment is varied and the mere possession of the equipment does not warrant its use for every incident. The Department recognizes that critical incidents are unpredictable and can be very dynamic in nature. A variety of military equipment options can greatly assist incident commanders, officers, and specific units in bringing those incidents to a swift resolution in a safe manner. The use of military equipment is restricted for use only in certain instances and in some cases only by certain units. While this procedure is wide-ranging, it is not all-inclusive. There may be instances wherein unpredictable critical incidents demand the need for incident commanders to authorize military equipment to be used in a manner not outlined within this procedure. In scrutinizing those particular instances, the judgment of the incident commander, influenced by the totality of the circumstances, public safety, officer safety, civil rights, and information available at the time, will be used.

It is incumbent upon incident commanders, supervisors, individual officers, and specific units to recognize the particular circumstances wherein military equipment should be employed to enhance the safety of the public and officers, and to bring a critical incident to a safe resolution.

#### **708.7 OVERSIGHT REGARDING DEPARTMENT COMPLIANCE**

The Department SWAT TEAM Lieutenant (**designated military equipment coordinator**) will ensure that all Department members comply with this policy and any individual Department policies as applicable. The Department SWAT TEAM Lieutenant will conduct an annual audit with the assistance of the Training Unit. The Chief of Police will be notified of any policy violations and, if needed, the violation(s) will be referred to the Professional Standards Unit and handled in accordance with the Department Personnel Complaints Policy. All instances of noncompliance will be reported to City Council via the annual military equipment report.

#### **708.8 MILITARY EQUIPMENT COMPLAINTS AND INQUIRIES**

1. Any member of the public can register a question or concern regarding military equipment use by contacting the Indio Police Department's military equipment coordinator via [https://www.indio.org/your\\_government/police/](https://www.indio.org/your_government/police/). A response to the question or concern shall be completed by the Department in a timely manner.

2. Any member of the public can submit a complaint regarding military equipment use to any member of the Department and in any form (i.e. in person, telephone, email, etc.). Once the complaint is received, it will be routed to the **military equipment coordinator** in accordance with our Personnel Complaints policy. A response to the question or concern shall be completed

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by the **military equipment coordinator** within **20 business days** absent any extraordinary circumstances.

#### **708.9 FUNDING**

1. The Department shall seek council approval for military equipment, including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

2. The Department has authority to apply for funding prior to obtaining council approval in the case of exigent circumstances. In such cases, the Department shall obtain council approval as soon as practicable.

#### **708.10 MILITARY EQUIPMENT COORDINATOR**

The Chief of Police should designate a member of the Indio Police Department to act as the **Military Equipment Coordinator**. The responsibilities of the military equipment coordinator include but are not limited to:

- a. Acting as liaison to the governing body (Indio City Council) for matters related to the requirements of this policy.
- b. Identifying Indio Police Department equipment that qualifies as military equipment in the current possession of the Indio Police Department or IPD Desert Regional SWAT Team, or the equipment the Indio Police Department intends to acquire that requires approval by the Indio City Council.
- c. Conducting an inventory of all military equipment at least annually.
- d. Collaborating with any allied agency that may use military equipment within the jurisdiction of Indio Police Department (Government Code § 7071).
- e. Preparing for, scheduling, and coordinating the annual community engagement meeting to include: **(i)** Publicizing the details of the meeting; **(ii)** Preparing for public questions regarding the department's funding, acquisition, and use of equipment.
- f. Preparing the annual military equipment report for submission to the Chief of Police and ensuring that the report is made available on the Indio Police Department website (Government Code § 7072).
- g. Establishing the procedure for a person to register a complaint or concern, or how that person may submit a question about the use of a type of military equipment, and how the Indio Police Department will respond in a timely manner.

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#### **708.11 COORDINATION WITH OTHER JURISDICTIONS**

Through the Association of Riverside County Chiefs of Police and Sheriff's (ARCCOPS) mutual aid agreement, all cities within Riverside County have agreed to accept the use of each law enforcement agency's Military Equipment policy related to any enforcement action throughout Riverside County.

Military equipment used by any member of this Department shall be approved for use and in accordance with this Military Equipment Policy. Military equipment used by other jurisdictions that are providing mutual aid to this jurisdiction shall comply with their respective military equipment use policies in rendering mutual aid. The Riverside Sheriff's Department frequently operates in the city of Indio in various capacities.

#### **708.12 COMMUNITY ENGAGEMENT**

Within 30 days of submitting and publicly releasing the annual military equipment report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the Department **military equipment coordinator** shall discuss the report and respond to public questions regarding the annual report and the Department's funding, acquisition, or use of military equipment.

#### **708.13 MAINTENANCE OF MILITARY USE SUPPLY LEVELS**

When stocks of military equipment have reached significantly low levels or have been exhausted, the Department may order up to 10% of stock in a calendar year without city council approval to maintain essential availability for the Department's needs.

## **Chapter 8 - Support Services**



## Crime Analysis

### 800.1 PURPOSE AND SCOPE

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

#### 800.1.1 POLICY

The crime analyst shall collect, process, analyze, report, and evaluate data relevant to police and criminal activity, for the purposes of studying past performance, identifying activity patterns and trends, and optimizing deployment, intervention, planning, and management. Crime analysis is indispensable to this agency's efficiency, productivity, and effectiveness. Therefore, all applicable personnel shall provide complete and consistent reports of crime, reports of incidents, activity logs, field interviews, and related information as required in support of this function. The crime analysis function shall provide operational units with information sufficient for officer safety, strategic planning, and daily problem solving.

### 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)
- Traffic citation biographical information
- L.A. Clear
- Daily patrol logs
- Local agency crime trends

### 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

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- Victim and target descriptors
- Suspect descriptors
- Suspect vehicle descriptors
- Modus operandi factors
- Physical evidence information
- Stolen property records
- Responding officer/investigator
- Arrests/charges
- Case closures

#### **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.

# The Dispatch Center

## 802.1 PURPOSE AND SCOPE

This policy establishes guidelines for the basic functions of the Dispatch Center. It addresses the immediate information needs of the Department in the course of its normal daily activities and during emergencies.

## 802.2 POLICY

It is the policy of the Indio Police Department to provide 24-hour telephone service to the public for information and for routine or emergency assistance. The Department provides two-way radio capability providing continuous communication between the Dispatch Center and department members in the field.

## 802.3 THE DISPATCH CENTER SECURITY

The communications function is vital and central to all emergency service operations. The safety and security of the Dispatch Center, its members and its equipment must be a high priority. Special security procedures should be established in a separate operations manual for the Dispatch Center.

Access to the Dispatch Center shall be limited to the Dispatch Center members, the Watch Commander, command staff and department members with a specific business-related purpose.

## 802.4 RESPONSIBILITIES

### 802.4.1 DISPATCH SUPERVISOR

The Chief of Police shall appoint and delegate certain responsibilities to a Dispatch Supervisor. The Dispatch Supervisor is directly responsible to the Support Services Division Chief or the authorized designee.

The responsibilities of the Dispatch Supervisor include, but are not limited to:

- (a) Overseeing the efficient and effective operation of the Dispatch Center in coordination with other supervisors.
- (b) Scheduling and maintaining dispatcher time records.
- (c) Supervising, training and evaluating dispatchers.
- (d) Ensuring the radio and telephone recording system is operational.
  1. Recordings shall be maintained in accordance with the established records retention schedule and as required by law.
- (e) Processing requests for copies of the Dispatch Center information for release.
- (f) Maintaining the Dispatch Center database systems.
- (g) Maintaining and updating the Dispatch Center procedures manual.
  1. Procedures for specific types of crime reports may be necessary. For example, specific questions and instructions may be necessary when talking with a victim

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## Indio PD Policy Manual

### *The Dispatch Center*

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of a sexual assault to ensure that his/her health and safety needs are met, as well as steps that he/she may take to preserve evidence.

2. Ensuring dispatcher compliance with established policies and procedures.
- (h) Handling internal and external inquiries regarding services provided and accepting personnel complaints in accordance with the Personnel Complaints Policy.
- (i) Maintaining a current contact list of City personnel to be notified in the event of a utility service emergency.

#### 802.4.2 ADDITIONAL PROCEDURES

The Dispatch Supervisor should establish procedures for:

- (a) Recording all telephone and radio communications and playback issues.
- (b) Storage and retention of recordings.
- (c) Security of audio recordings (e.g., passwords, limited access, authorized reviewers, preservation of recordings past normal retention standards).
- (d) Availability of current information for dispatchers (e.g., Watch Commander contact, rosters, member tracking methods, member contact, maps, emergency providers, tactical dispatch plans).
- (e) Assignment of field members and safety check intervals.
- (f) Procurement of external services (e.g., fire suppression, ambulances, aircraft, tow trucks, taxis).
- (g) Protection of essential equipment (e.g., surge protectors, gaseous fire suppression systems, uninterruptible power systems, generators).
- (h) Protection of radio transmission lines, antennas and power sources for the Dispatch Center (e.g., security cameras, fences).
- (i) Handling misdirected, silent and hang-up calls.
- (j) Handling private security alarms, if applicable.
- (k) Radio interoperability issues.

#### 802.4.3 DISPATCHERS

Dispatchers report to the Dispatch Supervisor. The responsibilities of the dispatcher include, but are not limited to:

- (a) Receiving and handling all incoming and transmitted communications, including:
  1. Emergency 9-1-1 lines.
  2. Business telephone lines.
  3. Telecommunications Device for the Deaf (TDD)/Text Telephone (TTY) equipment.

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4. Radio communications with department members in the field and support resources (e.g., fire department, emergency medical services (EMS), allied agency law enforcement units).
  5. Other electronic sources of information (e.g., text messages, digital photographs, video).
- (b) Documenting the field activities of department members and support resources (e.g., fire department, EMS, allied agency law enforcement units).
  - (c) Inquiry and entry of information through the Dispatch Center, department and other law enforcement database systems (CLETS, DMV, NCIC).
  - (d) Monitoring department video surveillance systems.
  - (e) Maintaining the current status of members in the field, their locations and the nature of calls for service.
  - (f) Notifying the Watch Commander or field supervisor of emergency activity, including, but not limited to:
    1. Vehicle pursuits.
    2. Foot pursuits.
    3. Assignment of emergency response.

#### **802.5 CALL HANDLING**

This Department provides members of the public with access to the 9-1-1 system for a single emergency telephone number.

When a call for services is received, the dispatcher will reasonably and quickly attempt to determine whether the call is an emergency or non-emergency, and shall quickly ascertain the call type, location and priority by asking four key questions:

- Where?
- What?
- When?
- Who?

If the dispatcher determines that the caller has a hearing and/or speech impairment or disability, he/she shall immediately initiate a connection with the individual via available TDD/TTY equipment or Telephone Relay Service (TRS), as mandated by the Americans with Disabilities Act (ADA).

If the dispatcher determines that the caller is a limited English proficiency (LEP) individual, the dispatcher should quickly determine whether sufficient information can be obtained to initiate an appropriate response. If language assistance is still needed, the language is known and a language-appropriate authorized interpreter is available in the Dispatch Center, the dispatcher should immediately connect the LEP caller to the authorized interpreter.

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If no authorized interpreter is available or the dispatcher is unable to identify the caller's language, the dispatcher will contact the contracted telephonic interpretation service and establish a three-party call connecting the dispatcher, the LEP individual and the interpreter.

Dispatchers should be courteous, patient and respectful when dealing with the public.

#### **802.5.1 EMERGENCY CALLS**

A call is considered an emergency when there is an immediate or potential threat to life or serious property damage, and the timely arrival of public safety assistance is of the utmost importance. An open line should be maintained with an emergency caller until all pertinent information to ensure the safety of the responding department members and affected individuals can be obtained. A call of this nature should only be placed on hold if the call taker must answer an incoming line due to minimum staffing. The call taker then must use judgment to determine which call is of greater priority or presents a greater danger. If both calls are of an emergency nature, the call taker should immediately notify their partner that another emergency call is holding and needs immediate assistance.

Emergency calls should be dispatched immediately. The Watch Commander shall be notified of pending emergency calls for service when department members are unavailable for dispatch.

#### **802.5.2 NON-EMERGENCY CALLS**

A call is considered a non-emergency call when there is no immediate or potential threat to life or property. A person reporting a non-emergency may be placed on hold, if necessary, to allow the dispatcher to handle a higher priority or emergency call.

The reporting person should be advised if there will be a delay in the dispatcher returning to the telephone line or when there will be a delay in the response for service.

#### **802.6 RADIO COMMUNICATIONS**

The police radio system is for official use only, to be used by dispatchers to communicate with department members in the field. All transmissions shall be clear, concise, professional and made in a calm, businesslike manner, using proper language and correct procedures. Such transmissions shall include, but are not limited to:

- (a) Members acknowledging the dispatcher with their radio identification call signs and current location.
- (b) Dispatchers acknowledging and responding promptly to all radio transmissions.
- (c) Members keeping the dispatcher advised of their status and location.
- (d) Member and dispatcher acknowledgements shall be concise and without further comment unless additional information is needed.

The Dispatch Supervisor shall be notified of radio procedure violations or other causes for complaint. All complaints and violations will be investigated and reported to the complainant's supervisor and processed through the chain of command.

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#### 802.6.1 FEDERAL COMMUNICATIONS COMMISSION COMPLIANCE

Indio Police Department radio operations shall be conducted in accordance with Federal Communications Commission (FCC) procedures and requirements.

#### 802.6.2 RADIO IDENTIFICATION

Radio call signs are assigned to department members based on factors such as duty assignment, uniformed patrol assignment and/or member identification number. Dispatchers shall identify themselves on the radio with the appropriate station name or number, and identify the department member by his/her call sign. Members should use their call signs 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 department member. Members initiating communication with other law enforcement or support agencies shall use their entire radio call sign, which includes the department station name or number.

#### **802.7 DOCUMENTATION**

It shall be the responsibility of the Dispatch Center to document all relevant information on calls for service or self-initiated activity. Dispatchers shall attempt to elicit, document and relay as much information as possible to enhance the safety of the member and assist in anticipating conditions that may be encountered at the scene. Desirable information would include, at a minimum:

- Incident control number.
- Date and time of request.
- Name and address of the reporting person, if possible.
- Type of incident reported.
- Involvement of weapons, drugs and/or alcohol.
- Location of incident reported.
- Identification of members assigned as primary and backup.
- Time of dispatch.
- Time of the responding member's arrival.
- Time of member's return to service.
- Disposition or status of reported incident.

The Event History is a legal document that is often referenced after the fact to gather pertinent information or testify in court. Dispatchers shall make every effort to document the history of what happened in the call for service, information received from officers, other agencies contacted, subjects and/or vehicles ran in the CLETS/NLETS system, vehicles towed, subjects arrested, justification of the call type, and anything that contributed to the disposition of the call. Accuracy is imperative. Although notes in a call for service cannot be edited once entered, the dispatcher must make a correction note to any information that changed after it was entered. The call notes

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should be documented in such a way that anyone who was not involved in the call for service would be able to read the notes and determine the course of events.

#### **802.8 CONFIDENTIALITY**

Information that becomes available through the Dispatch Center may be confidential or sensitive in nature. All members of the Dispatch Center shall treat information that becomes known to them as confidential and release that information in accordance with the Protected Information Policy.

Automated data, such as Department of Motor Vehicle records, warrants, criminal history information, records of internal police files or medical information, shall only be made available to authorized law enforcement personnel. Prior to transmitting confidential information via the radio, an admonishment shall be made that confidential information is about to be broadcast.

#### **802.9 TRAINING AND CERTIFICATION**

Dispatchers shall receive training consistent with minimum standards established by POST (Penal Code § 13510).



## Property and Evidence

### 804.1 PURPOSE AND SCOPE

This policy provides for the proper, storage, security and disposition of evidence and other property. Additionally, this policy provides for the protection of the chain of custody and those persons authorized to remove and/or destroy property.

### 804.2 DEFINITIONS

**Audit** – A review of the policies, procedures, and processes of the property and evidence function to determine if recognized standards, best practices, local statutes, and municipal codes comply.

**Biological Evidence** – Refers to samples of biological material, such as hair, tissue, bones, teeth, blood, semen, or other bodily fluids, or evidence containing biological materials.

**Chain of Custody** – The chronological documentation of the seizure, custody, control, transfer (temporary or permanent) and disposition of the property or evidence.

**Destroyed** – Property or evidence that is rendered inoperable or entirely unfit for its intended purpose or use.

**Evidence** - Includes items taken or recovered in the course of an investigation that may be used in the prosecution of a case. This includes audio, video, photographs, and latent fingerprints.

**External Movement**- Any temporary location assignment of property or evidence items to another location outside of the Property Room.

**Found Property**- Non-evidentiary items, which, after coming into the custody of a law enforcement agency, have been determined to be lost or abandoned and not known or suspected to be related to any criminal offense.

**Inspections** - An informal form of internal audits that are intended to keep quality control consistent.

**Inventory** – An inventory is a process of individually validating the presence of all or a specified portion of the property/evidence items against the agency's records.

**Key-Holding Personnel** - Individuals who have a key or unescorted access into the Property Room storage area.

**Packaging Manual** - Specific directions on how items of property and evidence are to be packaged and documented.

**Personal Protective Equipment (PPE)** – Items used to prevent an individual's direct contact with blood-borne pathogens and other hazards. PPE may include disposable gloves, coveralls, shoe covers, respirators, masks, and eye protection.

**Property** - Items that do not have evidentiary value and come into the possession of a law enforcement agency as found, safekeeping, or items for destruction.

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Property and Evidence Officer - Personnel assigned to the Property Room charged with the responsibility for documenting, storing, retrieving, and disposing of property and evidence.

Property and Evidence Procedures Manual - A formal document that describes all the duties and tasks in the Property Room and how to complete those tasks.

Right of Refusal - Authority given to the Property and Evidence Officer to reject and notify the submitting officer that property or evidence is not correctly packaged or documented and needs to be corrected.

Safekeeping – Non-evidentiary items that are placed in the custody of a law enforcement agency for temporary protection on behalf of the owner.

#### **804.3 PROPERTY AND EVIDENCE UNIT MANAGEMENT RESPONSIBILITIES**

The Division Chief is responsible for the management of the Property and Evidence Unit, under the direction from the Chief of Police.

##### **804.3.1 PROPERTY AND EVIDENCE UNIT RESPONSIBILITIES**

The Property and Evidence Officers are responsible for the management of all property and evidence submitted to and in the custody of the Property and Evidence Unit. This includes property and evidence stored in the Property and Evidence Unit and at off-site storage locations.

##### **804.3.2 PROPERTY AND EVIDENCE UNIT SECURITY AND ACCESS**

The Property and Evidence Unit shall maintain secure storage of all property and evidence in the custody of the department. Proximity card access to the Property and Evidence Unit will be restricted to the Property and Evidence Officers only. Additional personnel authorized by the Division Chief may be issued access based on specific duties and responsibilities. Proximity card access will be audited at least yearly by the Division or their designee. Hard keys may be issued as necessary to the Property and Evidence Officers by the supervisor. Hard keys will be audited yearly by the Division Chief or their designee.

Individuals entering the Property and Evidence Unit other than the Property and Evidence Officers or an authorized card key holding employee, must be escorted by a Property and Evidence Officer or a (any other) card key authorized individual. This card key authorized individual refers to an individual who was given access by the Division Chief.

All visitors must sign in and out in an access logbook. The date and time of entry and exit, the purpose of the visit, the escorting employee, and the visitor's name must be entered in the logbook. Historical logbooks should be retained as designated by records retention laws.

#### **804.4 PROPERTY HANDLING**

Any employee who comes into possession of any property or evidence in the course of their duties is responsible for the safekeeping of that property and evidence until it is submitted. Property or evidence must never be left unattended and may not be stored in personal lockers, vehicles, desks, file cabinets, etc. Any exception to this policy must be approved by a supervisor.

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All items will be submitted to the Property and Evidence Unit before the end of the submitting employee's shift unless an exception is approved by a supervisor. If approved, property or evidence must be placed in a secure location to maintain the chain of custody.

#### **804.4.1 PROPERTY BOOKING PROCEDURE – FOUND PROPERTY**

When ownership can be established for found property with no apparent evidentiary value, such property may be released to the owner without the need for booking the property into the Property and Evidence Unit. A case report detailing the release shall be completed by the employee who released the property.

The Property Release & Receipt Form must also be completed to document the release and the owner shall sign the form acknowledging receipt of the item(s). A copy of this Property Release & Receipt Form will be released to the owner and the original document will be attached to the case report.

#### **804.4.2 PROPERTY BOOKING PROCEDURE – TEMPORARY LOCKERS**

All submitted property and evidence shall be entered in EvidenceOnQ and submitted to a temporary storage locker or storage cage. See the Indio Police Department Packaging Manual for specific submission requirements and procedures.

#### **804.4.3 PROPERTY BOOKING PROCEDURE – RIGHT OF REFUSAL**

Evidence submitted to the Property and Evidence Unit that is not packaged or documented in accordance with the packaging manual as detailed in the Indio Police Department Packaging Manual shall be refused by the Property and Evidence Officers. Items which are refused under the Right of Refusal shall be resubmitted to the Property and Evidence Unit by the submitting employee with the corrections made before the end of the employee's next scheduled shift following notice of the refusal.

#### **804.4.4 SAFETY PROCEDURES**

Safety standards apply to all employees when handling property and evidence. Employees who could come into contact with blood, body fluids, and other potentially infectious materials must use extra caution. Always assume that all items may be infected and handle the property and evidence according to protect themselves and others against any type of exposure.

Minimize or eliminate exposure to blood and other potentially infectious materials that could result in the transmission of blood-borne pathogens, which could lead to disease or death.

All items of property and evidence have the potential to carry disease, hazards, and safety risks. Always use appropriate universal precautions and Personal Protective Equipment (PPE).

#### **804.4.5 ADDITIONAL DOCUMENTATION & RESPONSIBILITIES**

The circumstances detailing how the property and/or evidence came into the employee's possession will be documented in a case report. The documentation shall be in accordance with department report writing procedures. Submission and chain of custody documentation reflecting

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all internal handling, transfers, releases, and final dispositions of property and evidence will be documented in EvidenceOnQ.

Every reasonable effort shall be made by the submitting employee to ensure that property and evidence can be returned to the rightful owner. Details regarding which property belongs to which person on a case must be carefully documented by the submitting employee in both the case report and in EvidenceOnQ. Property or evidence that cannot be returned to its rightful owner shall be disposed of in a manner consistent with State Law, Municipal Ordinances, and Department policy.

#### **804.5 PROPERTY AND EVIDENCE MANAGEMENT SYSTEM**

EvidenceOnQ is the system of record for all information related to the property and evidence chain of custody and will document the movement, storage and destruction of property and evidence.

##### **804.5.1 RESPONSIBILITY OF PERSONNEL**

When property is moved, released, destroyed, or received, an appropriate entry into EvidenceOnQ shall be completed to maintain the chain of custody. Detailed information such as the opening or repackaging of property or evidence, disposition requests, letters sent to owners, etc., shall be documented in EvidenceOnQ.

##### **804.5.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY**

The Property and Evidence Unit shall be responsible for coordinating with the requesting employee, as needed, for the preparation, transfer, delivery and/or pick up of evidence to and from the laboratory.

Request for analysis for items other than narcotics or drugs or latent prints shall be completed on the Physical Evidence Submission Form (DOJ) or Forensic Services Request (RSO) and submitted to the Property and Evidence Unit.

##### **804.5.3 TRANSFER OF EVIDENCE TO COURT**

Any employee who is subpoenaed to appear in court with evidence shall notify the Property and Evidence Unit of the specific request for evidence required. Advance notice should be given with the specific date the evidence is required for court.

The subpoenaed employee will check out the property and evidence by electronically signing for the item(s) after validating each item that is being signed for is on the electronic list.

The subpoenaed employee will receive a copy of the Property Release & Receipt. If the evidence is retained as a court exhibit, The Property Release & Receipt Form shall be signed by an official court representative verifying that they now have custody of the item(s). The signed receipt must then be returned to the Property and Evidence Unit.

Item(s) of evidence that are checked out but are not retained by the court shall be returned to the Property and Evidence Unit by the end of the court day. The items shall be secured in one of the provided temporary lockers along with the Property Release & Receipt Form. Any exceptions to this policy must be approved by a supervisor.

##### **804.5.4 EXTERNAL MOVEMENT OF PROPERTY AND EVIDENCE**

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When property or evidence is signed out from the Property and Evidence Unit to an external location, such as court, a lab, and locations within the department such as out for investigation, its destination and the person responsible for its safeguarding shall be documented in EvidenceOnQ.

It shall be the responsibility of the Property and Evidence Unit personnel to routinely track and query the item status of any property and evidence that is removed from the Property and Evidence Unit for any reason including but not limited to Court, Crime Lab, or Investigations. Any inquiries sent to the employee who checked out the item(s) shall be responded to immediately as to the status/location of the item(s). If the item(s) have been released to another agency or person, the associated transfer paperwork shall be provided to the Property and Evidence Unit upon completion of the transaction. Any exceptions shall be approved by a supervisor.

#### **804.5.5. RELEASE OF PROPERTY – FOUND PROPERTY**

The Property and Evidence Officer shall release the property to the owner or finder following the procedures detailed in the Property and Evidence Procedures Manual.

#### **804.5.5 (a) RELEASE OF PRESCRIPTION MEDICATION**

Any prescription medication seized and booked in evidence shall not be returned to the possessor since we are not pharmacists and cannot verify the contents of such medication / drugs. These items shall be purged once they are no longer needed for further judicial proceedings.

#### **804.5.6. RELEASE OF PROPERTY – EVIDENCE**

In certain instances such as retail store thefts, residential burglaries, other property crimes, it may be acceptable to return the item(s) to the owner at the scene so as not to further inconvenience them. This process may be predicated upon taking photographs, swabbing and fingerprint in field. This process may only be practiced with the approval of a supervisor. All other release shall be detailed in the Property and Evidence Procedures Manual.

#### **804.5.7 DIVERSION OF PROPERTY**

No employee shall divert any property or evidence to their own use, conceal, falsify, destroy, remove, tamper with, or withhold any property or evidence in connection with an investigation or other police action, except in accordance with departmental policies and procedures.

Any request to divert property to department or city use must have a memo articulating justification for the diversion which shall be completed by a supervisor and submitted through the chain of command where both the supervisor and the manager should evaluate the true need for the item. The memo will be then submitted for final approval by the Chief of Police or their designee. The memo shall then be sent the City Manager's office for further approval by an outside entity.

Approved diversion paperwork shall be forwarded to the Property and Evidence Unit to document the final disposition of the property. Property is not eligible for diversion until after all attempts, in accordance with Department policy and procedure, have been made to identify and contact the property owner.

#### **804.5.8 AUCTION OF PROPERTY**

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When a case has been adjudicated and items have not been claimed by the owner or the owner is unknown, the item(s) can be sent to auction. This process is defined in the Property and Evidence Procedures Manual.

#### **804.5.9 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 by a Property Officer 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 DISPOSITION OF PROPERTY**

All property not held for evidence in a pending criminal investigation or proceeding where the owner has not been located or fails to claim the property, may be disposed of in compliance with municipal and state laws following the Property and Evidence Procedures Manual guidelines.

The Property and Evidence Officer shall request a disposition or status on property and evidence which has been held in excess of the time limits prescribed in the Property and Evidence Property Procedures Manual and for which no case disposition has been received from a supervisor, primary detective or prosecutor. This request may be generated by EvidenceOnQ, sent by email, and/or sent by paper to the submitting officer or primary detective.

Once the submitting officer or primary detective has received the disposition request, they shall respond within 10 days detailing whether the property or evidence shall be retained, disposed of per agency policy, or returned to the owner. If the submitting officer or primary detective requests that evidence will be retained, the justification for the hold must be documented and entered into EvidenceOnQ and the property or evidence will be reviewed again for disposition after one year.

#### **804.7 INVENTORIES OF THE PROPERTY AND EVIDENCE UNIT**

The supervisor of the Property and Evidence Unit officers will be responsible for scheduling inventories and obtaining an independent witness for the task. The Property and Evidence Procedures Manual will outline the policies and procedures for conducting an inventory.

##### **804.7.1 INVENTORIES – FREQUENCY**

A full inventory of the Property and Evidence Unit to ensure that all property and evidence is accounted for shall occur annually, when a change is made in personnel who have access to the Property and Evidence Unit, when evidence is missing, when a new Chief of Police is hired or at the Chief of Police or their designee's request. Guns, drugs, and money shall be inventoried at least twice yearly. All inventories will follow procedures detailed in the Property and Evidence Procedures Manual.

##### **804.7.2 INVENTORY MISSING PROPERTY OR EVIDENCE (UTL)**

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The Property and Evidence Procedures Manual will provide guidance on the inventory process, missing evidence and the inventory schedule and the process for reconciliation of the inventory results.

#### **804.8 INSPECTIONS OF THE PROPERTY AND EVIDENCE UNIT**

The Property and Evidence Unit supervisor shall make a quarterly inspection of the evidence storage facilities and practices to ensure adherence to policies and procedures.

Unannounced inspections of evidence storage areas shall be conducted annually at the discretion of the unit manager or as directed by the Chief of Police.

The Property and Evidence Procedures Manual provides guidance in the process of conducting any inspections.

#### **804.9 AUDITS OF THE PROPERTY AND EVIDENCE UNIT**

An annual audit of evidence held by the Department shall be conducted by a Division Chief or designee, not routinely or directly connected with the Property and Evidence Unit following the procedures outlined in the Property and Evidence Procedures Manual.

The audit should assess designated aspects of the Property and Evidence Unit functions such as but not limited to security, access control, tickler files, missing evidence, records, general cleanliness and housekeeping of the area, inventory levels, purging ratios, safety practices, training of Property and Evidence Officers, etc.

A comprehensive audit may also include reviews of whether:

- The department policies, directives, and procedure manuals comply with legal requirements and best practices.
- The Department personnel are complying with the agency's written policies and procedures.
- All paperwork authorizing and documenting evidence is in order.
- All items examined adhere to the department packaging standards.
- The storage facility is in good condition.

A full external audit should be conducted every five years by an outside entity.

The Property and Evidence Procedures Manual provides guidance in the process of conducting any audits.

#### **804.9 REPORTING**

Annual reports from the Property and Evidence Unit detailing the intake and purging numbers regarding property and evidence will be submitted to the Division Chief by the Property and Evidence Officers or the supervisor following the guidelines detailed in the Property and Evidence Procedures Manual. The Division Chief will be required to evaluate the provided information for the purposes of recommending additional resources.

## Records Maintenance and Release

### 805.1 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of department records. Protected information is separately covered in the Protected Information Policy.

### 805.2 POLICY

The Indio Police Department is committed to providing public access to records in a manner that is consistent with the California Public Records Act (Government Code § 7920.000 et seq.).

### 805.3 CUSTODIAN OF RECORDS RESPONSIBILITIES

The Chief of Police shall designate a Custodian of Records. The responsibilities of the Custodian of Records include but are not limited to:

- (a) Managing the records management system for the Department, including the retention, archiving, release, and destruction of department public records.
- (b) Maintaining and updating the department records retention schedule including:
  1. Identifying the minimum length of time the Department must keep records.
  2. Identifying the department division responsible for the original record.
- (c) Establishing rules regarding the inspection and copying of department public records as reasonably necessary for the protection of such records (Government Code § 7922.525; Government Code § 7922.530).
- (d) Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.
- (e) Establishing rules regarding the processing of subpoenas for the production of records.
- (f) Ensuring a current schedule of fees for public records as allowed by law is available (Government Code § 7922.530).
- (g) Determining how the department's website may be used to post public records in accordance with Government Code § 7922.545.
- (h) Ensuring that all department current standards, policies, practices, operating procedures, and education and training materials are posted on the department website in accordance with Penal Code § 13650.
- (i) Ensuring that public records posted on the Department website meet the requirements of Government Code § 7922.680 including but not limited to posting in an open format where a record may be retrieved, downloaded, indexed, and searched by a commonly used internet search application.
- (j) Ensuring that a list and description, when applicable, of enterprise systems (as defined by Government Code § 7922.700) is publicly available upon request and posted in a prominent location on the Department's website (Government Code § 7922.710; Government Code § 7922.720).



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#### **805.4 PROCESSING REQUESTS FOR PUBLIC RECORDS**

Any department member who receives a request for any record shall route the request to the Custodian of Records or the authorized designee.

##### **805.4.1 REQUESTS FOR RECORDS**

Any member of the public, including the media and elected officials, may access unrestricted records of this department, during regular business hours by submitting a written and signed request that reasonably describes each record sought and paying any associated fees (Government Code § 7922.530).

The processing of requests for any record is subject to the following (Government Code § 7922.530; Government Code § 7922.535):

- (a) The Department is not required to create records that do not exist.
- (b) Victims of an incident or their authorized representative shall not be required to show proof of legal presence in the United States to obtain department records or information. If identification is required, a current driver's license or identification card issued by any state in the United States, a current passport issued by the United States or a foreign government with which the United States has a diplomatic relationship or current Matricula Consular card is acceptable (Government Code § 7923.655).
- (c) 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 Custodian of Records or the authorized designee. If an extension is authorized, the Department shall provide the requester written notice that includes the reason for the extension and the anticipated date of the response.
  - 1. When the request does not reasonably describe the records sought, the Custodian of Records shall assist the requester in making the request focused and effective in a way to identify the records or information that would be responsive to the request including providing assistance for overcoming any practical basis for denying access to the records or information. The Custodian of Records shall also assist in describing the information technology and physical location in which the record exists (Government Code § 7922.600).
  - 2. If the record requested is available on the department website, the requester may be directed to the location on the website where the record is posted. If the requester is unable to access or reproduce the record, a copy of the record shall be promptly provided.
- (d) Upon request, a record shall be provided in an electronic format utilized by the Department. Records shall not be provided only in electronic format unless specifically requested (Government Code § 7922.570; Government Code § 7922.580).
- (e) When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released.

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1. A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for the redactions. If the record is audio or video, a copy of the redacted audio/video release should be maintained in the department-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.
- (f) If a record request is denied in whole or part, the requester shall be provided a written response that includes the statutory exemption for withholding the record or facts that the public interest served by nondisclosure outweighs the interest served by disclosure. The written response shall also include the names, titles, or positions of each person responsible for the denial (Government Code § 7922.000; Government Code § 7922.540).

#### **805.5 RELEASE RESTRICTIONS**

Examples of release restrictions include:

- (a) Personal identifying information, including an individual's photograph; Social Security and driver identification numbers; name, address, and telephone number; and medical or disability information that is contained in any driver license record, motor vehicle record, or any department record, including traffic collision reports, are restricted 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; 18 USC § 2722).
- (b) Social Security numbers (Government Code § 7922.200).
- (c) Personnel records, medical records, and similar records that would involve an unwarranted invasion of personal privacy except as allowed by law (Government Code § 7927.700; Penal Code § 832.7; Penal Code § 832.8; Evidence Code § 1043 et seq.).
  1. Peace officer personnel records that are deemed confidential shall not be made public or otherwise released to unauthorized individuals or entities absent a valid court order.
  2. 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.
- (d) Victim information that may be protected by statutes, including victims of certain crimes who have requested that their identifying information be kept confidential, victims who are minors, and victims of certain offenses (e.g., sex crimes or human trafficking (Penal Code § 293)). Addresses and telephone numbers of a victim or a witness shall not be disclosed to any arrested person or to any person who may be a defendant in a criminal action unless it is required by law (Government Code § 7923.615; Penal Code § 841.5).
  1. Victims of certain offenses (e.g., domestic violence, sexual assault, stalking, human trafficking, elder and dependent adult abuse) or their representatives shall be provided, upon request and without charge, one copy of all incident report face sheets, one copy of all incident reports, a copy of any accompanying

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- or related photographs of the victim's injuries, property damage, or any other photographs that are noted in the incident report, and a copy of 9-1-1 recordings, if any, pursuant to the requirements and time frames of Family Code § 6228.
2. Victims of sexual assault, upon written request, shall be provided a free copy of the initial crime report regardless of whether the report has been closed. Personal identifying information may be redacted (Penal Code § 680.2(b)).
- (e) Video or audio recordings created during the commission or investigation of the crime of rape, incest, sexual assault, domestic violence, or child abuse that depicts the face, intimate body part, or voice of a victim of the incident except as provided by Government Code § 7923.750.
  - (f) 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. This includes analysis and conclusions of investigating officers (Evidence Code § 1041; Government Code § 7923.605).
    1. Absent a 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 § 7923.605.
  - (g) 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.
    1. All requests from criminal defendants and their authorized representatives (including attorneys) shall be referred to the [District/County Attorney], the City Attorney, or the courts pursuant to Penal Code § 1054.5.
  - (h) Certain types of reports involving but not limited to child abuse and molestation (Penal Code § 11167.5), elder and dependent abuse (Welfare and Institutions Code § 15633), and juveniles (Welfare and Institutions Code § 827).
  - (i) Sealed autopsy and private medical information concerning a murdered child 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).
  - (j) Information contained in applications for licenses to carry firearms or other files that indicates when or where the applicant is vulnerable or which contains medical or psychological information (Government Code § 7923.800).
  - (k) 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.
  - (l) Any record created exclusively in anticipation of potential litigation involving this department (Government Code § 7927.200).
  - (m) Any memorandum from legal counsel until the pending litigation has been adjudicated or otherwise settled (Government Code § 7927.205).

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- (n) Records relating to the security of the department's electronic technology systems (Government Code § 7929.210).
- (o) A record of a complaint, or the investigations, findings, or dispositions of that complaint if the complaint is frivolous, as defined by Code of Civil Procedure § 128.5, or if the complaint is unfounded (Penal Code § 832.7 (b)(9)).
- (p) 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 (Government Code § 7927.705).
- (q) Information connected with juvenile court proceedings or the detention or custody of a juvenile. Federal officials may be required to obtain a court order to obtain certain juvenile information (Welfare and Institutions Code § 827.9; Welfare and Institutions Code § 827.95; Welfare and Institutions Code § 831).

#### **805.6 RELEASE OF AUDIO OR VIDEO RECORDINGS RELATED TO CRITICAL INCIDENTS**

Video and audio recordings related to critical incidents shall be released upon a proper public record request and subject to delayed release, redaction, and other release restrictions as provided by law (Government Code § 7923.625).

For purposes of this section, a video or audio recording relates to a critical incident if it depicts an incident involving the discharge of a firearm at a person by an officer, or depicts an incident in which the use of force by an officer against a person resulted in death or in great bodily injury (as defined by Penal Code § 243(f)(4)) (Government Code § 7923.625).

The Custodian of Records should work as appropriate with the Chief of Police or the Professional Standards Unit supervisor in determining what recordings may qualify for disclosure when a request for a recording is received and if the requested recording is subject to delay from disclosure, redaction, or other release restrictions.

##### **805.6.1 DELAY OF RELEASE**

Disclosure of critical incident recordings during active criminal or administrative investigations may be delayed as follows if disclosure would substantially interfere with the investigation, such as by endangering the safety of a witness or a confidential source:

- (a) Disclosure may be delayed up to 45 days from the date the Department knew or reasonably should have known about the incident.
- (b) Delay of disclosure may continue after the initial 45 days and up to one year if the Department demonstrates that disclosure would substantially interfere with the investigation.
- (c) Any delay of disclosure longer than one year must be supported by clear and convincing evidence that disclosure would substantially interfere with the investigation (Government Code § 7923.625).

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#### 805.6.2 NOTICE OF DELAY OF RELEASE

When there is justification to delay disclosure of a recording, the Custodian of Records shall provide written notice to the requester as follows (Government Code § 7923.625):

- (a) During the initial 45 days, the Custodian of Records shall provide the requester with written notice of the specific basis for the determination that disclosure would substantially interfere with the investigation. The notice shall also include the estimated date for the disclosure.
- (a) When delay is continued after the initial 45 days, the Custodian of Records shall promptly provide the requester with written notice of the specific basis for the determination that the interest in preventing interference with an active investigation outweighs the public interest in the disclosure, and the estimated date for the disclosure. The Custodian of Records should work with the Chief of Police in reassessing the decision to continue withholding a recording and notify the requester every 30 days.

Recordings withheld shall be disclosed promptly when the specific basis for withholding the recording is resolved.

#### 805.6.3 REDACTION

If the Custodian of Records, in consultation with the Chief of Police or the authorized designee, determines that specific portions of the recording may violate the reasonable expectation of privacy of a person depicted in the recording, the Department should use redaction technology to redact portions of recordings made available for release. The redaction should not interfere with the viewer's ability to fully, completely, and accurately comprehend the events captured in the recording, and the recording should not otherwise be edited or altered (Government Code § 7923.625).

If any portions of a recording are withheld to protect the reasonable expectation of privacy of a person depicted in the recording, the Custodian of Records shall provide in writing to the requester the specific basis for the expectation of privacy and the public interest served (Government Code § 7923.625).

#### 805.6.4 RECORDINGS WITHHELD FROM PUBLIC DISCLOSURE

If the reasonable expectation of privacy of a person depicted in the recording cannot adequately be protected through redaction, and that interest outweighs the public interest in disclosure, the Department may withhold the recording from the public, except that the recording, either redacted or unredacted, shall be disclosed promptly, upon request, to any of the following (Government Code § 7923.625):

- (a) The person in the recording whose privacy is to be protected, or the person's authorized representative.
- (b) If the person is a minor, the parent or legal guardian of the person whose privacy is to be protected.

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- (c) If the person whose privacy is to be protected is deceased, an heir, beneficiary, designated immediate family member, or authorized legal representative of the deceased person whose privacy is to be protected.

If the Department determines that this disclosure would substantially interfere with an active criminal or administrative investigation, the Custodian of Records shall provide the requester with written notice of the specific basis for the determination and the estimated date of disclosure (Government Code § 7923.625).

The Department may continue to delay release of the recording from the public for 45 days with extensions as provided in this policy (Government Code § 7923.625).

#### **805.7 SUBPOENAS AND DISCOVERY REQUESTS**

Any member who receives a subpoena duces tecum or discovery request for records should promptly contact a supervisor and the Custodian of Records 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.

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the District Attorney, City Attorney or the courts.

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to legal counsel for the Department so that a timely response can be prepared.

#### **805.8 RELEASED RECORDS TO BE MARKED**

Each page of any written record released pursuant to this policy should be stamped in a colored ink or otherwise marked to indicate the department name and to whom the record was released.

Each audio/video recording released should include the department name and to whom the record was released.

#### **805.9 SEALED RECORD ORDERS**

Sealed record orders received by the Department shall be reviewed for appropriate action by the Custodian of Records. The Custodian of Records shall seal such records as ordered by the court. Records may include but are not limited to a record of arrest, investigation, detention, or conviction. Once the record is sealed, members shall respond to any inquiry as though the record did not exist (Penal Code § 851.8; Welfare and Institutions Code § 781).

When an arrest record is sealed pursuant to Penal Code § 851.87, Penal Code § 851.90, Penal Code § 851.91, Penal Code § 1000.4, or Penal Code § 1001.9, the Records Supervisor shall ensure that the required notations on local summary criminal history information and police investigative reports are made. Sealed records may be disclosed or used as authorized by Penal Code § 851.92.

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#### 805.9.1 SEALED JUVENILE ARREST RECORDS

Upon receiving notice from a probation department to seal juvenile arrest records pursuant to Welfare and Institutions Code § 786.5, the Records Supervisor should ensure that the records are sealed within 60 days of that notice and that the probation department is notified once the records have been sealed (Welfare and Institutions Code § 786.5).

#### **805.10 SECURITY BREACHES**

The Records Supervisor shall ensure notice is given anytime there is a reasonable belief an unauthorized person has acquired either unencrypted personal identifying information or encrypted personal information along with the encryption key or security credential stored in any Department information system (Civil Code § 1798.29).

Notice shall be given as soon as reasonably practicable to all individuals whose information may have been acquired. The notification may be delayed if the Department determines that notification will impede a criminal investigation or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

For the purposes of this requirement, personal identifying information includes an individual's first name or first initial and last name in combination with any one or more of the following (Civil Code § 1798.29):

- (a) Social Security number
  - 1. Driver license number, California identification card number, tax identification number, passport number, military identification number, or other unique identification number issued on a government document commonly used to verify the identity of a specific individual
  - 2. Account number or credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual's financial account
  - 3. Medical information
  - 4. Health insurance information
  - 5. Information or data collected by Automated License Plate Reader (ALPR) technology
  - 6. Unique biometric data
  - 7. Genetic data
- (b) A username or email address, in combination with a password or security question and answer that permits access to an online account

#### 805.10.1 FORM OF NOTICE

- (a) The notice shall be written in plain language, be consistent with the format provided in Civil Code § 1798.29 and include, to the extent possible, the following:
  - 1. The date of the notice.

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2. Name and contact information for the Indio Police Department.
  3. A list of the types of personal information that were or are reasonably believed to have been acquired.
  4. The estimated date or date range within which the security breach occurred.
  5. Whether the notification was delayed as a result of a law enforcement investigation.
  6. A general description of the security breach.
  7. The toll-free telephone numbers and addresses of the major credit reporting agencies, if the breach exposed a Social Security number or a driver license or California identification card number.
- (b) The notice may also include information about what the Indio Police Department has done to protect individuals whose information has been breached and may include information on steps that the person whose information has been breached may take to protect him/herself (Civil Code § 1798.29).
- (c) When a breach involves an online account, and only a username or email address in combination with either a password or security question and answer that would permit access to an online account, and no other personal information has been breached (Civil Code § 1798.29):
1. Notification may be provided electronically or in another form directing the person to promptly change either his/her password or security question and answer, as applicable, or to take other appropriate steps to protect the online account with the Department in addition to any other online accounts for which the person uses the same username or email address and password or security question and answer.
  2. When the breach involves an email address that was furnished by the Indio Police Department, notification of the breach should not be sent to that email address but should instead be made by another appropriate medium as prescribed by Civil Code § 1798.29.

#### 805.10.2 MANNER OF NOTICE

- (a) Notice may be provided by one of the following methods (Civil Code § 1798.29):
1. Written notice.
  2. Electronic notice if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 USC § 7001.
  3. Substitute notice if the cost of providing notice would exceed \$250,000, the number of individuals exceeds 500,000 or the Department does not have sufficient contact information. Substitute notice shall consist of all of the following:
    - (a) Email notice when the Department has an email address for the subject person.



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- (b) Conspicuous posting of the notice on the department's webpage for a minimum of 30 days.
- 4. Notification to major statewide media and the California Information Security Office within the California Department of Technology.
  - (b) If a single breach requires the Department to notify more than 500 California residents, the Department shall electronically submit a sample copy of the notification, excluding any personally identifiable information, to the Attorney General.

#### **805.11 HANDLING, TRANSPORTING AND DESTROYING DIGITAL & PHYSICAL MEDIA**

##### a. Storage Access

Department personnel shall store digital and physical media within physical secure and controlled areas. Access to digital and physical media is to be limited to authorized individuals. If physical and personnel restrictions are not feasible then the data should be encrypted.

##### b. Digital Media Transport

Only authorized employees shall transport media and shall protect and control said media when moving it from a controlled area to prevent any compromise of the data.

##### c. Physical Media Transport

Only authorized employees shall transport media (printed documents, photos, etc.) and shall protect and control said media at the same level as electronic form when moving it from a controlled area to prevent any compromise to the data.

## Records Bureau

### 806.1 PURPOSE AND SCOPE

This policy establishes the guidelines for the operational functions of the Indio Police Department Records Bureau. The policy addresses department file access and internal requests for case reports.

#### 806.1.1 NUMERICAL FILING SYSTEM

Case reports are filed numerically within the Records Bureau by Records Bureau personnel.

Reports are numbered commencing with the last two digits of the current year followed by two digits indicating the month, then a sequential number beginning with 0001 starting at midnight on the first day of each month. As an example, case number YYMM-0001 would be the first new case beginning January 1 of a new year.

#### 806.1.2 NUMBERING SYSTEMS

Reports are numbered commencing with the last two digits of the current year followed by two digits indicating the month, then a sequential number beginning with 0001 starting at midnight on the first day of each month. As an example, case number YYMM-0001 would be the first new case beginning January 1 of a new year.

### 806.2 POLICY

It is the policy of the Indio Police Department to maintain department records securely, professionally, and efficiently.

### 806.3 RESPONSIBILITIES

#### 806.3.1 RECORDS SUPERVISOR

The Chief of Police shall appoint and delegate certain responsibilities to a Records Supervisor. The Records Supervisor shall be directly responsible to the Chief Administrative Officer or the authorized designee.

The responsibilities of the Records Supervisor include but are not limited to:

- (a) Overseeing the efficient and effective operation of the Records Bureau.
- (b) Scheduling and maintaining Records Bureau time records.
- (c) Supervising, training, and evaluating Records Bureau staff.
- (d) Maintaining and updating a Records Bureau procedure manual.
- (e) Ensuring compliance with established policies and procedures.
- (f) Supervising the access, use, and release of protected information (see the Protected Information Policy).

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- (g) Establishing security and access protocols for case reports designated as sensitive, where additional restrictions to access have been implemented. Sensitive reports may include but are not limited to:
  - 1. Homicides.
  - 2. Cases involving department members or public officials.
  - 3. Any case where restricted access is prudent.

#### 806.3.2 RECORDS BUREAU

The responsibilities of the Records Bureau include but are not limited to:

- (a) Maintaining a records management system for case reports.
  - 1. The records management system should include a process for numbering, identifying, tracking, and retrieving case reports.
- (b) Entering case report information into the records management system.
  - 1. Modification of case reports shall only be made when authorized by a supervisor.
- (c) Providing members of the Department with access to case reports when needed for investigation or court proceedings.
- (d) Maintaining compliance with federal, state, and local regulations regarding reporting requirements of crime statistics. This includes reporting statistical data to the California Department of Justice (DOJ) for:
  - 1. All officer-involved shootings and incidents involving use of force resulting in serious bodily injury (Government Code § 12525.2).
  - 2. Suspected hate crimes (Penal Code § 13023).
  - 3. Complaints of racial bias against officers (Penal Code § 13012; Penal Code § 13020).
  - 4. Civilian complaints made against officers (Penal Code § 832.5; Penal Code § 13012).
  - 5. Stop data required by Government Code § 12525.5 and 11 CCR 999.226.
    - (a) The reported information must not contain personally identifiable information of the person stopped or other information exempt from disclosure pursuant to Government Code § 12525.5 (11 CCR 999.228).
  - 6. Anti-reproductive rights crime information required by Penal Code § 13777.
- (e) Maintaining compliance with federal, state, and local regulations regarding criminal history reports and auditing.
- (f) Identifying missing case reports and notifying the responsible member's supervisor.
- (g) Updating the Automated Firearms System to reflect any firearms relinquished to the Department and the subsequent disposition to the California DOJ pursuant to Penal Code § 34010 (Penal Code § 29810).

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- (h) Entering into the Automated Firearms System information about each firearm that has been reported stolen, lost, found, recovered, held for safekeeping, surrendered in relation to a private party firearms transaction or registration, relinquished pursuant to a court order, or under observation, within seven calendar days of the precipitating event (Penal Code § 11108.2).
- (i) Entering into the California DOJ automated property system descriptions of serialized property, or non-serialized property that has been uniquely inscribed, which has been reported stolen, lost, found, recovered, held for safekeeping, or under observation (Penal Code § 11108).
- (j) Maintaining compliance with quarterly California DOJ reporting requirements regarding the department's efforts to verify an individual listed in the Armed Prohibited Persons System is no longer in possession of a firearm (Penal Code § 29813).
- (k) Maintaining compliance with the state and California DOJ reporting requirements regarding the number of transfers of individuals to immigration authorities and offenses that allowed for the transfers (Government Code § 7284.6(c)(2)).
- (l) Transmitting data to the Joint Regional Information Exchange System on any suspected multi-mission extremist crimes.

#### **806.4 DETERMINATION OF FACTUAL INNOCENCE**

In any case where a person has been arrested by officers of the Indio Police Department and no accusatory pleading has been filed, the person arrested may petition the Department to destroy the related arrest records. Petitions should be forwarded to the Support Services Supervisor. The Support 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 Support Services Supervisor should forward the petition to the Major Crimes Unit or Street Crimes Unit Supervisor and the City Attorney for review. After such review and consultation with the City Attorney, the Major Crimes Unit or Street Crimes Unit Supervisor and the Support Services Supervisor shall decide whether a finding of factual innocence is appropriate.

Upon determination that a finding of factual innocence is appropriate, the Support 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 Support Services Supervisor should respond to a petition with the Department's decision within 45 days of receipt. Responses should include only the decision of the Department, not an explanation of the analysis leading to the decision.

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#### **806.5 ARREST WITHOUT FILING OF ACCUSATORY PLEADING**

The Support Services Division Chief should ensure a process is in place for when an individual is arrested and released and no accusatory pleading is filed so that the following occurs (Penal Code § 849.5; Penal Code § 851.6):

- (a) The individual is issued a certificate describing the action as a detention.
- (b) All references to an arrest are deleted from the arrest records of the Department and the record reflects only a detention.
- (c) The Bureau of Criminal Identification and Investigation of the Department of Justice is notified.

#### **806.6 FILE ACCESS AND SECURITY**

The security of files in the Records Bureau must be a high priority and shall be maintained as mandated by state or federal law. All case reports including but not limited to initial, supplemental, follow-up, evidence, and any other reports related to a police department case, including field interview (FI) cards, criminal history records, and publicly accessible logs, shall be maintained in a secure area within the Records Bureau, accessible only by authorized members of the Records Bureau. Access to case reports or files when Records Bureau staff is not available may be obtained through the Watch Commander.

The Records Bureau will also maintain a secure file for case reports deemed by the Chief of Police as sensitive or otherwise requiring extraordinary access restrictions.

#### **806.7 ORIGINAL CASE REPORTS**

Generally, original case reports shall not be removed from the Records Bureau. Should an original case report be needed for any reason, the requesting department member shall first obtain authorization from the Records Supervisor. All original case reports removed from the Records Bureau shall be recorded in the case tracking portion of the department's electronic report management system, which shall be the only authorized manner by which an original case report may be removed from the Records Bureau.

All original case reports to be removed from the Records Bureau shall be photocopied and the photocopy retained in the file location of the original case report until the original is returned to the Records Bureau. The photocopied report shall be shredded upon return of the original report to the file.

#### **806.8 CONFIDENTIALITY**

Records Bureau staff has access to information that may be confidential or sensitive in nature. Records Bureau staff shall not access, view or distribute, or allow anyone else to access, view or distribute any record, file or report, whether in hard copy or electronic file format, or any other confidential, protected or sensitive information except in accordance with the Records Maintenance and Release and Protected Information policies.

# 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 Indio 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 in the RMS property system that serial numbers have been removed or obliterated.

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#### **808.2.3 OFFICER RESPONSIBILITY**

The Property and Evidence 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.

#### **808.2.4 DOCUMENTATION**

Case reports are prepared in order to document the chain of custody and the initial examination and handling of evidence from the time it is received/collected until it is released.

This report must include a record of the manner in which and/or from whom the firearm was received. This may appear on the request form or property form depending on the type of evidence.

#### **808.2.5 FIREARM TRACE**

After the serial number has been restored (or partially restored) by the criminalistics laboratory, the Property and Evidence 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.

#### **808.3 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.

## Protected Information

### 812.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the access, transmission, release and security of protected information by members of the Indio Police Department. This policy addresses the protected information that is used in the day-to-day operation of the Department and not the public records information covered in the Records Maintenance and Release Policy.

#### 812.1.1 DEFINITIONS

Definitions related to this policy include:

**Protected information** - Any information or data that is collected, stored or accessed by members of the Indio Police Department and is subject to any access or release restrictions imposed by law, regulation, order or use agreement. This includes all information contained in federal, state or local law enforcement databases that is not accessible to the public.

### 812.2 POLICY

Members of the Indio Police Department will adhere to all applicable laws, orders, regulations, use agreements and training related to the access, use, dissemination and release of protected information.

### 812.3 RESPONSIBILITIES

The Chief of Police shall select a member of the Department to coordinate the use of protected information.

The responsibilities of this position include, but are not limited to:

- (a) Ensuring member compliance with this policy and with requirements applicable to protected information, including requirements for the National Crime Information Center (NCIC) system, National Law Enforcement Telecommunications System (NLETS), Department of Motor Vehicle (DMV) records and California Law Enforcement Telecommunications System (CLETS).
- (b) Developing, disseminating and maintaining procedures that adopt or comply with the U.S. Department of Justice's current Criminal Justice Information Services (CJIS) Security Policy.
- (c) Developing, disseminating and maintaining any other procedures necessary to comply with any other requirements for the access, use, dissemination, release and security of protected information.
- (d) Developing procedures to ensure training and certification requirements are met.
- (e) Resolving specific questions that arise regarding authorized recipients of protected information.
- (f) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.



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#### **812.4 ACCESS TO PROTECTED INFORMATION**

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Indio Police Department policy or training. Only those members who have completed applicable training and met any applicable requirements, such as a background check, may access protected information, and only when the member has a legitimate work-related reason for such access.

Unauthorized access, including access for other than a legitimate work-related purpose, is prohibited and may subject a member to administrative action pursuant to the Personnel Complaints Policy and/or criminal prosecution.

##### **812.4.1 PENALTIES FOR MISUSE OF RECORDS**

It is a misdemeanor to furnish, buy, receive or possess Department of Justice criminal history information without authorization by law (Penal Code § 11143).

Authorized persons or agencies violating state regulations regarding the security of Criminal Offender Record Information (CORI) maintained by the California Department of Justice may lose direct access to CORI (11 CCR 702).

#### **812.5 RELEASE OR DISSEMINATION OF PROTECTED INFORMATION**

Protected information may be released only to authorized recipients who have both a right to know and a need to know.

A member who is asked to release protected information that should not be released should refer the requesting person to a supervisor or to the Records Supervisor for information regarding a formal request.

Unless otherwise ordered or when an investigation would be jeopardized, protected information maintained by the Department may generally be shared with authorized persons from other law enforcement agencies who are assisting in the investigation or conducting a related investigation. Any such information should be released through the Records Bureau to ensure proper documentation of the release (see the Records Maintenance and Release Policy).

Protected information, such as Criminal Justice Information (CJI), which includes Criminal History Record Information (CHRI), should generally not be transmitted by radio, cellular telephone or any other type of wireless transmission to members in the field or in vehicles through any computer or electronic device, except in cases where there is an immediate need for the information to further an investigation or where circumstances reasonably indicate that the immediate safety of officers, other department members or the public is at risk.

Nothing in this policy is intended to prohibit broadcasting warrant information.

##### **812.5.1 REVIEW OF CRIMINAL OFFENDER RECORD**

Individuals requesting to review their own California criminal history information shall be referred to the Department of Justice (Penal Code § 11121).

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Individuals shall be allowed to review their arrest or conviction record on file with the Department after complying with all legal requirements regarding authority and procedures in Penal Code § 11120 through Penal Code § 11127 (Penal Code § 13321).

#### **812.6 SECURITY OF PROTECTED INFORMATION**

The Chief of Police will select a member of the Department to oversee the security of protected information.

The responsibilities of this position include, but are not limited to:

- (a) Developing and maintaining security practices, procedures and training.
- (b) Ensuring federal and state compliance with the CJIS Security Policy and the requirements of any state or local criminal history records systems.
- (c) Establishing procedures to provide for the preparation, prevention, detection, analysis and containment of security incidents including computer attacks.
- (d) Tracking, documenting and reporting all breach of security incidents to the Chief of Police and appropriate authorities.

##### **812.6.1 MEMBER RESPONSIBILITIES**

Members accessing or receiving protected information shall ensure the information is not accessed or received by persons who are not authorized to access or receive it. This includes leaving protected information, such as documents or computer databases, accessible to others when it is reasonably foreseeable that unauthorized access may occur (e.g., on an unattended table or desk; in or on an unattended vehicle; in an unlocked desk drawer or file cabinet; on an unattended computer terminal).

#### **812.7 TRAINING**

All members authorized to access or release protected information shall complete a training program that complies with any protected information system requirements and identifies authorized access and use of protected information, as well as its proper handling and dissemination.

#### **812.8 CALIFORNIA RELIGIOUS FREEDOM ACT**

Members shall not release personal information from any agency database for the purpose of investigation or enforcement of any program compiling data on individuals based on religious belief, practice, affiliation, national origin or ethnicity (Government Code § 8310.3).

## Computers and Digital Evidence

### 814.1 PURPOSE AND SCOPE

This policy establishes procedures for the seizure and storage of computers, personal communications devices (PCDs) digital cameras, digital recorders and other electronic devices that are capable of storing digital information; and for the preservation and storage of digital evidence. All evidence seized and/or processed pursuant to this policy shall be done so in compliance with clearly established Fourth Amendment and search and seizure provisions.

### 814.2 SEIZING COMPUTERS AND RELATED EVIDENCE

Computer equipment requires specialized training and handling to preserve its value as evidence. Officers should be aware of the potential to destroy information through careless or improper handling, and utilize the most knowledgeable available resources. When seizing a computer and accessories the following steps should be taken:

- (a) Photograph each item, front and back, specifically including cable connections to other items. Look for a phone line or cable to a modem for Internet access.
- (b) Do not overlook the possibility of the presence of physical evidence on and around the hardware relevant to the particular investigation such as fingerprints, biological or trace evidence, and/or documents.
- (c) If the computer is off, do not turn it on.
- (d) If the computer is on, do not shut it down normally and do not click on anything or examine any files.
  1. Photograph the screen, if possible, and note any programs or windows that appear to be open and running.
  2. Disconnect the power cable from the back of the computer box or if a portable notebook style, disconnect any power cable from the case and remove the battery).
- (e) Label each item with case number, evidence sheet number, and item number.
- (f) Handle and transport the computer and storage media (e.g., tape, discs, memory cards, flash memory, external drives) with care so that potential evidence is not lost.
- (g) Lodge all computer items in the Property Room. Do not store computers where normal room temperature and humidity is not maintained.
- (h) At minimum, officers should document the following in related reports:
  1. Where the computer was located and whether or not it was in operation.
  2. Who was using it at the time.
  3. Who claimed ownership.

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4. If it can be determined, how it was being used.
  - (i) In most cases when a computer is involved in criminal acts and is in the possession of the suspect, the computer itself and all storage devices (hard drives, tape drives, and disk drives) should be seized along with all media. Accessories (printers, monitors, mouse, scanner, keyboard, cables, software and manuals) should not be seized unless as a precursor to forfeiture.

#### **814.2.1 BUSINESS OR NETWORKED COMPUTERS**

If the computer belongs to a business or is part of a network, it may not be feasible to seize the entire computer. Cases involving networks require specialized handling. Officers should contact a certified forensic computer examiner for instructions or a response to the scene. It may be possible to perform an on-site inspection, or to image the hard drive only of the involved computer. This should only be done by someone specifically trained in processing computers for evidence.

#### **814.2.2 FORENSIC EXAMINATION OF COMPUTERS**

If an examination of the contents of the computer's hard drive, or floppy disks, compact discs, or any other storage media is required, forward the following items to a computer forensic examiner:

- (a) Copy of report(s) involving the computer, including the Evidence/Property sheet.
- (b) Copy of a consent to search form signed by the computer owner or the person in possession of the computer, or a copy of a search warrant authorizing the search of the computer hard drive for evidence relating to investigation.
- (c) A listing of the items to search for (e.g., photographs, financial records, e-mail, documents).
- (d) An exact duplicate of the hard drive or disk will be made using a forensic computer and a forensic software program by someone trained in the examination of computer storage devices for evidence.

#### **814.3 SEIZING DIGITAL STORAGE MEDIA**

Digital storage media including hard drives, floppy discs, CD's, DVD's, tapes, memory cards, or flash memory devices should be seized and stored in a manner that will protect them from damage.

- (a) If the media has a write-protection tab or switch, it should be activated.
- (b) Do not review, access or open digital files prior to submission. If the information is needed for immediate investigation request the Property and Evidence Section to copy the contents to an appropriate form of storage media.
- (c) Many kinds of storage media can be erased or damaged by magnetic fields. Keep all media away from magnetic devices, electric motors, radio transmitters or other sources of magnetic fields.

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- (d) Do not leave storage media where they would be subject to excessive heat such as in a parked vehicle on a hot day.
- (e) Use plastic cases designed to protect the media, or other protective packaging, to prevent damage.

#### **814.4 SEIZING PCDS**

Personal communication devices such as cell phones, PDAs or other hand-held devices connected to any communication network must be handled with care to preserve evidence that may be on the device including messages, stored data and/or images.

- (a) Officers should not attempt to access, review or search the contents of such devices prior to examination by a forensic expert. Unsent messages can be lost, data can be inadvertently deleted and incoming messages can override stored messages.
- (b) Do not turn the device on or off. The device should be placed in a solid metal container such as a paint can or in a faraday bag, to prevent the device from sending or receiving information from its host network.
- (c) When seizing the devices, also seize the charging units and keep them plugged in to the chargers until they can be examined. If the batteries go dead all the data may be lost.

#### **814.5 DIGITAL EVIDENCE RECORDED BY OFFICERS**

Officers handling and submitting recorded and digitally stored evidence from digital cameras and audio or video recorders will comply with these procedures to ensure the integrity and admissibility of such evidence.

##### **814.5.1 COLLECTION OF DIGITAL EVIDENCE**

Once evidence is recorded it shall not be erased, deleted or altered in any way prior to submission. All photographs taken will be preserved regardless of quality, composition or relevance. Video and audio files will not be altered in any way.

##### **814.5.2 SUBMISSION OF DIGITAL MEDIA**

The following are required procedures for the submission of digital media used by cameras or other recorders:

- (a) The recording media (smart card, compact flash card or any other media) shall either be downloaded by the submitting officer into the Department's storage medium (currently DIMS) or be brought to the Property and Evidence Bureau as soon as possible for submission into evidence.
- (b) Officers are not authorized to review or copy memory cards prior to downloading them into the DIMS System. The evidence technicians are the only employees authorized to copy and/or distribute digital media made from the memory cards. After first downloading the evidence into the DIMS System, detectives are authorized to

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download a copy set of photos/recordings to their personal folders on the network drive for investigative purposes with the understanding that such photos/recordings will be deleted from their folder once the case has been adjudicated. Officers should only erase the original memory card after they are sure the contents have been properly transferred into the DIMS System.

- (c) As soon as possible following the collection of evidence, the camera operator is to remove the memory card from their digital camera and place the card into a plastic carrier. If the operator is not going to personally download the card into the DIMS System, the card and carrier are to be placed into a coin envelope. The camera operator shall write their name, the related case number and RMS Evidence number on the outside of the envelope before placing in the film drop box along with the evidence form.
- (d) Evidence technicians will transfer the contents of the memory card to the appropriate storage media. Once they have verified that the images properly transferred to the storage media, the technicians will erase the memory card for re-use. The storage media will be marked as the original.
- (e) Officers requiring a copy of the digital files must request a copy in writing to the Property & Evidence Bureau.

#### 814.5.3 DOWNLOADING OF DIGITAL FILES

Digital information such as video or audio files recorded on devices using internal memory must be downloaded to storage media. The following procedures are to be followed:

- (a) Files should not be opened or reviewed prior to downloading and storage.
- (b) Where possible, the device should be connected to a computer and the files accessed directly from the computer directory or downloaded to a folder on the host computer for copying to the storage media.

#### 814.5.4 PRESERVATION OF DIGITAL EVIDENCE

- (a) Only evidence technicians are authorized to copy original digital media that is held as evidence. The original digital media shall remain in evidence and shall remain unaltered.
- (b) Digital images that are enhanced to provide a better quality photograph for identification and investigative purposes must only be made from a copy of the original media.
- (c) If any enhancement is done to the copy of the original, it shall be noted in the corresponding incident report.

## Animal Control

### 820.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for Indio Police Department personnel in dealing with animal control related calls-for-service and to set forth procedures regarding the utilization and notification of contracted animal control services, the handling of injured animals, and the abatement of animal nuisances.

### 820.2 ANIMAL CONTROL OFFICER RESPONSIBILITY

The City of Indio contracts all animal control and animal shelter related services to The County of Riverside Department of Animal Services (DAS). The duties, actions and performance of County of Riverside Department of Animal Services staff are governed by their own established policies and guidelines.

### 820.3 OFFICER RESPONSIBILITY

During hours when the DAS Animal Control Officer is off-duty, or if the DAS Animal Control Officer is otherwise unavailable, the following animal related calls-for-service will be handled by the appropriate on-duty officer.

Officers may be dispatched to animal related calls and should take appropriate actions to control the situation until the arrival of a DAS Animal Control Officer. Due to the hazards of handling animals without proper equipment, responding officers generally should not attempt to capture and pick-up any animal, but should keep the animal under observation until the arrival of the DAS Animal Control Officer. The following are examples of when an officer may consider acting before the arrival of the DAS Animal Control Officer:

- a. When there is an immediate threat or danger to the public safety.
- b. When animal has bitten someone, officers should take measures to confine the animal and prevent further injury.
- c. When an animal is creating a traffic hazard.
- d. When the owner/handler has been arrested and there is no other alternative placement for the animal.
- e. When the animal is gravely injured.

#### 820.3.1 ANIMAL CRUELTY COMPLAINTS

Officers shall conduct a preliminary investigation on all reports of in-progress animal cruelty calls-for service. A notification and request for a DAS Animal Control Officer shall be made and any information forwarded for follow-up. Officers shall not hesitate to take any immediate actions deemed necessary. The DAS shall assume the investigation when appropriate for the purpose of investigating, handling the disposition of any animal(s) associated with the case, and criminal filing with the District Attorney's Office.

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#### 820.3.2 STRAY DOGS

Information related to stay animals shall be forwarded to The Riverside County Department of Animal Services.

#### 820.3.3 ANIMAL BITE REPORTS

The Riverside County Department of Animal Services will handle animal bite calls-for-service. However, if the animal is running loose, causing a threat to the public, then the officer shall make every effort to capture and secure the animal immediately until the arrival of a DAS Animal Control Officer.

#### 820.3.4 PUBLIC NUISANCE CALLS RELATING TO ANIMALS

All calls-for-service related to animals causing an ongoing disturbance shall be handled by The Riverside County Department of Animal Services. If the animal is causing an immediate disturbance, reaching the level of a "Disturbing the Peace" call-for-service, an officer may be dispatched to respond and attempt to resolve the matter. The information shall be forwarded to The Riverside County Department of Animal Services for follow-up and documentation.

#### **820.4 DECEASED ANIMALS**

Deceased animals on public property will be removed and properly disposed of by The Riverside County Department of Animal Services. If the deceased animal is located in a public place and poses an immediate threat, danger, or in the interest of the public, Officers may place the deceased animal in a sealed plastic bag and place in an appropriate location until the DAS Animal Control Officer responds to take possession of the carcass.

#### **820.5 INJURED ANIMALS**

The Riverside County Department of Animal Services will be notified and handle injured animal calls. If the DAS is off-duty and any injured domesticated animal is brought to the attention of a member of this agency, The Riverside County Department of Animal Services on-call shall be notified and requested to respond.



## Chapter 9 - Custody

## Temporary Custody of Adults

### 900.1 PURPOSE AND SCOPE

This policy provides guidelines to address the health and safety of adults taken into temporary custody by members of the Indio Police Department for processing prior to being released or transferred to a housing or other type of facility.

Temporary custody of juveniles is addressed in the Temporary Custody of Juveniles Policy. Juveniles will not be permitted where adults in custody are being held.

Custodial searches are addressed in the Custodial Searches Policy.

#### 900.1.1 DEFINITIONS

Definitions related to this policy include:

**Holding cell/cell** - Any locked enclosure for the custody of an adult or any other enclosure that prevents the occupants from being directly visually monitored at all times by a member of the Department.

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

**Temporary custody** - The time period an adult is in custody at the Indio Police Department prior to being released or transported to a housing or other type of facility.

### 900.2 POLICY

The Indio Police Department is committed to releasing adults from temporary custody as soon as reasonably practicable, and to keeping adults safe while in temporary custody at the Department. Adults should be in temporary custody only for as long as reasonably necessary for investigation, processing, transfer or release.

### 900.3 GENERAL CRITERIA AND SUPERVISION

No adult should be in temporary custody for longer than six hours. Exceptions to the general six hour rule can be made with supervisory approval in instances where a legitimate law enforcement purpose exists (e.g., complex investigations such as rapes, homicides, or situations where the County Jail may temporarily not be accepting prisoners for booking, etc.).

#### 900.3.1 INDIVIDUALS WHO SHOULD NOT BE IN TEMPORARY CUSTODY

Individuals who exhibit certain behaviors or conditions should not be in temporary custody at the Indio Police Department, but should be transported to a jail facility, a medical facility, or another type of facility as appropriate. These include:

- (a) Any individual who is unconscious or has been unconscious while being taken into custody or while being transported.

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- (b) Any individual who has a medical condition, including pregnancy, that may require medical attention, supervision, or medication while he/she is in temporary custody.
- (c) Any individual who is seriously injured.
- (d) Individuals who are a suspected suicide risk (see the Mental Illness Commitments Policy).
  - 1. If the officer taking custody of an individual believes that he/she may be a suicide risk, the officer shall ensure continuous direct supervision until evaluation, release, or a transfer to an appropriate facility is completed (15 CCR 1030).
- (e) Individuals who are obviously in crisis, as defined in the Crisis Intervention Incidents Policy.
- (f) Individuals who are under the influence of alcohol, a controlled substance, or any substance to the degree that may require medical attention, or who have ingested any substance that poses a significant risk to their health, whether or not they appear intoxicated.
- (g) Any individual who has exhibited extremely violent or continuously violent behavior including behavior that results in the destruction of property or demonstrates an intent to cause physical harm to him/herself or others (15 CCR 1053; 15 CCR 1055).
- (h) Any individual who claims to have, is known to be afflicted with, or displays symptoms of any communicable disease that poses an unreasonable exposure risk (15 CCR 1051).
- (i) Any individual with a prosthetic or orthopedic device where removal of the device would be injurious to his/her health or safety.
- (j) Any individual who is obviously developmentally disabled (15 CCR 1057).
- (k) Any individual who appears to be a danger to him/herself or others due to a mental disorder, or who appears gravely disabled (15 CCR 1052).
- (l) Any individual who needs restraint beyond the use of handcuffs or shackles for security reasons (15 CCR 1058).
- (m) Any individual obviously suffering from drug or alcohol withdrawal (15 CCR 1213).

Officers taking custody of a person who exhibits any of the above conditions should notify a supervisor of the situation. These individuals should not be in temporary custody at the Department unless they have been evaluated by a qualified medical or mental health professional, as appropriate for the circumstances.

#### 900.3.2 SUPERVISION IN TEMPORARY CUSTODY

An authorized department member capable of supervising shall be present at all times when an individual is held in temporary custody. The member responsible for supervising should not have other duties that could unreasonably conflict with his/her supervision. Any individual in custody must be able to summon the supervising member if needed. If the person in custody is deaf or hard of hearing or cannot speak, accommodations shall be made to provide this ability (15 CCR 1027).

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At least one female department member should be present when a female adult is in temporary custody. In the event that none is readily available, the female in custody should be transported to another facility or released pursuant to another lawful process (15 CCR 1027).

Absent exigent circumstances, such as a medical emergency or a violent subject, members should not enter the cell of a person of the opposite sex unless a member of the same sex as the person in custody is present (Penal Code § 4021).

No individual in custody shall be permitted to supervise, control or exert any authority over other individuals in custody.

#### **900.3.3 STAFFING PLAN**

The Chief of Police or the authorized designee shall ensure a staffing plan is prepared and maintained, indicating assigned personnel and their duties. The plan should ensure that at least one member who meets the training standards established by the Board of State and Community Corrections (BSCC) for general fire- and life-safety and is trained in fire- and life-safety procedures relating specifically to the facility is on-duty at all times (15 CCR 1028).

The staffing plan shall be available for biennial review by BSCC staff. The review and recommendations of the BSCC biennial review shall be forwarded to the City, as required by 15 CCR 1027.

#### **900.3.4 ENTRY RESTRICTIONS**

Entry into any location where a person is held in custody should be restricted to:

- (a) Authorized members entering for official business purposes.
- (b) Emergency medical personnel when necessary.
- (c) Any other person authorized by the Watch Commander.

When practicable, more than one authorized member should be present for entry into a location where a person is held in custody for security purposes and to witness interactions.

#### **900.4 WATCH COMMANDER RESPONSIBILITY**

The following considerations shall be made regarding all adult arrestees:

- (a) Review each probable cause declaration to ensure that evidence to support the arrestee's detention is clearly specified in the narrative.

##### **900.4.1 RESPONSIBILITY FOR CUSTODY**

(a). Until the arrestee is delivered to the RSO Jail and the booking form and the probable cause declaration has been completed, their care and custody shall be the responsibility of the arresting officer.

(b). If the arresting officer does not deliver the arrestee to the jailer, the responsibility for the care and custody of the arrestee shall be that of the transporting officer.

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(c). After an arrestee is delivered to the jail, property removed, searched, and booking form approved by the RSO jail watch commander, the care and custody of the arrestee shall be the responsibility of the jailer, pending transfer of custody to another proper authority.

#### **900.5 INITIATING TEMPORARY CUSTODY**

The officer responsible for an individual in temporary custody should evaluate the person for any apparent chronic illness, disability, vermin infestation, possible communicable disease or any other potential risk to the health or safety of the individual or others. The officer should specifically ask if the individual is contemplating suicide and evaluate him/her for obvious signs or indications of suicidal intent.

The receiving officer should ask the arresting officer if there is any statement, indication or evidence surrounding the individual's arrest and transportation that would reasonably indicate the individual is at risk for suicide or critical medical care. If there is any suspicion that the individual may be suicidal, he/she shall be transported to the county jail or the appropriate mental health facility.

The officer should promptly notify the Watch Commander of any conditions that may warrant immediate medical attention or other appropriate action. The Watch Commander shall determine whether the individual will be placed in a cell, immediately released or transported to jail or other facility.

#### **900.5.1 SCREENING AND PLACEMENT**

The officer responsible for an individual in custody shall (15 CCR 1050):

- (a) Advise the Watch Commander of any significant risks presented by the individual (e.g., suicide risk, health risk, violence).
- (b) Evaluate the following issues against the stated risks in (a) to determine the need for placing the individual in a single cell:
  1. Consider whether the individual may be at a high risk of being sexually abused based on all available known information (28 CFR 115.141), or whether the person is facing any other identified risk.
  2. Provide any individual identified as being at a high risk for sexual or other victimization with heightened protection. This may include (28 CFR 115.113; 28 CFR 115.141):
    - (a) Continuous, direct sight and sound supervision.
    - (b) Single-cell placement in a cell that is actively monitored on video by a member who is available to immediately intervene.
  3. Ensure individuals are separated according to severity of the crime (e.g., felony or misdemeanor).
  4. Ensure males and females are separated by sight and sound when in cells.
  5. Ensure restrained individuals are not placed in cells with unrestrained individuals.

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- (c) Ensure that those confined under civil process or for civil causes are kept separate from those who are in temporary custody pending criminal charges.
- (d) Ensure separation, as appropriate, based on other factors, such as age, criminal sophistication, assaultive/non-assaultive behavior, mental state, disabilities and sexual orientation.

#### 900.5.2 CONSULAR NOTIFICATION

Consular notification may be mandatory when certain foreign nationals are arrested. The Field Services Division Chief will ensure that the U.S. Department of State's list of countries and jurisdictions that require mandatory notification is readily available to department members. There should also be a published list of foreign embassy and consulate telephone and fax numbers, as well as standardized notification forms that can be transmitted and then retained for documentation. Prominently displayed signs informing foreign nationals of their rights related to consular notification should also be posted in areas used for the temporary custody of adults.

Department members assigned to process a foreign national shall:

- (a) Inform the individual, without delay, that he/she may have his/her consular officers notified of the arrest or detention and may communicate with them.
  - 1. This notification should be documented.
- (b) Determine whether the foreign national's country is on the U.S. Department of State's mandatory notification list.
  - 1. If the country is on the mandatory notification list, then:
    - (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
    - (b) Tell the individual that this notification has been made and inform him/her without delay that he/she may communicate with consular officers.
    - (c) Forward any communication from the individual to his/her consular officers without delay.
    - (d) Document all notifications to the embassy or consulate and retain the faxed notification and any fax confirmation for the individual's file.
  - 2. If the country is not on the mandatory notification list and the individual requests that his/her consular officers be notified, then:
    - (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
    - (b) Forward any communication from the individual to his/her consular officers without delay.

#### 900.6 SAFETY, HEALTH AND OTHER PROVISIONS

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#### 900.6.1 TEMPORARY CUSTODY LOGS

Any time an individual is in temporary custody at the Indio Police Department, the custody shall be promptly and properly documented in a custody log, including:

- (a) Identifying information about the individual, including his/her name.
- (b) Date and time of arrival at the Department.
- (c) Any charges for which the individual is in temporary custody and any case number.
- (d) Time of all safety checks (15 CCR 1027; 15 CCR 1027.5).
- (e) Any medical and other screening requested and completed.
- (f) Any emergency situations or unusual incidents.
- (g) Any other information that may be required by other authorities, such as compliance inspectors.
- (h) Date and time of release from the Indio Police Department.

The Watch Commander should initial the log to approve the temporary custody and should also initial the log when the individual is released from custody or transferred to another facility.

The Watch Commander should make periodic checks to ensure all log entries and safety and security checks are made on time.

#### 900.6.2 TEMPORARY CUSTODY REQUIREMENTS

Members monitoring or processing anyone in temporary custody shall ensure:

- (a) Safety checks and significant incidents/activities are noted on the log.
- (b) Individuals in custody are informed that they will be monitored at all times, except when using the toilet.
  - 1. There shall be no viewing devices, such as peep holes or mirrors, of which the individual is not aware.
  - 2. This does not apply to surreptitious and legally obtained recorded interrogations.
- (c) There is reasonable access to toilets and wash basins.
- (d) There is reasonable access to a drinking fountain or water.
- (e) There are reasonable opportunities to stand and stretch, particularly if handcuffed or otherwise restrained.
- (f) There is privacy during attorney visits.
- (g) Those in temporary custody are generally permitted to remain in their personal clothing unless it is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody.
- (h) Clean blankets are provided as reasonably necessary to ensure the comfort of an individual.
  - 1. The supervisor should ensure that there is an adequate supply of clean blankets.

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- (i) Adequate shelter, heat, light and ventilation are provided without compromising security or enabling escape.
- (j) Adequate furnishings are available, including suitable chairs or benches.

#### 900.6.3 MEDICAL CARE

First-aid equipment and basic medical supplies should be available to department members (15 CCR 1220). At least one member who has current certification in basic first aid and CPR should be on-duty at all times.

Should a person in custody be injured or become ill, appropriate medical assistance should be sought. A supervisor should meet with those providing medical aid at the facility to allow access to the person. Members shall comply with the opinion of medical personnel as to whether an individual in temporary custody should be transported to the hospital. If the person is transported while still in custody, he/she will be accompanied by an officer.

Those who require medication while in temporary custody should not be at the Indio Police Department. They should be released or transferred to another facility as appropriate.

#### 900.6.4 ORTHOPEDIC OR PROSTHETIC APPLIANCE

Subject to safety and security concerns, individuals shall be permitted to retain an orthopedic or prosthetic appliance. However, if the member supervising the individual has probable cause to believe the possession of the appliance presents a risk of bodily harm to any person or is a risk to the security of the facility, the appliance may be removed from the individual unless its removal would be injurious to his/her health or safety.

Whenever a prosthetic or orthopedic appliance is removed, the Watch Commander shall be promptly apprised of the reason. It shall be promptly returned when it reasonably appears that any risk no longer exists (Penal Code § 2656; 15 CCR 1207).

#### 900.6.5 TELEPHONE CALLS

Immediately upon being booked and, except where physically impossible, no later than three hours after arrest, an individual in custody has the right to make at least three completed calls to an attorney, bail bondsman, and a relative or other person (Penal Code § 851.5). Additional calls may be made as reasonable and necessary (15 CCR 1067). In providing further access to a telephone beyond that required by Penal Code § 851.5, legitimate law enforcement interests such as officer safety, effect on ongoing criminal investigations and logistics should be balanced against the individual's desire for further telephone access.

- (a) Telephone calls may be limited to local calls, except that long-distance calls may be made by the individual at his/her own expense.
  1. The Department should pay the cost of any long-distance calls related to arranging for the care of a child or dependent adult (see the Child and Dependent Adult Safety Policy).
  2. The provisions of Penal Code § 851.5 concerning this issue shall be posted in bold, block type in a conspicuous place within the facility.



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- (b) The individual should be given sufficient time to contact whomever he/she desires and to make any necessary arrangements, including child or dependent adult care, or transportation upon release.
  - 1. Telephone calls are not intended to be lengthy conversations. The member assigned to monitor or process the individual may use his/her judgment in determining the duration of the calls.
  - 2. Within three hours of the arrest, the member supervising the individual should inquire whether the individual is a custodial parent with responsibility for a minor child, and notify the individual that he/she may make two additional telephone calls to a relative or other person for the purpose of arranging for the care of minor children (Penal Code § 851.5).
- (c) Calls between an individual in temporary custody and his/her attorney shall be deemed confidential and shall not be monitored, eavesdropped upon or recorded (Penal Code § 851.5(b)(1); 15 CCR 1068).

#### 900.6.6 RELIGIOUS ACCOMMODATION

Subject to available resources, safety and security, the religious beliefs and needs of all individuals in custody should be reasonably accommodated (15 CCR 1072). Requests for religious accommodation should generally be granted unless there is a compelling security or safety reason and denying the request is the least restrictive means available to ensure security or safety. The responsible supervisor should be advised any time a request for religious accommodation is denied.

Those who request to wear headscarves or simple head coverings for religious reasons should generally be accommodated absent unusual circumstances. Head coverings shall be searched before being worn.

Individuals wearing headscarves or other approved coverings shall not be required to remove them while in the presence of or while visible to the opposite sex if they so desire. Religious garments that substantially cover the individual's head and face may be temporarily removed during the taking of any photographs.

#### 900.6.7 FIREARMS AND OTHER SECURITY MEASURES

Firearms and other weapons and control devices shall not be permitted in secure areas where individuals are in custody or are processed. They should be properly secured outside of the secure area. An exception may occur only during emergencies, upon approval of a supervisor.

#### 900.6.8 REPORTING PHYSICAL HARM OR SERIOUS THREAT OF PHYSICAL HARM

In addition to a custody log entry, any incident that results in physical harm or serious threat of physical harm to a member, person in custody or any other person shall be documented as stated in the Use of Force or On-Duty Injuries policies, or other applicable reporting process. A copy of all reports generated regarding the above circumstances shall be submitted as soon as reasonably practicable. The Watch Commander will retain a record of these reports for inspection purposes (15 CCR 1044).

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#### 900.6.9 ATTORNEYS AND BAIL BONDSMEN

- (a) An attorney may visit at the request of the individual in custody or a relative (Penal Code § 825).
- (b) Attorneys and bail bondsmen who need to interview an individual in custody should do so inside a secure interview room.
- (c) The individual in custody as well as the attorney or bail bondsman should be searched for weapons prior to being admitted to the interview room and at the conclusion of the interview.
- (d) Attorneys must produce a current California Bar card as well as other matching appropriate identification.
- (e) Interviews between attorneys and their clients shall not be monitored or recorded (15 CCR 1068).

#### 900.6.10 DISCIPLINE

Discipline will not be administered to any individual in custody at this facility. Any individual in custody who repeatedly fails to follow directions or facility rules should be transported to the appropriate jail, mental health facility or hospital as soon as practicable. Such conduct should be documented and reported to the receiving facility (15 CCR 1081).

#### **900.7 USE OF RESTRAINT DEVICES**

Individuals in custody may be handcuffed in accordance with the Handcuffing and Restraints Policy. Unless an individual presents a heightened risk, handcuffs should generally be removed when the person is in a cell.

The use of restraints, other than handcuffs or leg irons, generally should not be used for individuals in temporary custody at the Indio Police Department unless the person presents a heightened risk, and only in compliance with the Handcuffing and Restraints Policy.

Individuals in restraints shall be kept away from other unrestrained individuals in custody and monitored to protect them from abuse.

#### 900.7.1 PREGNANT ADULTS

Women who are known to be pregnant should be restrained in accordance with the Handcuffing and Restraints Policy.

#### **900.8 PERSONAL PROPERTY**

The personal property of an individual in temporary custody should be removed, inventoried and processed as provided in the Custodial Searches Policy, unless the individual requests a different disposition. For example, an individual may request property (i.e., cash, car or house keys, medications) be released to another person. A request for the release of property to another person must be made in writing. Release of the property requires the recipient's signature on the appropriate form.

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Upon release of an individual from temporary custody, his/her items of personal property shall be compared with the inventory, and he/she shall sign a receipt for the property's return. If the individual is transferred to another facility or court, the member transporting the individual is required to obtain the receiving person's signature as notice of receipt. The Department shall maintain a copy of the property receipt.

The Watch Commander shall be notified whenever an individual alleges that there is a shortage or discrepancy regarding his/her property. The Watch Commander shall attempt to prove or disprove the claim.

#### **900.9 HOLDING CELLS**

A thorough inspection of a cell shall be conducted before placing an individual into the cell to ensure there are no weapons or contraband and that the cell is clean and sanitary. An inspection also should be conducted when he/she is released. Any damage noted to the cell should be photographed and documented.

The following requirements shall apply:

- (a) The individual shall be searched (see the Custodial Searches Policy), and anything that could create a security or suicide risk, such as contraband, hazardous items, belts, shoes or shoelaces and jackets, shall be removed.
- (b) The individual shall constantly be monitored by an audio/video system during the entire custody.
- (c) The individual shall have constant auditory access to department members.
- (d) The individual's initial placement into and removal from a locked enclosure shall be logged.
- (e) Safety checks by department members shall occur on a regular basis.
  1. Safety checks should be at varying times.
  2. The safety check should involve questioning the individual as to his/her wellbeing.
  3. Individuals who are sleeping or apparently sleeping should be awakened.
  4. Requests or concerns of the individual should be addressed if reasonable.

#### **900.10 SUICIDE ATTEMPT, DEATH, OR SERIOUS INJURY**

The Field Services Division Chief will ensure procedures are in place to address any suicide attempt, death, or serious injury of any individual in temporary custody at the Indio Police Department. The procedures should include the following:

- (a) Immediate request for emergency medical assistance if appropriate
- (b) Immediate notification of the Watch Commander, Chief of Police, and Investigative Services Division Chief
- (c) Notification of the spouse, next of kin, or other appropriate person
- (d) Notification of the appropriate prosecutor

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- (e) Notification of the City Attorney
- (f) Notification of the Coroner
- (g) Evidence preservation
- (h) In-custody death review reports in compliance with 15 CCR 1046
  - 1. A copy of the initial review report of an in-custody death shall be provided to the BSCC within 60 days of the death.
- (i) Preparation of a written report to the Attorney General within 10 days of any death in custody including any reasonably known facts concerning the death (Government Code § 12525)
  - 1. A copy of the report submitted to the Attorney General shall also be submitted to the BSCC within 10 days of the death (15 CCR 1046).

#### **900.11 RELEASE AND/OR TRANSFER**

When an individual is released or transferred from custody, the member releasing the individual should ensure the following:

- (a) All proper reports, forms and logs have been completed prior to release.
- (b) A check has been made to ensure that the individual is not reported as missing and does not have outstanding warrants.
- (c) It has been confirmed that the correct individual is being released or transported.
- (d) All property, except evidence, contraband or dangerous weapons, has been returned to, or sent with, the individual.
- (e) All pertinent documentation accompanies the individual being transported to another facility (e.g., copies of booking forms, medical records, an itemized list of his/her property, warrant copies).
- (f) The individual is not permitted in any nonpublic areas of the Indio Police Department unless escorted by a member of the Department.
- (g) Any known threat or danger the individual may pose (e.g., escape risk, suicide potential, medical condition) is documented, and the documentation transported with the individual if he/she is being sent to another facility.
  - 1. The department member transporting the individual shall ensure such risks are communicated to intake personnel at the other facility.
- (h) Generally, persons of the opposite sex, or adults and juveniles, should not be transported in the same vehicle unless they are physically separated by a solid barrier. If segregating individuals is not practicable, officers should be alert to inappropriate physical or verbal contact and take appropriate action as necessary.

#### **900.11.1 FORM REQUEST FOR PETITION TO SEAL RECORDS**

Upon request, a detained arrestee released from custody shall be provided with the appropriate Judicial Council forms to petition the court to have the arrest and related records sealed (Penal Code § 851.910).

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The Department shall display the required signage that complies with Penal Code § 851.91 advising an arrestee of the right to obtain the Judicial Council forms.

#### **900.12 ASSIGNED ADMINISTRATOR**

The Investigative Support Services Division Chief will ensure any reasonably necessary supplemental procedures are in place to address the following issues (15 CCR 1029):

- (a) General security
- (b) Key control
- (c) Sanitation and maintenance
- (d) Emergency medical treatment (15 CCR 1200)
- (e) Escapes
- (f) Evacuation plans
- (g) Fire- and life-safety, including a fire suppression pre-plan as required by 15 CCR 1032
- (h) Disaster plans
- (i) Building and safety code compliance
- (j) Civil and other disturbances including hostage situations
- (k) Periodic testing of emergency equipment
- (l) Emergency suspension of Title 15 regulations and notice to the Board of State and Community Corrections as required in 15 CCR 1012
- (m) Inspections and operations reviews
- (n) Any other applicable requirements under 15 CCR 1029

Annual review and evaluation of security measures including internal and external security measures, sanitation, safety and maintenance (15 CCR 1280).

These supplemental procedures shall be reviewed and updated no less than every two years and shall be available to all members (15 CCR 1029).

#### **900.13 TRAINING**

Department members should be trained and familiar with this policy and any supplemental procedures.

Department members responsible for supervising adults in temporary custody shall complete the Corrections Officer Core Course or eight hours of specialized training within six months of assignment. Such training shall include but not be limited to the following (15 CCR 1024):

- (a) Applicable minimum jail standards
- (b) Jail operations liability
- (c) Inmate segregation
- (d) Emergency procedures and planning, fire safety, and life safety.

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(e) Suicide prevention

Eight hours of refresher training shall be completed once every two years (15 CCR 1024).

The Training Coordinator shall maintain records of all such training in the member's training file.

## Custodial Searches

### 902.1 PURPOSE AND SCOPE

This policy provides guidance regarding searches of individuals in custody. Such searches are necessary to eliminate the introduction of contraband, intoxicants or weapons into the Indio Police Department facility. Such items can pose a serious risk to the safety and security of department members, individuals in custody, contractors and the public. The use of strip and body cavity searches may, under certain conditions, be necessary to protect the safety of officers and the public and to detect and secure evidence of criminal activity.

Nothing in this policy is intended to prohibit the otherwise lawful collection of evidence from an individual in custody.

#### 902.1.1 DEFINITIONS

Definitions related to this policy include:

**Custody search** - An in-custody search of an individual and of his/her property, shoes and clothing, including pockets, cuffs and folds on the clothing, to remove all weapons, dangerous items and contraband.

**Physical body cavity search** - A search that includes a visual inspection and may include a physical intrusion into a body cavity. Body cavity means the stomach or rectal cavity of an individual, and the vagina of a female person.

**Strip search** - A search that requires an individual to remove or rearrange some or all of his/her clothing to permit a visual inspection of the underclothing, breasts, buttocks, anus or outer genitalia. This includes monitoring an individual who is changing clothes, where his/her underclothing, buttocks, genitalia or female breasts are visible.

### 902.2 POLICY

All searches shall be conducted with concern for safety, dignity, courtesy, respect for privacy and hygiene, and in compliance with policy and law to protect the rights of those who are subject to any search.

Searches shall not be used for intimidation, harassment, punishment or retaliation.

### 902.3 FIELD AND TRANSPORTATION SEARCHES

An officer should conduct a custody search of an individual immediately after his/her arrest, when receiving an individual from the custody of another, and before transporting a person who is in custody in any department vehicle.

Whenever practicable, a custody search should be conducted by an officer of the same sex as the person being searched. If an officer of the same sex is not reasonably available, a witnessing officer should be present during the search if available.

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### *Custodial Searches*

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#### **902.4 SEARCHES AT POLICE FACILITIES**

Custody searches shall be conducted on all individuals in custody, upon entry to the Indio Police Department facilities. The search should be conducted by a member of the same sex as the individual being searched. If a member of the same sex is not available, a witnessing member should be present during the search if available. If an officer takes possession of an arrestee for the arresting officer for transportation purposes, that transporting officer shall also conduct a search of the individual in custody prior to transporting them for the original arresting officer to their destination (i.e. hospital or jail).

Custody searches should also be conducted any time an individual in custody enters or re-enters a secure area, or any time it is reasonably believed that a search is necessary to maintain the safety and security of the facility.

##### **902.4.1 PROPERTY**

Members shall take reasonable care in handling the property of an individual in custody to avoid discrepancies or losses. Property retained for safekeeping shall be kept in a secure location until the individual is released or transferred.

Some property may not be accepted by a facility or agency that is taking custody of an individual from this department, such as weapons or large items. These items should be retained for safekeeping in accordance with the Property and Evidence Policy and documented in FileonQ.

#### **902.5 STRIP SEARCHES**

No individual in temporary custody at any Indio Police Department facility shall be subjected to a strip search unless there is reasonable suspicion based upon specific and articulable facts to believe the individual has a health condition requiring immediate medical attention or is concealing a weapon or contraband. Factors to be considered in determining reasonable suspicion include, but are not limited to:

- (a) The detection of an object during a custody search that may be a weapon or contraband and cannot be safely retrieved without a strip search.
- (b) Circumstances of a current arrest that specifically indicate the individual may be concealing a weapon or contraband.
  - 1. A felony arrest charge or being under the influence of a controlled substance should not suffice as reasonable suspicion absent other facts.
- (c) Custody history (e.g., past possession of contraband while in custody, assaults on department members, escape attempts).
- (d) The individual's actions or demeanor.
- (e) Criminal history (i.e., level of experience in a custody setting).

No transgender or intersex individual shall be searched or examined for the sole purpose of determining the individual's genital status. If the individual's genital status is unknown, it may be determined during conversations with the person, by reviewing medical records, or as a result of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).



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#### 902.5.1 STRIP SEARCH PROCEDURES

Strip searches at Indio Police Department facilities shall be conducted as follows (28 CFR 115.115; Penal Code § 4030):

- (a) Written authorization from the Watch Commander shall be obtained prior to the strip search.
- (b) All members involved with the strip search shall be of the same sex as the individual being searched, unless the search is conducted by a medical practitioner.
- (c) All strip searches shall be conducted in a professional manner under sanitary conditions and in a secure area of privacy so that it cannot be observed by those not participating in the search. The search shall not be reproduced through a visual or sound recording.
- (d) Whenever possible, a second member of the same sex should also be present during the search, for security and as a witness to the finding of evidence.
- (e) Members conducting a strip search shall not touch the breasts, buttocks or genitalia of the individual being searched.
- (f) The primary member conducting the search shall prepare a written report to include:
  - 1. The facts that led to the decision to perform a strip search.
  - 2. The reasons less intrusive methods of searching were not used or were insufficient.
  - 3. The written authorization for the search, obtained from the Watch Commander.
  - 4. The name of the individual who was searched.
  - 5. The name and sex of the members who conducted the search.
  - 6. The name, sex and role of any person present during the search.
  - 7. The time and date of the search.
  - 8. The place at which the search was conducted.
  - 9. A list of the items, if any, that were recovered.
  - 10. The facts upon which the member based his/her belief that the individual was concealing a weapon or contraband.
- (g) No member should view an individual's private underclothing, buttocks, genitalia or female breasts while that individual is showering, performing bodily functions or changing clothes, unless he/she otherwise qualifies for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the individual with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the individual's consent and/or otherwise protect his/her privacy and dignity.
- (h) If the individual has been arrested for a misdemeanor or infraction offense, the written authorization from the Watch Commander shall include specific and articulable facts and circumstances upon which the reasonable suspicion determination for the search was made.

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- (i) A copy of the written authorization shall be retained and made available upon request to the individual or the individual's authorized representative. A record of the time, date, place of the search, the name and sex of the person conducting the search, and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual's authorized representative.

#### **902.5.2 SPECIAL CIRCUMSTANCE FIELD STRIP SEARCHES**

A strip search may be conducted in the field only with Watch Commander authorization and only in exceptional circumstances, such as when:

- (a) There is probable cause to believe that the individual is concealing a weapon or other dangerous item that cannot be recovered by a more limited search.
- (b) There is probable cause to believe that the individual is concealing controlled substances or evidence that cannot be recovered by a more limited search, and there is no reasonable alternative to ensure the individual cannot destroy or ingest the substance during transportation.

These special-circumstance field strip searches shall only be authorized and conducted under the same restrictions as the strip search procedures in this policy, except that the Watch Commander authorization does not need to be in writing.

#### **902.6 PHYSICAL BODY CAVITY SEARCH**

Physical body cavity searches shall be subject to the following (Penal Code § 4030):

- (a) No individual shall be subjected to a physical body cavity search without written approval of the Watch Commander and only upon a search warrant. A copy of any search warrant and the results of the physical body cavity search shall be included with the related reports and made available, upon request, to the individual or authorized representative (except for those portions of the warrant ordered sealed by a court).
- (b) Only a physician, nurse practitioner, registered nurse, licensed vocational nurse or Emergency Medical Technician Level II licensed to practice in California may conduct a physical body cavity search.
- (c) Except for the physician or licensed medical personnel conducting the search, persons present must be of the same sex as the individual being searched. Only the necessary department members needed to maintain the safety and security of the medical personnel shall be present.
- (d) Privacy requirements, including restricted touching of body parts and sanitary condition requirements, are the same as required for a strip search.
- (e) All such searches shall be documented, including:
  - 1. The facts that led to the decision to perform a physical body cavity search of the individual.
  - 2. The reasons less intrusive methods of searching were not used or were insufficient.
  - 3. The Watch Commander's approval.

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4. A copy of the search warrant.
  5. The time, date and location of the search.
  6. The medical personnel present.
  7. The names, sex and roles of any department members present.
  8. Any contraband or weapons discovered by the search.
- (f) Copies of the written authorization and search warrant shall be retained and shall be provided to the individual who was searched or other authorized representative upon request. A record of the time, date, place of the search, the name and sex of the person conducting the search and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual's authorized representative.

#### **902.7 TRAINING**

The department training cadre and Police Training Specialist shall ensure members have training that includes (28 CFR 115.115):

- (a) Conducting searches of cross-gender individuals.
- (b) Conducting searches of transgender and intersex individuals.
- (c) Conducting searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.
- (d) Case law related to body cavity searches, custody searches and strip searches.

#### **902.8 GENDER IDENTITY OR EXPRESSION CONSIDERATIONS**

If an individual who is subject to a strip search or physical body cavity search has a gender identity or expression that differs from their sex assigned at birth, the search should be conducted by members of the same gender identity or expression as the individual, unless the individual requests otherwise.

#### **902.9 JUVENILES**

No juvenile should be subjected to a strip search or a physical body cavity search at the Department.

The Chief of Police or the authorized designee should establish procedures for the following:

- (a) Safely transporting a juvenile who is suspected of concealing a weapon or contraband, or who may be experiencing a medical issue related to such concealment, to a medical facility or juvenile detention facility as appropriate in the given circumstances.
  1. Procedures should include keeping a juvenile suspected of concealing a weapon under constant and direct supervision until custody is transferred to the receiving facility.
- (b) Providing officers with information identifying appropriate medical and juvenile detention facilities to which a juvenile should be transported for a strip or body cavity search.

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Nothing in this section is intended to prevent an officer from rendering medical aid to a juvenile in emergency circumstances (see the Medical Aid and Response Policy for additional guidance).

## **Chapter 10 - Personnel**

## Recruitment and Selection

### 1000.1 PURPOSE AND SCOPE

This policy provides a framework for employee recruiting efforts and identifying job-related standards for the selection process. This policy supplements the rules that govern employment practices for the Indio Police Department and that are promulgated and maintained by the Department of Human Resources.

### 1000.2 POLICY

In accordance with applicable federal, state, and local law, the Indio Police Department provides equal opportunities for applicants and employees regardless of actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law. The Department does not show partiality or grant any special status to any applicant, employee, or group of employees unless otherwise required by law.

The Department will recruit and hire only those individuals who demonstrate a commitment to service and who possess the traits and characteristics that reflect personal integrity and high ethical standards.

### 1000.3 RECRUITMENT

The Department should employ a comprehensive recruitment and selection strategy to recruit and select employees from a qualified and diverse pool of candidates.

The strategy should include:

- (a) Identification of racially and culturally diverse target markets.
- (b) Use of marketing strategies to target diverse applicant pools.
- (c) Expanded use of technology and maintenance of a strong internet presence. This may include an interactive department website and the use of department-managed social networking sites, if resources permit.
- (d) Expanded outreach through partnerships with media, community groups, citizen academies, local colleges, universities, and the military.
- (e) Employee referral and recruitment incentive programs.
- (f) Consideration of shared or collaborative regional testing processes.

The Department shall avoid advertising, recruiting and screening practices that tend to stereotype, focus on homogeneous applicant pools or screen applicants in a discriminatory manner.

The Department should strive to facilitate and expedite the screening and testing process, and should periodically inform each candidate of his/her status in the recruiting process.

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#### **1000.4 SELECTION PROCESS**

The Department shall actively strive to identify a diverse group of candidates who have in some manner distinguished themselves as being outstanding prospects. Minimally, the Department shall employ a comprehensive screening, background investigation, and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

- (a) A comprehensive application for employment (including previous employment, references, current and prior addresses, education, military record)
  - 1. The personnel records of any applicant with prior peace officer experience in this state shall be requested from the appropriate law enforcement agency and reviewed prior to extending an offer of employment (Penal Code § 832.12).
  - 2. This includes review of prior law enforcement employment information maintained by POST (Penal Code § 13510.9).
- (b) Driving record
- (c) Personal and professional reference checks
- (d) Employment eligibility, including U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form I-9 and acceptable identity and employment authorization documents consistent with Labor Code § 1019.1. This required documentation should not be requested until a candidate is hired. This does not prohibit obtaining documents required for other purposes.
- (e) Information obtained from public internet sites
  - 1. This review should include the identification of any activity that promotes or supports unlawful violence or unlawful bias against persons based on protected characteristics (e.g., race, ethnicity, national origin, religion, gender, gender identity, sexual orientation, disability).
- (f) Financial history consistent with the Fair Credit Reporting Act (FCRA) (15 USC § 1681 et seq.)
- (g) Local, state, and federal criminal history record checks
- (h) Lie detector test (when legally permissible) (Labor Code § 432.2)
- (i) Medical and psychological examination (may only be given after a conditional offer of employment)
  - 1. The Medical Suitability Declaration (POST form 2-363) provided by the evaluating physician shall be maintained in the candidate's background investigation file (11 CCR 1954).
  - 2. The Psychological Suitability Declaration (POST form 2-364) provided by the evaluator shall be maintained in the candidate's background investigation file (11 CCR 1955).
- (j) Review board or selection committee assessment
- (k) Relevant national and state decertification records, if available
- (l) Any relevant information in the National Law Enforcement Accountability Database

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#### 1000.4.1 VETERAN'S PREFERENCE

Qualifying veterans of the United States Armed Forces who receive a passing score on an entrance examination shall be ranked in the top rank of any resulting eligibility list. The veteran's preference shall also apply to a widow or widower of a veteran or a spouse of a 100 percent disabled veteran (Government Code § 18973.1).

#### **1000.5 BACKGROUND INVESTIGATION**

Every candidate shall undergo a thorough background investigation to verify his/her personal integrity and high ethical standards, and to identify any past behavior that may be indicative of the candidate's unsuitability to perform duties relevant to the operation of the Indio Police Department (11 CCR 1953).

The narrative report and any other relevant background information shall be shared with the psychological evaluator. Information shall also be shared with others involved in the hiring process if it is relevant to their respective evaluations (11 CCR 1953).

#### 1000.5.1 NOTICES

Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA and the California Investigative Consumer Reporting Agencies Act (15 USC § 1681d; Civil Code § 1786.16).

#### 1000.5.2 STATE NOTICES

If information disclosed in a candidate's criminal offender record information (CORI) is the basis for an adverse employment decision, a copy of the CORI shall be provided to the applicant (Penal Code § 11105).

#### 1000.5.3 REVIEW OF SOCIAL MEDIA SITES

All peace officer candidates shall be subject to a social media search for statements, postings, and/or endorsements made by the candidate that are relevant to suitability for peace officer employment, including bias-relevant information consistent with the requirements of 11 CCR 1955(d)(3) and any public expression of hate made in an online forum, as defined in Penal Code § 13680(g) (11 CCR 1953(e)(12)).

Due to the potential for accessing unsubstantiated, private, or protected information, the Support Services Division Chief shall not require candidates to provide passwords, account information, or access to password-protected social media accounts (Labor Code § 980).

The Support Services Division Chief should consider utilizing the services of an appropriately trained and experienced third party to conduct open source, internet-based searches, and/or review information from social media sites to ensure that:

- (a) The legal rights of candidates are protected.
- (b) Material and information to be considered are verified, accurate, and validated.
- (c) The Department fully complies with applicable privacy protections and local, state, and federal law.



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Regardless of whether a third party is used, the Support Services Division Chief should ensure that potentially impermissible information is not available to any person involved in the candidate selection process.

#### 1000.5.4 DOCUMENTING AND REPORTING

The background investigator shall summarize the results of the background investigation in a narrative report that includes sufficient information to allow the reviewing authority to decide whether to extend a conditional offer of employment. The report shall reference the Background Investigation Dimensions and include any findings of behaviors, traits, and/or attributes relevant to bias per the Bias Assessment Framework as described in the POST Background Investigation Manual. The report shall not include any information that is prohibited from use, including that from social media sites, in making employment decisions. The report and all supporting documentation shall be included in the candidate's background investigation file (11 CCR 1953).

The background investigator shall document proof of verification of qualification for peace officer appointment on the Verification of Qualification for Peace Officer Appointment form and forward to the Support Services Division Chief for final review and submission to POST (11 CCR 1953).

#### 1000.5.5 RECORDS RETENTION

The background report and all supporting documentation shall be maintained according to the established records retention schedule and at a minimum as follows (Government Code § 12946; 11 CCR 1953):

- (a) Reports and documentation for candidates hired by the Department shall be retained for the entire term of employment and a for a minimum of four years after separation from the Department.
- (b) Reports and documentation for candidates not hired by the Department for a minimum of four years.

#### 1000.5.6 BACKGROUND INVESTIGATION UPDATE

A background investigation update may, at the discretion of the Chief of Police, be conducted in lieu of a complete new background investigation on a peace officer candidate who is reappointed within 180 days of voluntary separation from the Indio Police Department, or who is an interim police chief meeting the requirements contained in 11 CCR 1953(f).

#### 1000.5.7 INVESTIGATOR TRAINING

Background investigators shall complete POST-certified background investigation training prior to conducting investigations (11 CCR 1953; 11 CCR 1959).

#### 1000.5.8 CONFIDENTIAL POST RECORDS

Records released to the Department from POST that were previously withheld from the candidate by POST shall be kept confidential as provided in Penal Code § 13510.9.

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#### **1000.6 DISQUALIFICATION GUIDELINES**

As a general rule, performance indicators and candidate information and records shall be evaluated by considering the candidate as a whole, and taking into consideration the following:

- Age at the time the behavior occurred
- Passage of time
- Patterns of past behavior
- Severity of behavior
- Probable consequences if past behavior is repeated or made public
- Likelihood of recurrence
- Relevance of past behavior to public safety employment
- Aggravating and mitigating factors
- Other relevant considerations

A candidate's qualifications will be assessed on a case-by-case basis, using a totality-of-the-circumstances framework.

#### **1000.7 EMPLOYMENT STANDARDS**

All candidates shall meet the minimum standards required by state law (Government Code § 1029; Government Code § 1031; Penal Code § 13510.1; 11 CCR 1950 et seq.). Candidates will be evaluated based on merit, ability, competence, and experience, in accordance with the high standards of integrity and ethics valued by the Department and the community. The California Commission on Peace Officer Standards and Training (POST) developed a Job Dimensions list, which is used as a professional standard in background investigations.

Validated, job-related, and nondiscriminatory employment standards shall be established for each job classification and shall minimally identify the training, abilities, knowledge, and skills required to perform the position's essential duties in a satisfactory manner. Each standard should include performance indicators for candidate evaluation. The Department of Human Resources should maintain validated standards for all positions.

##### **1000.7.1 STANDARDS FOR OFFICERS**

Candidates shall meet the minimum standards established by POST or required by state law (Government Code § 1029; Government Code § 1031; 11 CCR 1950 et seq.):

- (a) Free of any felony convictions
- (b) Be legally authorized to work in the United States under federal law
- (c) At least 21 years of age except as provided by Government Code § 1031.4
- (d) Fingerprinted for local, state, and national fingerprint check
- (e) Good moral character as determined by a thorough background investigation (11 CCR 1953)

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- (f) High school graduate, passed the GED or other high school equivalency test, or obtained a two-year, four-year, or advanced degree from an accredited or approved institution
- (g) Free from any physical, emotional, or mental condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation which might adversely affect the exercise of police powers (11 CCR 1954; 11 CCR 1955)
- (h) Free of hate group memberships, participation in hate group activities, or advocacy of public expressions of hate within the previous seven years, and since 18 years of age, as determined by a background investigation (Penal Code § 13681)
- (i) Candidates must also satisfy the POST selection requirements, including (11 CCR 1950 et seq.):
  1. Reading and writing ability assessment (11 CCR 1951)
  2. Oral interview to determine suitability for law enforcement service (11 CCR 1952)
- (j) POST certification that has not been revoked, denied, or voluntarily surrendered pursuant to Penal Code § 13510.8(f)
- (k) Not identified in the National Decertification Index of the International Association of Directors of Law Enforcement Standards and Training or similar federal government database that reflects revoked certification for misconduct or reflects misconduct that would result in a revoked certification in California.

In addition to the above minimum POST required standards, candidates may be subjected to additional standards established by the Department (Penal Code § 13510(d)).

#### 1000.7.2 STANDARDS FOR DISPATCHER

Candidates shall satisfy the POST selection requirements, including (11 CCR 1956):

- (a) A verbal, reasoning, memory, and perceptual abilities assessment (11 CCR 1957)
- (b) An oral communication assessment (11 CCR 1958)
- (c) A medical evaluation (11 CCR 1960)

#### 1000.7.2.1 SENATE BILL 2 COMPLIANCE

Effective **January 1, 2023**, the Chief of Police or their **designee** shall ensure the following reporting requirements are met to comply with SB2:

- (a) ***Reporting requirements***

Beginning on January 1, 2023, SB 2 will require all agencies that employ peace officers to begin submitting reports to POST any time one of the following occurs:

- The agency employs, appoints, terminates, or separates from employment any peace officer, including involuntary terminations, resignations, and retirements.
- A complaint, charge, or allegation of conduct is made against a peace officer employed by the agency that could result in decertification.

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- A civilian oversight entity or review board, civilian police commission, police chief, or civilian inspector general makes a finding or recommendation that a peace officer employed by the agency engaged in conduct that could result in decertification.
- The final disposition of an investigation determines that a peace officer engaged in conduct that could result in decertification, regardless of the discipline imposed (if any).
- A civil judgment or court finding is made against a peace officer based on conduct that could result in decertification, or a settlement is reached in civil case against a peace officer or the employing agency based on allegations of officer conduct that could result in decertification.

In **each case**, an agency **will have 10 days** to make the relevant report. For reports regarding separation of a peace officer, the bill requires agencies to execute and submit an "**affidavit-of-separation**" form under penalty of perjury, which must describe the reason for separation and whether the separation is part of resolving or settling any pending charge or investigation. The officer who was separated "shall be permitted" to respond in writing to the affidavit-of-separation, explaining to POST their own understanding of the facts and reasons for the separation.

One key element of these reporting requirements is they do not appear to require that the reportable conduct is egregious enough to make it likely that POST will ultimately decertify the officer. Indeed, **in the case of reporting complaints and civil settlements, it is enough that an allegation is made that – if true – could subject a peace officer to decertification, even if the complaint or civil claim is later proved untrue.** Thus, the safe approach for any agency would be to **take a broad approach to reporting.** Where an agency does make a report to POST in good faith, **SB 2 provides immunity from civil liability** for the disclosure in good faith.

Although the reporting requirement does not begin **until January 2023**, it does apply to events that occurred before January 2023. SB 2 specifically requires agencies to report any instance of a listed event that took place between **January 1, 2020, and January 1, 2023.** For reports falling in that earlier timeframe, the reporting deadline will be **July 1, 2023.**

The following SB2 references have been attached for your review:

[See attachment: Peace\\_Officer\\_Decertification\\_Workflow.pdf](#)

[See attachment: 20210SB2\\_91 \(1\) SB2 text.pdf](#)

[See attachment: Workshop\\_Reference\\_Material SB2.pdf](#)

#### **13510.8 Serious Misconduct**

(a)(1) A certified peace officer shall have their certification revoked if the person is or has become ineligible to hold office as a peace officer pursuant to section 1029 of the Government Code.

2) A peace officer may have their certification suspended or revoked if the person has been terminated for cause from employment as a peace officer for, or has, while employed as a peace officer, otherwise engaged in, any serious misconduct as described in subdivision (b).

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b) By January 1, 2023, the commission shall adopt by regulation a definition of "serious misconduct" that shall serve as the criteria to be considered for ineligibility for, or revocation of, certification. This definition shall include all of the following:

**(1) Dishonesty** relating to the reporting, investigation, or prosecution of a crime, or relating to the reporting of, or investigation of misconduct by, a peace officer or custodial officer, including, but not limited to, false statements, intentionally filing false reports, tampering with, falsifying, destroying, or concealing evidence, perjury, and tampering with data recorded by a body-worn camera or other recording device for purposes of concealing misconduct.

**(2) Abuse of power**, including, but not limited to, intimidating witnesses, knowingly obtaining a false confession, and knowingly making a false arrest.

**(3) Physical abuse**, including, but not limited to, the excessive or unreasonable use of force.

**(4) Sexual assault**, as described in subdivision (b) of Section 832.7.

**(5) Demonstrating bias** on the basis of race, national origin, religion, gender identity or expression, housing status, sexual orientation, mental or physical disability, or other protected status in violation of law or department policy or inconsistent with a peace officer's obligation to carry out their duties in a fair and unbiased manner. This paragraph does not limit an employee's rights under the First Amendment to the United States Constitution.

**(6) Acts that violate the law** and are sufficiently egregious or repeated as to be inconsistent with a peace officer's obligation to uphold the law or respect the rights of members of the public, as determined by the commission. Whether a particular factual or legal determination in a prior appeal proceeding shall have preclusive effect in proceedings under this chapter shall be governed by the existing law of collateral estoppel.

**(7) Participation in a law enforcement gang.** For the purpose of this paragraph, a "law enforcement gang" means a group of peace officers within a law enforcement agency who may identify themselves by a name and may be associated with an identifying symbol, including, but not limited to, matching tattoos, and who engage in a pattern of on-duty behavior that intentionally violates the law or fundamental principles of professional policing, including, but not limited to, excluding, harassing, or discriminating against any individual based on a protected category under federal or state antidiscrimination laws, engaging in or promoting conduct that violates the rights of other employees or members of the public, violating agency policy, the persistent practice of unlawful detention or use of excessive force in circumstances where it is known to be unjustified, falsifying police reports, fabricating or destroying evidence, targeting persons for enforcement based solely on protected characteristics of those persons, theft, unauthorized use of alcohol or drugs on duty, unlawful or unauthorized protection of other members from disciplinary actions, and retaliation against other officers who threaten or interfere with the activities of the group.

**(8) Failure to cooperate with an investigation into potential police misconduct**, including an investigation conducted pursuant to this chapter. For purposes of this paragraph, the lawful

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exercise of rights granted under the United States Constitution, the California Constitution, or any other law shall not be considered a failure to cooperate.

**(9) Failure to intercede** when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the

#### **1000.8 VALID POST CERTIFICATE REQUIREMENT**

All IPD sworn staff shall possess a valid POST certificate not subject to decertification proceedings per SB2. Employees decertified per SB2 are subject to termination at the discretion of the Chief of Police. Refer to attached PDF's related to SB2 and Government Code sub-section 1029 for reference in regards to what is deemed "serious misconduct" definition per SB2. All sworn employees **must have a valid POST certificate** within the meaning of Government Code sub-section 1029 to be employed as **certified eligible sworn** Indio Police Officers.

## Evaluation of Employees

### 1002.1 PURPOSE AND SCOPE

The Department's employee performance evaluation system is designed to record work performance for both the Department and the employee, providing recognition for good work and developing a guide for improvement.

### 1002.2 POLICY

The Indio Police Department utilizes a performance evaluation report to measure performance and to use as a factor in making personnel decisions that relate to merit increases, promotion, reassignment, discipline, demotion, and termination. The evaluation report is intended to serve as a guide for work planning and review by the supervisor and employee. It gives supervisors a way to create an objective history of work performance based on job standards.

The Department evaluates employees in a non-discriminatory manner based upon job-related factors specific to the employee's position, without regard to actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law.

### 1002.3 EVALUATION PROCESS

Evaluation reports will cover a specific period of time and should be based on documented performance during that period. Evaluation reports will be completed by each employee's immediate supervisor. Other supervisors directly familiar with the employee's performance during the rating period should be consulted by the immediate supervisor for their input.

All sworn and non-sworn supervisory personnel shall attend an approved supervisory course that includes training on the completion of performance evaluations within one year of the supervisory appointment.

Each supervisor should discuss the tasks of the position, standards of performance expected and the evaluation criteria with each employee at the beginning of the rating period. Supervisors should document this discussion in the prescribed manner.

Assessment of an employee's job performance is an ongoing process. Continued coaching and feedback provides supervisors and employees with opportunities to correct performance issues as they arise.

Non-probationary employees demonstrating substandard performance shall be notified in writing of such performance as soon as possible in order to have an opportunity to remediate the issues. Such notification should occur at the earliest opportunity, with the goal being a minimum of 90 days written notice prior to the end of the evaluation period.

Employees who disagree with their evaluation and who desire to provide a formal response or a rebuttal may do so in writing in the prescribed format and time period.

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#### 1002.3.1 RESERVE OFFICER EVALUATIONS

Reserve officer evaluations are covered under the Reserve Officers Policy.

#### **1002.4 FULL TIME PROBATIONARY PERSONNEL**

Non-sworn personnel are on probation for 12 or 18 months, unless extended, before being eligible for certification as permanent employees. An evaluation is completed every three months for all full-time non-sworn personnel during the probationary period.

Sworn personnel are on probation for 18 months before being eligible for certification as permanent employees. Probationary officers are evaluated every three months during the probationary period.

#### **1002.5 FULL-TIME PERMANENT STATUS PERSONNEL**

Permanent employees are subject to two types of performance evaluations:

**Regular** - An Employee Performance Evaluation shall generally be completed every twelve months by the employee's immediate supervisor except for employees who have been promoted in which case an Employee Performance Evaluation shall be completed on the anniversary of the employee's date of last promotion.

**Special** - A special evaluation may be completed any time the rater and the rater's supervisor feel one is necessary due to employee performance that is deemed less than standard or exceptionally exceeds standards. Generally, the less than standard special evaluation will be the tool used to demonstrate those areas of performance deemed less than standard when follow-up action is planned (action plan, remedial training, retraining, etc.). The evaluation form and the attached documentation shall be submitted as one package.

##### 1002.5.1 RATINGS

When completing the Employee Performance Evaluation, the rater will place a check mark in the column that best describes the employee's performance. The definition of each rating category is as follows:

**Exceptional** - Is actual performance well beyond that required for the position. It is exceptional performance, definitely superior or extraordinary.

**Highly Effective**- 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 exceptional rating.

**Effective**- Is the performance of a fully competent employee. It means satisfactory performance that meets the standards required of the position.

**Minimally Effective (Below Standard)**- Is a level of performance less than that expected of a fully competent employee and less than effectiveness required of the position. A minimally effective rating must be thoroughly discussed with the employee.



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**Not Effective (Below Standard)** - Performance is inferior to the standards required of the position. It is very inadequate or undesirable performance that cannot be tolerated.

**Not Applicable** - Does not apply to current job assignment.

The performance evaluation form includes a section where goals and achievements are reviewed and new goals established. 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 REVIEW**

After the supervisor finishes the draft evaluation, it is forwarded to the rater's supervisor. The rater's supervisor shall review the evaluation for fairness, impartiality, uniformity, and consistency. The Division Chief shall evaluate the supervisor on the quality of ratings given. The Chief of Police shall review the draft evaluation prior to it being discussed with the employee.

##### **1002.6.1 DISCRIMINATORY HARASSMENT FORM**

At the time of each employee's annual evaluation, the reviewing supervisor shall require the employee to read the City and Department harassment and discrimination policies. Following such policy review, the supervisor shall provide the employee a form to be completed and returned by the employee certifying the following:

- (a) That the employee understands the harassment and discrimination policies.
- (b) Whether any questions the employee has have been sufficiently addressed.
- (c) That the employee knows how and where to report harassment policy violations.
- (d) Whether the employee has been the subject of, or witness to, any conduct that violates the discrimination or harassment policy which has not been previously reported.

The completed form should be returned to the supervisor (or other authorized individual if the employee is uncomfortable returning the form to the presenting supervisor) within one week.

The employee's completed answers shall be attached to the evaluation. If the employee has expressed any questions or concerns, the receiving supervisor or other authorized individual shall insure that appropriate follow up action is taken.

#### **1002.7 EVALUATION 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

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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.

#### **1002.8 EVALUATION DISTRIBUTION**

A copy of the performance evaluation shall be maintained in the employee's personnel file in the office of the Chief of Police for the tenure of the employee's employment. A copy will be given to the employee and the original will be forwarded to Human Resources Office.

## Special Assignment Selection and Rotation

### 1004.1 PURPOSE AND SCOPE

The purpose of this policy is to establish the procedures and standards of selection for special assignments within the ranks of the Indio Police Department. This policy will also establish the length of assignment for certain rotational positions. Per Article 21 of the Indio Police Officers' Association Memorandum of Understanding, should there be any conflict between this policy and the MOU, the Memorandum of Understanding shall control.

#### 1004.1.1 GENERAL REQUIREMENTS

The following requirements will apply for those members who wish to be considered for special assignments:

- (a) Minimum of 18 months experience with the Indio Police Department (Can be waived by the Chief of Police after consulting with the affected union)
- (b) Effective or better performance rating on last evaluation
- (c) Not currently be on any type of performance improvement plan
- (d) Be able to successfully complete any training necessary for the assignment as required by P.O.S.T. or law

### 1004.2 SELECTION PROCESS

The Chief of Police may appoint a candidate, or may employ any or all of the following to assist in the selection of the best qualified candidate:

- (a) Graded Memorandum of interest
- (b) Written test(s)
- (c) Graded oral interview or exam
- (d) Evaluation of pertinent training and experience
- (e) Assessment of finalist performing the role sought prior to final selection
- (f) Assessment of previous work samples
- (g) Assessment of work history to include productivity
- (h) Supervisory evaluation
- (i) Review of Personnel and Division file

All applying candidates should be contacted prior to a selection memo being published.

### 1004.3 RECOGNIZED SPECIAL ASSIGNMENTS

These assignments will have a specific starting and ending date and are not considered permanent. A rotation into these assignments should be considered a transfer and not a promotion.

- (a) MCU/SCU Detective - 5 years

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- (b) Traffic Officer- 5 years
- (c) Quality of Life Officer - 5 years
- (d) School Resource Officer - 3 years, may be extended up to 5 years by the Chief in one year increments based on department needs.
- (e) K-9 Officer - 5 years or the service life of the canine
- (f) Task Force Officers are assigned to a task force for generally 3 years but may vary.

Upon completion of a rotational assignment, an officer or corporal must complete one year assigned to normal patrol duties in the Field Services Division, prior to assuming their next rotational special assignment position.

#### **1004.4 SPECIAL ASSIGNMENTS**

These assignments are designed to provide training and/or technical services for the department. The duration of the below assignments varies due to the MOU.

- (a) Field Training Officer/Communications Training Officer
- (b) Rangemaster/Firearms Instructor
- (c) Defensive Tactics Instructor
- (d) First Aid/CPR Instructor
- (e) Department Armorer
- (f) Drug Recognition Expert
- (g) Desert Regional SWAT Member (The selection for this assignment will include whatever process is determined by the team's Executive Board and will not necessarily follow the guidelines outlined in this policy.)

#### **1004.5 SPECIAL ASSIGNMENT APPOINTMENT**

Special assignment appointments are made at the discretion of the Chief of Police or his designee. Special assignment appointments are not promotions. This policy is intended to address normal department needs and any portion may be waived by the Chief of Police for temporary assignments, emergency situations or to meet training needs. Department members should refer to their respective Memorandum of Understanding when determining what positions may qualify for special compensation. The fact that positions may be listed in the policy does not mean that it qualifies.

## 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 and regulations covering personnel practices or working conditions

Grievances may be brought by an individual affected employee or by a group representative.

Specifically outside the category of grievance are complaints related to alleged acts of sexual, racial, ethnic or other forms of unlawful harassment, as well as complaints related to allegations of discrimination on the basis of sex, race, religion, ethnic background and other lawfully protected status or activity are subject to the complaint options set forth in the Discriminatory Harassment Policy, and personnel complaints consisting of any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy, federal, state or local law set forth in the Personnel Complaint Policy.

### 1006.2 PROCEDURE

#### 1006.2.1 INFORMAL GRIEVANCE PROCEDURE

An employee who has a problem or complaint should first attempt to discuss the matter with their immediate supervisor without unreasonable delay. If, after this discussion, the employee does not believe the problem has been satisfactorily resolved, they shall, after informing their supervisor, have the right to discuss the situation with their supervisor's immediate supervisor, if any. Every effort should be made to find an acceptable solution by informal means at the lowest possible level of supervision. If the employee is not in agreement with the decision reached through this discussion, they shall have the right to file a formal grievance in writing within seven (7) calendar days after receiving the informal decision of the immediate supervisor.

#### 1006.2.2 CONTENT OF WRITTEN FORMAL GRIEVANCE

- Employee name, position, and department.
- Name of individual or union/association representing the employee.
- Statement of grievance giving:
  - o Date and time of action being aggrieved.

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- o Circumstances of grievance.
- Specific City policy or MOU provision being violated.
- Desired resolution of grievance.
- Signature of aggrieved employee and date.
- Signature of union or association representative.

#### 1006.2.3 FORMAL GRIEVANCE PROCEDURE

Levels of review through chain of command:

##### FIRST LEVEL OF REVIEW

The Grievance shall be presented in writing to the employee's immediate supervisor who shall then render a decision and comments in writing and return them to the employee within seven (7) calendar days after receipt of the grievance. If the employee does not agree with the supervisor's decision or if no answer has been received within seven (7) calendar days, the employee may present the grievance in writing to their Department Head after notifying their supervisor. Failure of the employee to take further action within seven (7) calendar days after receipt of the written decision will constitute a dropping of the grievance.

##### DEPARTMENT REVIEW

The Department Head receiving the grievance should discuss the grievance with the employee, employee's representative, if any, and with other appropriate individuals. The Department Head shall render a decision and provide comments in writing and return them to the employee within seven (7) calendar days after receiving the grievance. If the employee does not agree with the decision reached or if no answer has been received within seven (7) calendar days, the employee must present the grievance in writing to the City Manager. Failure of the employee to take further action within seven (7) calendar days after receipt of the Department Head's decision will constitute a dropping of the grievance.

##### CITY MANAGER

The City Manager, after receiving the written grievance, should discuss the grievance with the employee, employee's representative, if any, and with all other appropriate individuals. The City Manager may designate a fact-finding committee or officer not in the normal line of supervision to advise the City Manager concerning the grievance. The City Manager shall render a decision in writing to the employee within fourteen (14) calendar days after receiving the grievance. The decision of the City Manager shall be final.

#### 1006.2.4 CONDUCT OF GRIEVANCE PROCEDURE

- The time limits specified above may be extended to a definite date by mutual agreement of the employee and the reviewer concerned.
- The employee, at their own expense, may request the assistance of another person of the employee's choosing in preparing and presenting the appeal at any level of review.

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- The employee and their designated representative may be privileged to use a reasonable amount of work time as determined by the appropriate Department Head in conferring and presenting the grievance.
- Consultation with the City's Human Resources Office staff and City Manager may be made as it relates to clarification and interpretation of these rules.
- Employees shall be assured freedom from reprisal for using the grievance procedures.

#### **1006.3 EMPLOYEE REPRESENTATION**

Employees are entitled to have representation during the grievance process. The representative may be selected by the employee from the appropriate employee bargaining group.

#### **1006.4 GRIEVANCE RECORDS**

At the conclusion of the grievance process, all documents pertaining to the process shall be forwarded to Support Services for inclusion into a secure file for all written grievances. A second copy of the written grievance will be maintained by the City Manager's office to monitor the grievance process.

#### **1006.5 GRIEVANCE AUDITS**

The Support Services Division Chief shall perform an annual audit of all grievances filed the previous calendar year to evaluate whether or not any policy/procedure changes or training may be appropriate to avoid future filings of grievances. The Professional Standards Unit Sergeant shall record these findings in a confidential and generic memorandum to the Chief of Police without including any identifying information from any individual grievance. If the audit identifies any recommended changes or content that may warrant a critical revision to this policy manual, the Professional Standards Unit Sergeant should promptly notify the Chief of Police.

## Anti-Retaliation

### 1007.1 PURPOSE AND SCOPE

This policy prohibits retaliation against members who identify workplace issues, such as fraud, waste, abuse of authority, gross mismanagement or any inappropriate conduct or practices, including violations that may pose a threat to the health, safety or well-being of members.

This policy does not prohibit actions taken for nondiscriminatory or non-retaliatory reasons, such as discipline for cause.

These guidelines are intended to supplement and not limit members' access to other applicable remedies. Nothing in this policy shall diminish the rights or remedies of a member pursuant to any applicable federal law, provision of the U.S. Constitution, law, ordinance or memorandum of understanding.

### 1007.2 POLICY

The Indio Police Department has a zero tolerance for retaliation and is committed to taking reasonable steps to protect from retaliation members who, in good faith, engage in permitted behavior or who report or participate in the reporting or investigation of workplace issues. All complaints of retaliation will be taken seriously and will be promptly and appropriately investigated.

### 1008.2(a) DEFINITIONS

**Affirmative Duty:** The personal responsibility and obligation of an employee to report wrongdoing — rather than to provide such information only when requested.

**False Report:** A report that is not made in good faith and is based on information that is known or reasonably likely to be inaccurate; intentionally or negligently ignores exculpatory or mitigating information; or is made with the purpose of harassing or wrongly incriminating another employee.

**Good Faith Report:** A report that provides allegations concerning an employee who is reasonably believed to have purposely committed a serious violation of departmental policy, procedures, rules, or laws.

**Public Disclosures:** Statements made to the media or information entered in any forum that is available to the public—such as social media websites—that provide information that is critical of this department, its personnel, or both.

**Retaliatory Conduct:** Conduct or action designed to serve as retribution against an employee who, in good faith, has reported or otherwise provided information regarding misconduct against another employee. In the context of this policy, retaliatory conduct includes any deliberate, purposeful actions or failures to act directed against employees that cause or that could reasonably be expected to cause physical harm, property damage, significant emotional stress, or other serious negative effect on another employee; designed to ridicule or embarrass; or could seriously impair the efficiency, safety, or effectiveness of that employee, this department, or both.



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Such conduct may take many forms, including but not limited to, bullying; persistent offensive comments, threats, or intimidation; false accusations; isolation; ostracism; posting of secure or personal information on the Internet; or acts that malign or disparage an individual's reputation.

Serious Acts of Misconduct: A deliberate act or failure to act that could reasonably form the basis for significant disciplinary action against an employee. Such disciplinary action includes suspension, demotion, reassignment, or termination.

#### **1007.3 RETALIATION PROHIBITED**

No member may retaliate against any person for engaging in lawful or otherwise permitted behavior; for opposing a practice believed to be unlawful, unethical, discriminatory or retaliatory; for reporting or making a complaint under this policy; or for participating in any investigation related to a complaint under this or any other policy.

Retaliation includes any adverse action or conduct, including but not limited to:

- Refusing to hire or denying a promotion.
- Extending the probationary period.
- Unjustified reassignment of duties or change of work schedule.
- Real or implied threats or other forms of intimidation to dissuade the reporting of wrongdoing or filing of a complaint, or as a consequence of having reported or participated in protected activity.
- Taking unwarranted disciplinary action.
- Spreading rumors about the person filing the complaint or about the alleged wrongdoing.
- Shunning or unreasonably avoiding a person because he/she has engaged in protected activity.

#### **1007.4 COMPLAINTS OF RETALIATION**

Any member who feels he/she has been retaliated against in violation of this policy should promptly report the matter to any supervisor, command staff member, Chief of Police or the City Director of Human Resources and Risk Management.

Members shall act in good faith, not engage in unwarranted reporting of trivial or minor deviations or transgressions, and make reasonable efforts to verify facts before making any complaint in order to avoid baseless allegations. Members shall not report or state an intention to report information or an allegation knowing it to be false, with willful or reckless disregard for the truth or falsity of the information or otherwise act in bad faith.

Investigations are generally more effective when the identity of the reporting member is known, thereby allowing investigators to obtain additional information from the reporting member. However, complaints may be made anonymously. All reasonable efforts shall be made to protect the reporting member's identity. However, confidential information may be disclosed to the extent required by law or to the degree necessary to conduct an adequate investigation and make a

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determination regarding a complaint. In some situations, the investigative process may not be complete unless the source of the information and a statement by the member is part of the investigative process.

#### **1007.5 SUPERVISOR RESPONSIBILITIES**

Supervisors are expected to remain familiar with this policy and ensure that members under their command are aware of its provisions.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring complaints of retaliation are investigated as provided in the Personnel Complaints Policy.
- (b) Receiving all complaints in a fair and impartial manner.
- (c) Documenting the complaint and any steps taken to resolve the problem.
- (d) Acknowledging receipt of the complaint, notifying the Chief of Police via the chain of command and explaining to the member how the complaint will be handled.
- (e) Taking appropriate and reasonable steps to mitigate any further violations of this policy.
- (f) Monitoring the work environment to ensure that any member making a complaint is not subjected to further retaliation.
- (g) Periodic follow-up with the complainant to ensure that retaliation is not continuing.
- (h) Not interfering with or denying the right of a member to make any complaint.
- (i) Taking reasonable steps to accommodate requests for assignment or schedule changes made by a member who may be the target of retaliation if it would likely mitigate the potential for further violations of this policy.
- (j) First-line supervisors bear a responsibility to ensure that all employees under their supervision fully understand the importance of adherence to departmental policies, procedures, and rules and that they also understand the department's commitment to ensuring employee compliance.
- (k) No supervisor shall tolerate nor engage in retaliatory conduct as covered.

#### **1007.6 COMMAND STAFF RESPONSIBILITIES**

The Chief of Police should communicate to all supervisors the prohibition against retaliation.

Command staff shall treat all complaints as serious matters and shall ensure that prompt actions take place, including but not limited to:

- (a) Communicating to all members the prohibition against retaliation.
- (b) The timely review of complaint investigations.
- (c) Remediation of any inappropriate conduct or condition and instituting measures to eliminate or minimize the likelihood of recurrence.
- (d) The timely communication of the outcome to the complainant.

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#### **1007.7 WHISTLE-BLOWING**

California law protects members who (Labor Code § 1102.5; Government Code § 53296 et seq.):

- (a) Report a violation of a state or federal statute or regulation to a government or law enforcement agency, including the member's supervisor or any other member with the authority to investigate the reported violation.
- (b) Provide information or testify before a public body if the member has reasonable cause to believe a violation of law occurred.
- (c) Refuse to participate in an activity that would result in a violation of a state or federal statute or regulation.
- (d) File a complaint with a local agency about gross mismanagement or a significant waste of funds, abuse of authority, or a substantial and specific danger to public health or safety. Members shall exhaust all available administrative remedies prior to filing a formal complaint.
- (e) Are family members of a person who has engaged in any protected acts described above.

Members are encouraged to report any legal violations through the chain of command (Labor Code § 1102.5).

Members who believe they have been the subject of retaliation for engaging in such protected behaviors should promptly report it to a supervisor. Supervisors should refer the complaint to the Professional Standards Unit for investigation pursuant to the Personnel Complaints Policy.

##### **1007.7.1 DISPLAY OF WHISTLE-BLOWER LAWS**

The Department shall display a notice to members regarding their rights and responsibilities under the whistle-blower laws, including the whistle-blower hotline maintained by the Office of the Attorney General (Labor Code § 1102.8).

#### **1007.8 RECORDS RETENTION AND RELEASE**

The Records Supervisor shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

#### **1007.9 TRAINING**

The policy should be reviewed with each new member.

All members should receive periodic refresher training on the requirements of this policy.

# Reporting of Arrests, Convictions, and Court Orders

## 1009.1 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.

## 1009.2 DOMESTIC VIOLENCE CONVICTIONS AND COURT ORDERS

Federal and California law prohibit individuals convicted of, or having an outstanding warrant for, certain offenses and individuals convicted of certain offenses and individuals subject to certain court orders from lawfully possessing firearms. Such convictions and court orders often involve allegations of the use or attempted use of force, or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC § 922; Penal Code § 29805).

All members and retired officers with identification cards issued by the Department are responsible for ensuring that they have not been disqualified from possessing firearms by any such conviction or court order, and shall promptly report any such conviction or court order to a supervisor, as provided in this policy.

## 1009.3 OTHER CRIMINAL CONVICTIONS AND COURT ORDERS

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.

Outstanding warrants as provided in Penal Code § 29805 also place restrictions on a member's ability to possess a firearm.

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.

## 1009.4 REPORTING PROCEDURE

All members of this department and all retired officers with an identification card issued by the Department shall promptly notify their immediate supervisor (or the Chief of Police in the case of retired officers) in writing of any past or current criminal arrest or conviction regardless of whether or not the matter is currently on appeal and regardless of the penalty or sentence, if any.

All members and all retired officers with an identification card issued by the Department shall further promptly notify their immediate supervisor (or the Chief of Police in the case of retired

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officers) in writing if the member or retiree becomes the subject of a domestic violence restraining order or similar court order or becomes the subject of an outstanding warrant.

Any member whose criminal conviction unduly restricts or prohibits that member from fully and properly performing his/her duties may be disciplined including, but not limited to, being placed on administrative leave, reassignment and/or termination. Any effort to remove such disqualification or restriction shall remain entirely the responsibility of the member on his/her own time and expense.

Any member failing to provide prompt written notice pursuant to this policy shall be subject to discipline.

#### **1009.4.1 NOTIFICATION REQUIREMENTS**

The Support Services Division Chief shall submit within 10 days of final disposition a notice to POST of a conviction or Government Code § 1029 reason that disqualifies any current peace officer employed by this department or any former peace officer if this department was responsible for the investigation (11 CCR 1003).

#### **1009.5 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.

#### **1009.5.1 NOTIFICATION REQUIREMENTS**

The Chief of police, or designee shall submit within 30 days of final disposition a notice to the Commission on Peace Officer Standards and Training (POST) of a felony conviction or Government Code § 1029 reason that disqualifies any current peace officer employed by this department or any former peace officer if this department was responsible for the investigation (11 CCR 1003).

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The Chief of police, or designee shall submit within 30 days a notice to POST of any appointment, termination, reinstatement, name change, or status change regarding any peace officer, reserve peace officer, public safety dispatcher, and records supervisor employed by this department (11 CCR 1003).

#### **1009.6 POLICY**

The Indio Police Department requires disclosure of member arrests, convictions, and certain court orders to maintain the high standards, ethics, and integrity in its workforce, and to ensure compatibility with the duties and responsibilities of the Department.

## Drug- and Alcohol-Free Workplace

### 1011.1 PURPOSE AND SCOPE

The purpose of this policy is to establish clear and uniform guidelines regarding drugs and alcohol in the workplace.

### 1011.2 POLICY

It is the policy of this department to provide a drug- and alcohol-free workplace for all members.

### 1011.3 GENERAL GUIDELINES

Alcohol and drug use in the workplace or on department time can endanger the health and safety of department members and the public. Such use shall not be tolerated (41 USC § 8103).

Members who have consumed an amount of an alcoholic beverage or taken any medication, or combination thereof, that would tend to adversely affect their mental or physical abilities shall not report for duty. Affected members shall notify the Watch Commander or appropriate supervisor as soon as the member is aware that he/she will not be able to report to work. If the member is unable to make the notification, every effort should be made to have a representative contact the supervisor in a timely manner. If the member is adversely affected while on-duty, he/she shall be immediately removed and released from work (see Work Restrictions in this policy). In addition, employees shall not consume intoxicants in any department or city operated facilities or police vehicles. Employees shall not consume intoxicating beverages while wearing any recognizable part of the IPD uniform. Employees shall not consume any food or beverage in the bar area of any restaurant where intoxicating liquor is sold while wearing any recognizable part of the police uniform. Officers working in an undercover capacity are exempt from consuming intoxicating beverages when necessary for a valid police operation while working in an undercover capacity. In such scenarios, officers shall obtain approval from a supervisor in their chain of command prior to consuming intoxicating beverages while on-duty if the anticipation of such situations arising during an undercover operation.

#### 1011.3.1 USE OF MEDICATIONS

Members should avoid taking any medications that will impair their ability to safely and completely perform their duties. Any member who is medically required or has a need to take any such medication shall report that need to his/her immediate supervisor prior to commencing any on-duty status.

No member shall be permitted to work or drive a vehicle owned or leased by the Department while taking any medication that has the potential to impair his/her abilities, without a written release from his/her physician. Employees shall only possess narcotics, dangerous drugs or controlled substances (as defined in DEA Regulations 21 C.F.R Sections 1308.11 through 1308.15) per duty requirements as authorized by the Chief of police or their designee, or at the direction of a medical authority. Employees shall not use medication to the extent that their performance is affected while on-duty.

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#### 1011.3.2 USE OF MARIJUANA

Possession of items with (THC) tetrahydrocannabinol, a crystalline compound that is the main active ingredient of cannabis such as marijuana, including medical marijuana, marijuana edibles, marijuana wax, cannabis drinks, solid edibles (gummies & mints), cannabis tinctures (alcohol-infused cannabis extracts), spray-able cannabis, cannabis inhalers, cannabis dissolvables / powders, cannabis butter, cannabis distillate, cannabis oil, or being under the influence of marijuana on- or off-duty is prohibited and may lead to disciplinary action.

#### 1011.4 MEMBER RESPONSIBILITIES

Members shall report for work in an appropriate mental and physical condition. Members are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on department premises or on department time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

Members who are authorized to consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance.

Members shall notify a supervisor immediately if they observe behavior or other evidence that they believe demonstrates that a fellow member poses a risk to the health and safety of the member or others due to drug or alcohol use.

Members are required to notify their immediate supervisors of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction (41 USC § 8103).

#### 1011.5 EMPLOYEE ASSISTANCE PROGRAM

There may be available a voluntary employee assistance program to assist those who wish to seek help for alcohol and / or drug problems (41 USC § 8103). Insurance coverage that provides treatment for drug and / or alcohol abuse also may be available. Employees should contact the Department of Human Resources, their insurance providers or the employee assistance program for additional information. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

#### 1011.6 WORK RESTRICTIONS

If a member informs a supervisor that he/she has consumed any alcohol, drug or medication that could interfere with a safe and efficient job performance, the member may be required to obtain clearance from his/her physician before continuing to work.

If the supervisor reasonably believes, based on objective facts, that a member is impaired by the consumption of alcohol or other drugs, the supervisor shall prevent the member from continuing work and shall ensure that he/she is safely transported away from the Department.



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#### **1011.7 REQUESTING SCREENING TESTS**

The supervisor may request an employee to submit to a screening test under the following circumstances:

- (a) The supervisor reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs that are impairing his/her ability to perform duties safely and efficiently.
- (b) The employee discharges a firearm, other than by accident, in the performance of his/her duties.
- (c) During the performance of his/her duties, the employee drives a motor vehicle and becomes involved in an incident that results in bodily injury to him/herself or another person, or substantial damage to property.

##### **1011.7.1 SUPERVISOR RESPONSIBILITY**

The supervisor shall prepare a written record documenting the specific facts that led to the decision to request the test, and shall inform the employee in writing of the following:

- (a) The test will be given to detect either alcohol or drugs, or both.
- (b) The result of the test is not admissible in any criminal proceeding against the employee.
- (c) The employee may refuse the test, but refusal may result in dismissal or other disciplinary action.

##### **1011.7.2 SCREENING TEST REFUSAL**

An employee may be subject to disciplinary action if he/she:

- (a) Fails or refuses to submit to a screening test as requested.
- (b) After taking a screening test that indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested, that he/she took the controlled substance as directed, pursuant to a current and lawful prescription issued in his/her name.
- (c) Violates any provisions of this policy.

#### **1011.8 COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT**

No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving a member, the Department will take appropriate disciplinary action, up to and including dismissal, and/or requiring the member to satisfactorily participate in a drug abuse assistance or rehabilitation program (41 USC § 8104).

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#### **1011.9 CONFIDENTIALITY**

The Department recognizes the confidentiality and privacy due to its members. Disclosure of any information relating to substance abuse treatment, except on a need-to-know basis, shall only be with the express written consent of the member involved or pursuant to lawful process.

The written results of any screening tests and all documents generated by the employee assistance program are considered confidential medical records and shall be maintained separately from the employee's other personnel files.

## Sick Leave

### 1013.1 PURPOSE AND SCOPE

This policy provides general guidance regarding the use and processing of sick leave. The accrual and terms of use of sick leave for eligible employees are detailed in the City personnel manual or applicable collective bargaining agreement.

This policy is not intended to cover all types of sick or other leaves. For example, employees may be entitled to additional paid or unpaid leave for certain family and medical reasons as provided for in the Family and Medical Leave Act (FMLA) (29 USC § 2601 et seq.) and the California Family Rights Act, and leave related to domestic violence, sexual assault, stalking or for organ or bone marrow donor procedures (29 CFR 825; Government Code § 12945.2; Labor Code § 230.1; Labor Code § 1510).

### 1013.2 POLICY

It is the policy of the Indio Police Department to provide eligible employees with a sick leave benefit.

### 1013.3 USE OF SICK LEAVE

Sick leave is intended to be used for qualified absences. Sick leave is not considered vacation. Abuse of sick leave may result in discipline, denial of sick leave benefits, or both.

Employees on sick leave shall not engage in other employment or self-employment or participate in any sport, hobby, recreational activity that may impede recovery from the injury or illness (see Outside Employment Policy).

Qualified appointments should be scheduled during a member's non-working hours when it is reasonable to do so.

### 1013.4 EXTENDED ILLNESS

When absent for more than three (3) consecutively scheduled workdays, the employee must file a physician's certificate or work release or a personal affidavit with the Human Resources Manager indicating the employee was unable to perform their duties during their absence. Failure to file the necessary documents within two (2) days following the return to work will be cause for such absence to be charged as leave without pay. Violation of sick leave privileges may result in disciplinary action and/or loss of pay when, in the opinion of the Human Resources Manager, the employee has abused such privileges. Physician's certificate or work release form may be requested by the Human Resources Manager if a potential sick leave abuse pattern appears to be developing.

Employees on extended absences shall, if possible, contact their unit supervisor on a regular basis to provide an update on their absence and expected date of return.

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Employees should refer to their respective and applicable MOU's for guidance on sick leave usage protocols.

#### **1013.4.1 NOTIFICATION**

All members should notify the Watch Commander or appropriate supervisor as soon as they are aware that they will not be able to report to work and no less than one hour before the start of their scheduled shifts. If, due to an emergency, a member is unable to contact the supervisor, every effort should be made to have a representative for the member contact the supervisor (Labor Code § 246 ).

When the necessity to be absent from work is foreseeable, such as planned medical appointments or treatments, the member shall, whenever possible and practicable, provide the department with no less than 30 days' notice of the impending absence (Labor Code § 246).

Upon return to work, members are responsible for ensuring their time off was appropriately accounted for, and for completing and submitting the required documentation describing the type of time off used and the specific amount of time taken.

#### **1013.5 REQUIRED NOTICES**

The Director of Human Resources and Risk Management shall ensure:

- (a) Written notice of the amount of paid sick leave available is provided to employees as provided in Labor Code § 246.
- (b) A poster is displayed in a conspicuous place for employees to review that contains information on paid sick leave as provided in Labor Code § 247.

#### **1013.6 SUPERVISOR RESPONSIBILITIES**

The responsibilities of supervisors include, but are not limited to:

- (a) Monitoring and regularly reviewing the attendance of those under their command to ensure that the use of sick leave and absences is consistent with this policy.
- (b) Attempting to determine whether an absence of four or more days may qualify as family medical leave and consulting with legal counsel or the Department of Human Resources as appropriate.
- (c) Addressing absences and sick leave use in the member's performance evaluation when excessive or unusual use has:
  - 1. Negatively affected the member's performance or ability to complete assigned duties.
  - 2. Negatively affected department operations.
- (d) When appropriate, counseling members regarding excessive absences and/or inappropriate use of sick leave.
- (e) Referring eligible members to an available employee assistance program when appropriate.

# Communicable Diseases

## 1015.1 PURPOSE AND SCOPE

This policy provides general guidelines to assist in minimizing the risk of department members contracting and/or spreading communicable diseases.

### 1015.1.1 DEFINITIONS

Definitions related to this policy include:

**Communicable disease** - A human disease caused by microorganisms that are present in and transmissible through human blood, bodily fluid, tissue, or by breathing or coughing. These diseases commonly include, but are not limited to, hepatitis B virus (HBV), HIV and tuberculosis.

**Exposure** - When an eye, mouth, mucous membrane or non-intact skin comes into contact with blood or other potentially infectious materials, or when these substances are injected or infused under the skin; when an individual is exposed to a person who has a disease that can be passed through the air by talking, sneezing or coughing (e.g., tuberculosis), or the individual is in an area that was occupied by such a person. Exposure only includes those instances that occur due to a member's position at the Indio Police Department. (See the exposure control plan for further details to assist in identifying whether an exposure has occurred.)

## 1015.2 POLICY

The Indio Police Department is committed to providing a safe work environment for its members. Members should be aware that they are ultimately responsible for their own health and safety.

## 1015.3 EXPOSURE CONTROL OFFICER

The Chief of Police will assign a person as the Exposure Control Officer (ECO). The ECO shall develop an exposure control plan that includes:

- (a) Exposure-prevention and decontamination procedures.
- (b) Procedures for when and how to obtain medical attention in the event of an exposure or suspected exposure.
- (c) The provision that department members will have no-cost access to the appropriate personal protective equipment (PPE) (e.g., gloves, face masks, eye protection, pocket masks) for each member's position and risk of exposure.
- (d) Evaluation of persons in custody for any exposure risk and measures to separate them (15 CCR 1051; 15 CCR 1207).
- (e) Compliance with all relevant laws or regulations related to communicable diseases, including:
  1. Responding to requests and notifications regarding exposures covered under the Ryan White law (42 USC § 300ff-133; 42 USC § 300ff-136).
  2. Bloodborne pathogen mandates including (8 CCR 5193):
    - (a) Sharps injury log.

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- (b) Needleless systems and sharps injury protection.
- 3. Airborne transmissible disease mandates including (8 CCR 5199):
  - (a) Engineering and work practice controls related to airborne transmissible diseases.
  - (b) Distribution of appropriate personal protective equipment to minimize exposure to airborne disease.
- 4. Promptly notifying the county health officer regarding member exposures (Penal Code § 7510).
- 5. Establishing procedures to ensure that members request exposure notification from health facilities when transporting a person that may have a communicable disease and that the member is notified of any exposure as required by Health and Safety Code § 1797.188.
- 6. Informing members of the provisions of Health and Safety Code § 1797.188 (exposure to communicable diseases and notification).
  - (f) Provisions for acting as the designated officer liaison with health care facilities regarding communicable disease or condition exposure notification. The designated officer should coordinate with other department members to fulfill the role when not available. The designated officer shall ensure that the name, title, and telephone number of the designated officer is posted on the Department website (Health and Safety Code § 1797.188).
  - (g) Coordination with the Department of Human Resources to provide required notices to members regarding COVID-19 exposures (Labor Code § 6409.6).

The ECO should also act as the liaison with the Division of Occupational Safety and Health (Cal/ OSHA) and may request voluntary compliance inspections. The ECO shall annually review and update the exposure control plan and review implementation of the plan (8 CCR 5193).

#### **1015.4 EXPOSURE PREVENTION AND MITIGATION**

##### **1015.4.1 GENERAL PRECAUTIONS**

All members are expected to use good judgment and follow training and procedures related to mitigating the risks associated with communicable disease. This includes, but is not limited to (8 CCR 5193):

- (a) Stocking disposable gloves, antiseptic hand cleanser, CPR masks or other specialized equipment in the work area or department vehicles, as applicable.
- (b) Wearing department-approved disposable gloves when contact with blood, other potentially infectious materials, mucous membranes and non-intact skin can be reasonably anticipated.
- (c) Washing hands immediately or as soon as feasible after removal of gloves or other PPE.

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- (d) Treating all human blood and bodily fluids/tissue as if it is known to be infectious for a communicable disease.
- (e) Using an appropriate barrier device when providing CPR.
- (f) Using a face mask or shield if it is reasonable to anticipate an exposure to an airborne transmissible disease.
- (g) Decontaminating non-disposable equipment (e.g., flashlight, control devices, clothing and portable radio) as soon as possible if the equipment is a potential source of exposure.
  - 1. Clothing that has been contaminated by blood or other potentially infectious materials shall be removed immediately or as soon as feasible and stored/decontaminated appropriately.
- (h) Handling all sharps and items that cut or puncture (e.g., needles, broken glass, razors, knives) cautiously and using puncture-resistant containers for their storage and/or transportation.
- (i) Avoiding eating, drinking, smoking, applying cosmetics or lip balm, or handling contact lenses where there is a reasonable likelihood of exposure.
- (j) Disposing of biohazardous waste appropriately or labeling biohazardous material properly when it is stored.

#### 1015.4.2 IMMUNIZATIONS

Members who could be exposed to HBV due to their positions may receive the HBV vaccine and any routine booster at no cost (8 CCR 5193).

### **1015.5 POST EXPOSURE**

#### 1015.5.1 INITIAL POST-EXPOSURE STEPS

Members who experience an exposure or suspected exposure shall:

- (a) Begin decontamination procedures immediately (e.g., wash hands and any other skin with soap and water, flush mucous membranes with water).
- (b) Obtain medical attention as appropriate.
- (c) Notify a supervisor as soon as practicable.

#### 1015.5.2 REPORTING REQUIREMENTS

The supervisor on-duty shall investigate every exposure or suspected exposure that occurs as soon as possible following the incident. The supervisor shall ensure the following information is documented (8 CCR 5193):

- (a) Name and Social Security number of the member exposed
- (b) Date and time of the incident
- (c) Location of the incident

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- (d) Potentially infectious materials involved and the source of exposure (e.g., identification of the person who may have been the source)
- (e) Work being done during exposure
- (f) How the incident occurred or was caused
- (g) PPE in use at the time of the incident
- (h) Actions taken post-event (e.g., clean-up, notifications)

The supervisor shall advise the member that disclosing the identity and/or infectious status of a source to the public or to anyone who is not involved in the follow-up process is prohibited. The supervisor should complete the incident documentation in conjunction with other reporting requirements that may apply (see the Occupational Disease and Work-Related Injury Reporting Policy).

#### 1015.5.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT

Department members shall have the opportunity to have a confidential medical evaluation immediately after an exposure and follow-up evaluations as necessary (8 CCR 5193).

The ECO should request a written opinion/evaluation from the treating medical professional that contains only the following information:

- (a) Whether the member has been informed of the results of the evaluation.
- (b) Whether the member has been notified of any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment.

No other information should be requested or accepted by the ECO.

#### 1015.5.4 COUNSELING

The Department shall provide the member, and his/her family if necessary, the opportunity for counseling and consultation regarding the exposure (8 CCR 5193).

#### 1015.5.5 SOURCE TESTING

Testing a person for communicable diseases when that person was the source of an exposure should be done when it is desired by the exposed member or when it is otherwise appropriate (8 CCR 5193). Source testing is the responsibility of the ECO. If the ECO is unavailable to seek timely testing of the source, it is the responsibility of the exposed member's supervisor to ensure testing is sought.

Source testing may be achieved by:

- (a) Obtaining consent from the individual.
- (b) Complying 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.



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- (c) Testing the exposed member for evidence of a communicable disease and seeking consent from the source individual to either access existing blood samples for testing or for the source to submit to testing (Health and Safety Code § 120262).
- (d) Taking 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).
- (e) Under certain circumstances, a court may issue a search warrant for the purpose of HIV testing a person when the exposed member qualifies as a crime victim (Penal Code § 1524.1).

Since there is the potential for overlap between the different manners in which source testing may occur, the ECO is responsible for coordinating the testing to prevent unnecessary or duplicate testing.

The ECO should seek the consent of the individual for testing and consult the City Attorney to discuss other options when no statute exists for compelling the source of an exposure to undergo testing if he/she refuses.

#### **1015.6 CONFIDENTIALITY OF REPORTS**

Medical information shall remain in confidential files and shall not be disclosed to anyone without the member'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.

#### **1015.7 TRAINING**

All members shall participate in training regarding communicable diseases commensurate with the requirements of their position. The training (8 CCR 5193):

- (a) Shall be provided at the time of initial assignment to tasks where an occupational exposure may take place and at least annually after the initial training.
- (b) Shall be provided whenever the member is assigned new tasks or procedures affecting his/her potential exposure to communicable disease.
- (c) Should provide guidance on what constitutes an exposure, what steps can be taken to avoid an exposure and what steps should be taken if a suspected exposure occurs.

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## Smoking and Tobacco Use

### 1017.1 PURPOSE AND SCOPE

This policy establishes limitations on smoking and the use of tobacco products by members and others while on-duty or while in Indio Police Department facilities or vehicles.

For the purposes of this policy, smoking and tobacco use includes, but is not limited to, any tobacco product, such as cigarettes, cigars, pipe tobacco, snuff, tobacco pouches and chewing tobacco, as well as any device intended to simulate smoking, such as an electronic cigarette or personal vaporizer.

### 1017.2 POLICY

The Indio Police Department recognizes that tobacco use is a health risk and can be offensive to others.

Smoking and tobacco use also presents an unprofessional image for the Department and its members. Therefore smoking and tobacco use is prohibited by members and visitors in all department facilities, buildings and vehicles, and as is further outlined in this policy (Government Code § 7597; Labor Code § 6404.5). It is the purpose and intent of this policy to reduce the exposure to secondary smoke which has been identified as a public health hazard. It is the policy of the Indio Police Department to prohibit smoking in any police or city building, as well as in any City owned vehicle.

### 1018.2 (a) LAW

Assembly Bill (AB) 846 became effective January 1, 2004. This law prohibits smoking within 20 feet of building main entrances, exits, and operable windows at any facility owned, leased, and occupied by the State, County, or City, and buildings of the University of California (UC), California State University (CSU), and all California community colleges.

### 1017.3 SMOKING AND TOBACCO USE

Smoking and tobacco use by members is prohibited anytime members are in public view representing the Indio Police Department.

It shall be the responsibility of each member to ensure that no person under his/her supervision smokes or uses any tobacco product inside City facilities and city vehicles.

### 1017.4 ADDITIONAL PROHIBITIONS

No person shall use tobacco products within 20 feet of a main entrance, exit or operable window of any public building (including any department facility), or buildings on the campuses of the University of California, California State University and California community colleges, whether present for training, enforcement or any other purpose (Government Code § 7596 et seq.).

### 1018.4 (a) EXCEPTIONS

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1. Employees wishing to smoke must assure they are not within 20 feet of any doorway or operating window to any City building. Employees who smoke outside of the 20 foot requirement must extinguish their cigarette in an approved ash receptacle.
2. Employees wishing to chew smokeless tobacco may do so only when they are out of public view and should discard their tobacco in a sealed container.
3. Employees are prohibited from spitting or discarding any chewing tobacco on any public or private street, pavement, lawn, etc.

#### 1017.4.1 NOTICE

The Chief of Police or the authorized designee should ensure that proper signage is posted at each entrance to the Department facility (Labor Code § 6404.5).

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## Personnel Complaints

### 1020.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Indio Police Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

### 1020.2 POLICY

The Indio Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining agreements.

It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.

### 1020.3 PERSONNEL COMPLAINT DEFINITIONS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

**Citizen/External Complaint** - An allegation of member misconduct from any source outside the department.

**Internal Complaint** - An allegation of misconduct against a member from any source within the department.

#### 1020.3.1 COMPLAINT CLASSIFICATIONS

The Professional Standards Unit, in conjunction with the Chief of Police, shall review all new complaints and classify them for the purposes of investigation:

**Supervisory Intervention** - These are complaints that, even if the events occurred exactly as described, signify a training gap or minor performance issue instead of misconduct on the part of the involved employee that would not result in any action more significant than a verbal admonishment or counseling. The complaint will be assigned to the appropriate supervisor for investigation and follow up. The follow up will include reviewing the circumstances with the complainant and the involved officer(s), providing corrective counseling to the involved officer(s) if necessary, providing additional information to the complainant regarding policy and procedures, and to ensure that additional training is provided if a training gap was identified during the investigation.

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The supervisor will document all of the follow up steps taken during the investigation, to include whether or not the complainant was satisfied with the department's efforts to resolve the complaint. All documentation will be forwarded to the Professional Standards Unit. The Professional Standards Unit Sergeant will forward the completed investigation to the Division Chief of the involved member. The Division Chief will determine if the complaint can be closed, or if further investigation and/or follow up is necessary.

All supervisory interventions will be assigned a case number and all related documentation will be maintained by the Professional Standards Unit. The supervisory intervention classification will not be used for instances involving a complaint of excessive force, dishonesty, sexual assault, or any other circumstance where a sustained finding would warrant disclosure pursuant to Penal Code 832.7.

**Administrative Investigations** - These investigations are more complex and involve more serious allegations, including all excessive use of force allegations. Administrative investigations will be assigned a case number and all related documentation will be maintained by the Professional Standards Unit.

#### 1020.3.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.
- (b) Any department member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.

#### 1020.3.3 PUBLIC INQUIRIES

Inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule. These inquiries may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department. However, people with inquiries of this nature should be given an explanation of the department policy, procedure, or issues involved. If further explanation appears necessary, the person should be referred to a supervisor or the department unit generally responsible for the subject matter of the inquiry.

#### 1020.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

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#### 1020.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the police facility and be accessible through the department website. Forms may also be available at other City facilities.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

#### 1020.4.2 ACCEPTANCE

All complaints will be courteously accepted by any department member and promptly given to the appropriate supervisor. In cases where a complainant is turning in a written complaint at the lobby counter, Records staff should attempt to summon the Watch Commander or the appropriate supervisor, who if available should make an effort to speak to the complainant regarding the nature of the complaint during a recorded interview. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification and signatures may be obtained.

A complainant shall be provided with a copy of his/her statement at the time it is filed with the Department (Penal Code § 832.7).

#### 1020.4.3 AVAILABILITY OF WRITTEN PROCEDURES

The department shall make available to the public a written description of the investigation procedures for complaints (Penal Code § 832.5).

#### 1020.4.4 HATE COMPLAINTS AGAINST PEACE OFFICERS

Internal complaints or complaints from the public shall be accepted and investigated in accordance with this policy where it is alleged that an officer has in the previous seven years, and since 18 years of age, engaged in membership in a hate group, participated in a hate group activity, or advocated any public expression of hate (Penal Code § 13682).

### **1020.5 DOCUMENTATION**

The department utilizes the software based programs Blue Team and IAPro to document and record personnel complaints and inquiries. Supervisors shall ensure that all complaints and inquiries are documented in the Blue Team and/or IAPro systems. The supervisor shall ensure that the nature of the complaint or inquiry is defined as clearly as possible.

For newly received personnel complaints and inquiries, an initial Blue Team entry should be made by the supervisor as soon as possible, and must be created before the end of the investigating supervisor's shift. Investigations held or assigned to a line level supervisor, will be completed

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within 10 calendar days from the date of the incident and forwarded to a lieutenant or next level supervisor. The investigations should include the following items as applicable: BWC footage, interviews, photos, reports, other documents as appropriate. Lieutenant must complete his or her review within 10 calendar days from receiving the investigation from the investigating supervisor. Lieutenant then forwards the completed review to the next level reviewer. Assistant Chief/Chief Administrative Officer (CAO) will complete their review and provide a recommendation to the Chief of Police. An employee must receive an extension from their respective supervisor in order to exceed the 10-day timeline. The extension request must be documented via a departmental email or departmental memorandum and attached to the blue team file for documentation. This timeline and routing process may be modified by the Chief of Police for cases where a formal administrative investigation will be assigned to the Professional Standards Unit or a supervisor.

All complaints and inquiries shall be documented in a manner that clearly describes the actions taken to address the issue. On an annual basis, the department should audit the records regarding personnel complaints and inquiries and send an audit report to the Chief of Police or the authorized designee.

#### **1020.6 ADMINISTRATIVE INVESTIGATIONS**

Allegations of misconduct will be administratively investigated as follows.

##### **1020.6.1 SUPERVISOR RESPONSIBILITIES**

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Chief of Police or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that upon receiving or initiating any personnel complaint, a complaint form and/or a Blue Team entry is completed before the supervisor goes off duty.
  - (a) The complaint will be directed to the Watch Commander of the accused member, via the chain of command, who will take appropriate action, which will include notifying the appropriate Division Chief and forwarding the complaint to the Office of the Chief of Police.
  - (b) In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the member's Division Chief or the Chief of Police, who will initiate appropriate action.
  - (c) The supervisor who receives the complaint, and is responsible for the Blue Team entry, shall send an email via Outlook to the IPD Executive Staff and Professional Standards Unit Sergeant or designee, making all aware of the

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pending complaint. The purpose of this email is to notify Executive Staff that a complaint was received on said date, and a Blue Team entry was generated for further investigation.

- (b) Responding to all complaints in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
  - (a) Follow-up contact with the complainant should be made within 24 hours of the Department receiving the complaint.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Watch Commander and Chief of Police are notified via the chain of command as soon as practicable, or at the very latest before the end of that work day.
- (e) Promptly contacting the Department of Human Resources and the Watch Commander for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
- (f) Making and documenting reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
- (g) When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (h) Ensuring that the procedural rights of the accused member are followed (Government Code § 3303 et seq.).
- (i) Ensuring interviews of the complainant are generally conducted during reasonable hours.

#### 1020.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or a member of the Professional Standards Unit, the following applies to members covered by the Public Safety Officers Procedural Bill of Rights Act (POBR) (Government Code § 3303):

- (a) Interviews of an accused member shall be conducted during reasonable hours and preferably when the member is on-duty. If the member is off-duty, he/she shall be compensated.
- (b) Unless waived by the member, interviews of an accused member shall be at the Indio Police Department or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused member.
- (d) Prior to any interview, a member shall be informed of the nature of the investigation, the name, rank and command of the officer in charge of the investigation, the interviewing officers and all other persons to be present during the interview.
- (e) All interviews shall be for a reasonable period and the member's personal needs should be accommodated.
- (f) No member should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.



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- (g) Any member refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
  - 1. A member should be given an order to answer questions in an administrative investigation that might incriminate the member in a criminal matter only after the member has been given a *Lybarger* advisement. Administrative investigators should consider the impact that compelling a statement from the member may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).
  - 2. No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
- (h) The interviewer should record all interviews of members and witnesses. The member may also record the interview. If the member has been previously interviewed, a copy of that recorded interview shall be provided to the member prior to any subsequent interview.
- (i) All members subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved members shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (j) All members shall provide complete and truthful responses to questions posed during interviews.
- (k) No member may be requested or compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Government Code § 3307).

No investigation shall be undertaken against any officer solely because the officer has been placed on a prosecutor's *Brady* list or the name of the officer may otherwise be subject to disclosure pursuant to *Brady v. Maryland*. However, an investigation may be based on the underlying acts or omissions for which the officer has been placed on a *Brady* list or may otherwise be subject to disclosure pursuant to *Brady v. Maryland* (Government Code § 3305.5).

#### 1020.6.3 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be thorough, complete and essentially follow this format:

**Involved Employees** - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.

**Summary of Incident** - Provide a brief summary of the facts giving rise to the investigation.

**Summary of Allegations** - List each allegation separately

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**Policy / Procedure** – Include the appropriate policy / procedure / legal issues alleged

**Summary of Witness / Subject Statements** - include comprehensive summaries of witness and subject statements.

**Evidence** - The evidence applicable to each allegation provided / any other evidence related to each allegation should also be detailed in this section.

**Findings** - List a disposition for each allegation. In most cases the information supporting the disposition should be detailed in the previous sections. If the disposition provided is not clearly discernable from the evidence provided, a brief analysis supporting the finding should be provided.

**Credibility Concerns** – If there are credibility concerns regarding any of the involved parties they should be noted for the reviewer's consideration.

**Investigative Conclusions** – what conclusions can be drawn from the evidence.

**Recommendation** - In most cases, the recommendation will be to forward the investigation report to the Division Chief of the subject employee(s) for review and final disposition.

**Exhibits** - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

**Mitigating Factors** - Although we must attempt to be somewhat consistent in the issuance of discipline, there must be consideration given to any mitigating circumstances involving the incident itself or the employee involved. Mitigating circumstances are those facts or other considerations which tend to support a lesser recommendation on the type of disciplinary action to be used. For example, what may seem like an obvious "day-off" violation might be mitigated to a written reprimand because of the employee's trouble-free past. Discipline should be tailored to the individual as much as possible. This category could also include some of your opinions regarding why you feel there are mitigating circumstances.

#### 1020.6.4 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

**Unfounded** - When the investigation discloses that the alleged acts did not occur or did not involve department members. Complaints that are determined to be frivolous will fall within the classification of unfounded (Penal Code § 832.8).

**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 member.

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**Sustained** - A final determination following an investigation and opportunity for an administrative appeal pursuant to Government Code § 3304 and Government Code § 3304.5 that the actions of an officer were found to violate law or department policy (Penal Code § 832.8).

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

#### 1020.6.5 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 (Government Code § 3304).

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.

Absent good cause, the investigator should be provided with a due date at the time an investigation is assigned. The standard department due date should be 90 days from the time of assignment. If special circumstances exist, a longer or shorter period of time may be set to meet the needs of the department. The investigator should never exceed the due date without prior written approval from their Division Chief. Good cause for a due date not being assigned would include cases that involve pending civil or criminal litigation.

#### 1020.6.6 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

#### 1020.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

Lockers and storage spaces may only be administratively searched in the member's presence, with the member's consent, with a valid search warrant or where the member has been given reasonable notice that the search will take place (Government Code § 3309).

#### 1020.7.1 DISCLOSURE OF FINANCIAL INFORMATION

An employee may be compelled to disclose personal financial information under the following circumstances (Government Code § 3308):

- (a) Pursuant to a state law or proper legal process
- (b) Information exists that tends to indicate a conflict of interest with official duties

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- (c) If the employee is assigned to or being considered for a special assignment with a potential for bribes or other improper inducements

#### **1020.8 ADMINISTRATIVE LEAVE**

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

#### **1020.9 CRIMINAL INVESTIGATION**

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be advised of his/her constitutional rights (Government Code § 3303(h)). The member should not be administratively ordered to provide any information in the criminal investigation.

The Indio Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

#### **1020.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES**

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief of Police through the chain of command. Each level of command should review and include their comments in writing before forwarding the report. The Chief of Police may accept or modify any classification or recommendation for disciplinary action.

##### **1020.10.1 DIVISION CHIEF RESPONSIBILITIES**

Upon receipt of any completed personnel investigation, the Division Chief of the involved member or the Chief's designee shall review the entire investigative file, the member's personnel file and any other relevant materials.

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

Prior to forwarding recommendations to the Chief of Police, the Division Chief may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Chief of Police, the Division Chief shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

#### 1020.10.2 CHIEF OF POLICE RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation and/or may return the file to the Division Chief for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any, that should be imposed. In the event disciplinary action is proposed, the Chief of Police shall provide the member with a pre-disciplinary procedural due process hearing (Skelly) by providing written notice of the charges, proposed action and reasons for the proposed action. Written notice shall be provided within one year from the date of discovery of the misconduct (Government Code § 3304(d)). The Chief of Police shall also provide the member with:

- (a) Access to all of the materials considered by the Chief of Police in recommending the proposed discipline.
- (b) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.
  - (a) Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.
  - (b) If the member elects to respond orally, the presentation may be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed his/her response or if the member 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 render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

#### 1020.10.3 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Chief of Police or the authorized designee shall ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint (Penal Code § 832.7(f)).

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#### 1020.10.4 NOTICE REQUIREMENTS

The disposition of any civilian's complaint shall be released to the complaining party within 30 days of the final disposition. This release shall not include what discipline, if any, was imposed (Penal Code § 832.7(f)).

#### **1020.11 PRE-DISCIPLINE 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) The 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 response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.
- (d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.

#### **1020.12 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE**

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline. The PSU assigned investigator shall complete all investigations of allegations of serious misconduct by an officer, regardless of their employment status.

#### **1020.13 POST-DISCIPLINE APPEAL RIGHTS**

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by any collective bargaining agreement, Memorandum of Understanding and/or personnel rules.

In the event of punitive action against an employee covered by the POBR, the appeal process shall be in compliance with Government Code § 3304 and Government Code § 3304.5.

During any administrative appeal, evidence that an officer has been placed on a Brady list or is otherwise subject to Brady restrictions may not be introduced unless the underlying allegations

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of misconduct have been independently established. Thereafter, such Brady evidence shall be limited to determining the appropriateness of the penalty (Government Code § 3305.5).

#### **1020.14 PROBATIONARY EMPLOYEES AND OTHER MEMBERS**

At-will and probationary employees and those members other than non-probationary employees may be released from employment for non-disciplinary reasons (e.g., failure to meet standards) without adherence to the procedures set forth in this policy or any right to appeal. However, any probationary officer subjected to an investigation into allegations of misconduct shall be entitled to those procedural rights, as applicable, set forth in the POBR (Government Code § 3303; Government Code § 3304). At-will, probationary employees and those other than non-probationary employees subjected to discipline or termination as a result of allegations of misconduct shall not be deemed to have acquired a property interest in their position, but shall be given the opportunity to appear before the Chief of Police or authorized designee for a non-evidentiary hearing for the sole purpose of attempting to clear their name or liberty interest. There shall be no further opportunity for appeal beyond the liberty interest hearing and the decision of the Chief of Police shall be final.

#### **1020.15 RETENTION OF PERSONNEL INVESTIGATION FILES**

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy

#### **1020.16 REQUIRED REPORTING TO POST**

The Chief of Police or the authorized designee shall notify POST on the appropriate POST form within 10 days of certain officer personnel events, including but not limited to (Penal Code § 13510.9):

- (a) Termination or separation from employment or appointment. Separation from employment or appointment includes any involuntary termination, resignation, or retirement.
  1. A POST affidavit-of-separation form shall be executed and maintained by the Department and submitted to POST as required by Penal Code § 13510.9 and 11 CCR 1003.
- (b) Events that could affect an officer's POST certification, such as:
  1. Complaints, charges, or allegations of serious misconduct (as defined by Penal Code § 13510.8).
  2. Findings of civilian review boards.
  3. Final dispositions of any investigations.
  4. Civil judgments or court findings based on conduct, or settlement of a civil claim against an officer or the Indio Police Department based on allegations of conduct by an officer.

The Chief of Police or the authorized designee shall be responsible for providing POST access to or duplication of investigation documentation (e.g., physical or documentary evidence, witness

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statements, analysis, conclusions) within the applicable timeframe provided in Penal Code § 13510.9.

#### 1020.16.1 NOTIFICATIONS TO POST FOR SERIOUS MISCONDUCT

The Chief of Police or the authorized designee shall report allegations of serious misconduct by an officer to POST and the report shall include the following (11 CCR 1207):

- (a) Name of the Department
- (b) Administrative case number
- (c) Name, current address, and phone number of the complainant, if available
- (d) Name, POST ID, current address, and phone number of the involved officer
- (e) A summary of the alleged misconduct including:
  - 1. A narrative of the allegations
  - 2. Date and time of incidents
  - 3. Location of occurrence
  - 4. Any witness information, if available
  - 5. Summary of arrest or indictment of involved officer
- (f) A change in employment status of the involved officer (e.g., administrative leave, suspension, termination)
- (g) Name and contact information of the assigned investigator

The Chief of Police or the authorized designee shall provide updates of the investigation to POST every 90 days until the final disposition in the method designated by POST (11 CCR 1207).

Upon completion of the investigation, the Chief of Police or the authorized designee shall submit to POST the final disposition of the investigation as well as investigation materials and the officer's service record as provided by 11 CCR 1207.

#### 1020.16.2 ADDITIONAL NOTIFICATIONS TO POST FOR SERIOUS MISCONDUCT

Additional notification shall be made to POST (11 CCR 1207):

- (a) If the imposed disciplinary action is pending appeal or other review through an administrative or judicial proceeding:
  - 1. The Department shall provide the name of the body conducting the proceeding.
  - 2. The status of the proceeding, if known.
- (b) If criminal charges are pending:
  - 1. The name of the court having jurisdiction over the criminal charges against the officer.
  - 2. The status of the criminal case, if known.



## Seat Belts

### 1021.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of seat belts and child restraints. This policy will apply to all members operating or riding in department vehicles (Vehicle Code § 27315.5).

#### 1021.1.1 DEFINITIONS

Definitions related to this policy include:

**Child restraint system** - An infant or child passenger restraint system that meets Federal Motor Vehicle Safety Standards (FMVSS) and Regulations set forth in 49 CFR 571.213.

### 1021.2 WEARING OF SAFETY RESTRAINTS

All members shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this department while on- or off-duty, or in any privately owned vehicle while on-duty. The member driving such a vehicle shall ensure that all other occupants, including non-members, are also properly restrained.

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a seat belt would endanger the member or the public. Members must be prepared to justify any deviation from this requirement.

### 1021.3 TRANSPORTING SUSPECTS, PRISONERS OR ARRESTEES

Suspects, prisoners and arrestees should be in a seated position and secured in the rear seat of any department vehicle with a prisoner restraint system or, when a prisoner restraint system is not available, by seat belts provided by the vehicle manufacturer. The prisoner restraint system is not intended to be a substitute for handcuffs or other appendage restraints.

Prisoners in leg restraints shall be transported in accordance with the Handcuffing and Restraints Policy.

### 1021.4 INOPERABLE SEAT BELTS

Department vehicles shall not be operated when the seat belt in the driver's position is inoperable. Persons shall not be transported in a seat in which the seat belt is inoperable.

Department vehicle seat belts shall not be modified, removed, deactivated or altered in any way, except by the vehicle maintenance and repair staff, who shall do so only with the express authorization of the Chief of Police.

Members who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

### 1021.5 POLICY

It is the policy of the Indio Police Department that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle collision.

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#### **1021.6 TRANSPORTING CHILDREN**

Children under the age of 8 shall be transported in compliance with California's child restraint system requirements (Vehicle Code § 27360; Vehicle Code § 27363).

Rear seat passengers in a cage-equipped vehicle may have reduced clearance, which requires careful seating and positioning of seat belts. Due to this reduced clearance, and if permitted by law, children and any child restraint system may be secured in the front seat of such vehicles provided this positioning meets federal safety standards and the vehicle and child restraint system manufacturer's design and use recommendations. In the event that a child is transported in the front seat of a vehicle, the seat should be pushed back as far as possible and the passenger-side airbag should be deactivated. If this is not possible, members should arrange alternate transportation when feasible. A child shall not be transported in a rear-facing child restraint system in the front seat in a vehicle that is equipped with an active frontal passenger airbag (Vehicle Code § 27363).

#### **1021.7 VEHICLES MANUFACTURED WITHOUT SEAT BELTS**

Vehicles manufactured and certified for use without seat belts or other restraint systems are subject to the manufacturer's operator requirements for safe use.

#### **1021.8 VEHICLE AIRBAGS**

In all vehicles equipped with airbag restraint systems, the system will not be tampered with or deactivated, except when transporting children as written elsewhere in this policy. All equipment installed in vehicles equipped with airbags will be installed as per the vehicle manufacturer specifications to avoid the danger of interfering with the effective deployment of the airbag device.

## Body Armor

### 1023.1 PURPOSE AND SCOPE

The purpose of this policy is to provide law enforcement officers with guidelines for the proper use of body armor.

### 1023.2 POLICY

It is the policy of the Indio 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.

### 1024.2 (a) DEFINITIONS

1. Body armor: An item of personal protective equipment intended to protect the wearer from threats that may include (1) ballistic threats, (2) stabbing, fragmentation, or (3) blunt impact. Body armor generally consists of two armor panel or plates, a front and a back, placed in a carrier.
2. Carrier: A garment whose primary purpose is to retain the armor panel(s) or plate(s) and to provide a means of supporting and securing the armor panel(s) or plate(s) to the wearer.
3. Field activities: Duty assignments and/or tasks that place or could reasonably be expected to place officers in situations where they would be required to act in enforcement rather than administrative or support roles.

### 1023.3 ISSUANCE OF BODY ARMOR

The Field Services Division supervisor shall ensure that body armor is issued to all officers when the officer begins service at the Indio Police Department and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The Field Services Division supervisor shall establish a body armor replacement schedule and ensure that replacement body armor is issued pursuant to the schedule or whenever the body armor becomes worn or damaged to the point that its effectiveness or functionality has been compromised.

The Field Services Division supervisors shall ensure the following;

1. Every officer shall be issued agency-approved body armor that complies with the appropriate protective and related requirements.
2. The agency shall specify requirements for the carrier that is part of the agency-approved body armor.
3. Every officer shall be individually measured and fitted for body armor via an approved vendor.
4. Body armor that is damaged shall be replaced in accordance with established guidelines and protocols.

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5. Body armor that has reached the end of its warranty period (5 year life span) should be replaced in accordance with established guidelines and protocols.

#### 1023.3.1 USE OF SOFT BODY ARMOR

The use of body armor is mandatory at the Indio Police Department when in full police uniform. All sworn personnel up to & including the Chief of police are subject to the following:

- (a) Officers shall only wear agency-approved body armor.
- (b) Body armor shall be worn when an officer is working in uniform and contact with the public is possible or when taking part in department range training. This includes community events and meetings while in full police uniform..
- (c) An officer may be excused from wearing body armor when he/she is (1) involved in undercover or plainclothes work that his/her supervisor determines could be compromised by wearing body armor, (2) when they are functioning primarily in an administrative or support capacity and could not reasonably be expected to take enforcement action, or (3) when a supervisor determines that other circumstances make it inappropriate to mandate wearing body armor.
- (d) The only exception to this rule is when it is medically necessary as indicated by a physicians note.

#### 1023.3.2 INSPECTIONS OF BODY ARMOR

Supervisors should ensure that body armor is worn and maintained in accordance with this policy through routine observation and periodic documented inspections. Annual inspections of body armor should be conducted by an authorized designee for fit, cleanliness, and signs of damage, abuse and wear.

#### 1023.3.3 CARE AND MAINTENANCE OF SOFT BODY ARMOR

Soft body armor should never be stored for any period of time in an area where environmental conditions (e.g., temperature, light, humidity) are not reasonably controlled (e.g., normal ambient room temperature/humidity conditions), such as in automobiles or automobile trunks.

Soft body armor should be cared for and cleaned pursuant to the manufacturer's care instructions provided with the soft body armor. The instructions can be found on labels located on the external surface of each ballistic panel. The carrier should also have a label that contains care instructions. Failure to follow these instructions may damage the ballistic performance capabilities of the armor. If care instructions for the soft body armor cannot be located, contact the manufacturer to request care instructions.

Soft body armor should not be exposed to any cleaning agents or methods not specifically recommended by the manufacturer, as noted on the armor panel label.

Soft body armor should be replaced in accordance with the manufacturer's recommended replacement schedule, which is currently 5 years for NIJ approved products.

#### **1024.3.3(a) EMPLOYEE RESPONSIBILITY**

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1. Each officer shall be responsible for reporting damage or excessive wear to the ballistic panels or carrier to his or her supervisor and the individual responsible for the uniform supply function.

#### **1024.3.3(b) SUPERVISOR RESPONSIBILITY**

1. Supervisors shall ensure that all officers comply with this policy, including ensuring that body armor is worn and maintained as required by this policy through routine observation and periodic documented inspections.

#### **1023.4 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.
- (d) Maintaining statistics on incidents where armor has or has not protected officers from harm, including motor vehicle crashes.
- (e) Providing training programs that demonstrate body armor's stopping power under actual firing conditions and that emphasize its safe and proper use.

## Personnel Records

### 1025.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual member's name.

### 1025.2 POLICY

It is the policy of this department to maintain personnel records and preserve the confidentiality of personnel records pursuant to the Constitution and the laws of California (Penal Code § 832.7).

### 1025.3 DEPARTMENT FILE

The department file shall be maintained as a record of a person's employment/appointment with this department. The department file should contain, at a minimum:

- (a) Personal data, including photographs, marital status, names of family members, educational and employment history, or similar information. A photograph of the member should be permanently retained.
- (b) Election of employee benefits.
- (c) Personnel action reports reflecting assignments, promotions, and other changes in employment/appointment status. These should be permanently retained.
- (d) Original performance evaluations. These should be permanently retained.
- (e) Discipline records, including copies of sustained personnel complaints (see the Personnel Complaints Policy).
  - 1. Disciplinary action resulting from sustained internally initiated complaints or observation of misconduct shall be maintained pursuant to the established records retention schedule and at least four years (Government Code § 12946).
  - 2. Disciplinary action resulting from a sustained civilian's complaint involving misconduct shall be maintained pursuant to the established records retention schedule and at least 15 years (Penal Code § 832.5).
  - 3. A civilian's complaint involving misconduct that was not sustained shall be maintained pursuant to the established records retention schedule and at least five years (Penal Code § 832.5).
- (f) Adverse comments such as supervisor notes or memos may be retained in the department file after the member has had the opportunity to read and initial the comment (Government Code § 3305).
  - 1. Once a member has had an opportunity to read and initial any adverse comment, the member shall be given the opportunity to respond in writing to the adverse comment within 30 days (Government Code § 3306).
  - 2. Any member response shall be attached to and retained with the original adverse comment (Government Code § 3306).

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3. If a member 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 and the member should sign or initial the noted refusal. Such a refusal, however, shall not be deemed insubordination, nor shall it prohibit the entry of the adverse comment into the member's file (Government Code § 3305).
- (g) Commendations and awards.
  - (h) Any other information, the disclosure of which would constitute an unwarranted invasion of personal privacy.

#### **1025.4 DIVISION FILE**

Division files may be separately maintained internally by a member's supervisor for the purpose of completing timely performance evaluations. The Division file may contain supervisor comments, notes, notices to correct and other materials that are intended to serve as a foundation for the completion of timely performance evaluations.

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 Government Code § 3306.

#### **1025.5 TRAINING FILE**

An individual training file shall be maintained by the Training Coordinator for each member. Training files will contain records of all training; original or photocopies of available certificates, transcripts, diplomas and other documentation; and education and firearms qualifications. Training records may also be created and stored remotely, either manually or automatically (e.g., Daily Training Bulletin (DTB) records).

- (a) The involved member is responsible for providing the Training Coordinator or immediate supervisor with evidence of completed training/education in a timely manner.
- (b) The Training Coordinator or supervisor shall ensure that copies of such training records are placed in the member's training file.

#### **1025.6 INTERNAL AFFAIRS FILE**

Internal affairs files shall be maintained under the exclusive control of the Professional Standards Unit in conjunction with the office of the Chief of Police. Access to these files may only be approved by the Chief of Police or the Professional Standards Unit supervisor.

These files shall contain the complete investigation of all formal complaints of member misconduct, regardless of disposition (Penal Code § 832.12). Investigations of complaints that result in the following findings shall not be placed in the member's file but will be maintained in the internal affairs file:

- (a) Not sustained
- (b) Unfounded
- (c) Exonerated

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Investigation files arising out of sustained civilian's complaints involving misconduct shall be maintained pursuant to the established records retention schedule and for a period of at least 15 years. Investigations that resulted in other than a sustained finding may not be used by the Department to adversely affect an employee's career (Penal Code § 832.5).

Investigation files arising out of internally generated complaints shall be maintained pursuant to the established records retention schedule and for at least four years (Government Code § 12946).

Investigation files arising out of a civilian complaint involving misconduct that was not sustained shall be maintained pursuant to the established records retention schedule and for at least five years (Penal Code § 832.5).

#### **1025.7 MEDICAL FILE**

A medical file shall be maintained separately from all other personnel records and shall contain all documents relating to the member's medical condition and history, including but not limited to:

- (a) Materials relating to a medical leave of absence, including leave under the Family and Medical Leave Act (FMLA).
- (b) Documents relating to workers' compensation claims or the 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 that reveal a member's medical condition.
- (e) Any other documents or materials that reveal the member's medical history or medical condition, including past, present or future anticipated mental, psychological or physical limitations.

The medical file will be maintained and housed with the Human Resources Department.

#### 1025.7.1 HUMAN RESOURCE FILES

#### **1025.8 SECURITY**

Personnel records should be maintained in a secured location and locked either in a cabinet or access-controlled room. Personnel records maintained in an electronic format should have adequate password protection.

Personnel records are subject to disclosure only as provided in this policy, the Records Maintenance and Release Policy or according to applicable discovery procedures.

Nothing in this policy is intended to preclude review of personnel records by the City Manager, City Attorney or other attorneys or representatives of the City in connection with official business.

#### 1025.8.1 REQUESTS FOR DISCLOSURE

Any member receiving a request for a personnel record shall promptly notify the Custodian of Records or other person charged with the maintenance of such records.



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Upon receipt of any such request, the responsible person shall notify the affected member as soon as practicable that such a request has been made (Evidence Code § 1043).

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 may require assistance of available legal counsel.

All requests for disclosure that result in access to a member's personnel records shall be logged in the corresponding file.

#### **1025.8.2 RELEASE OF PERSONNEL INFORMATION**

Personnel records shall not be disclosed except as allowed by law (Penal Code § 832.7; Evidence Code § 1043) (See also Records Maintenance and Release Policy).

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).

The Department may release any factual information concerning a disciplinary investigation if the member who is the subject of the investigation (or the member's representative) publicly makes a statement that is published in the media and that the member (or representative) knows 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).

#### **1025.8.3 RELEASE OF LAW ENFORCEMENT GANG INFORMATION**

Information relating to the termination of an officer from this department for participation in a law enforcement gang shall be disclosed to another law enforcement agency that is conducting a pre-employment background investigation except where specifically prohibited by law (Penal Code § 13670).

#### **1025.8.4 RELEASE OF PEACE OFFICER RECORDS RELATING TO HATE COMPLAINTS**

Records relating to an officer for an investigation of a hate complaint described in Penal Code § 13682 with a sustained finding that the officer engaged in membership in a hate group, participated in a hate group activity, or advocacy of public expressions of hate are not confidential and shall be made available for public inspection through a public records request (Penal Code § 13683).

Records disclosed may be redacted as provided in Penal Code § 13683.

#### **1025.9 MEMBER ACCESS TO HIS/HER OWN PERSONNEL RECORDS**

Any member may request access to his/her own personnel records during the normal business hours of those responsible for maintaining such files. Any member seeking the removal of any item from his/her personnel records shall file a written request to the Chief of Police through the chain of command. The Department shall remove any such item if appropriate, or within 30 days provide the member with a written explanation of why the contested item will not be removed. If the contested item is not removed from the file, the member's request and the written response

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from the Department shall be retained with the contested item in the member's corresponding personnel record (Government Code § 3306.5).

Members may be restricted from accessing files containing any of the following information:

- (a) An ongoing internal affairs investigation to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the member of the intent to discipline.
- (b) Confidential portions of internal affairs files that have not been sustained against the member.
- (c) Criminal investigations involving the member.
- (d) Letters of reference concerning employment/appointment, licensing or issuance of permits regarding the member.
- (e) Any portion of a test document, except the cumulative total test score for either a section of the test document or for the entire test document.
- (f) Materials used by the Department for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments, management bonus plans, promotions and job assignments or other comments or ratings used for department planning purposes.
- (g) Information of a personal nature about a person other than the member if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.
- (h) Records relevant to any other pending claim between the Department and the member that may be discovered in a judicial proceeding.

#### **1025.10 RETENTION AND PURGING**

Unless provided otherwise in this policy, personnel records shall be maintained in accordance with the established records retention schedule.

- (a) During the preparation of each member's performance evaluation, all personnel complaints and disciplinary actions should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development. Each supervisor responsible for completing the member's performance evaluation should determine whether any prior sustained disciplinary file should be retained beyond the required 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 required period, approval for such retention should be obtained through the chain of command from the Chief of Police.
- (c) If, in the opinion of the Chief of Police, a personnel complaint or disciplinary action maintained beyond the required retention period is no longer relevant, all records of such matter may be destroyed in accordance with the established records retention schedule.

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#### **1025.11 RELEASE OF PERSONNEL RECORDS AND RECORDS RELATED TO CERTAIN INCIDENTS, COMPLAINTS, AND INVESTIGATIONS OF OFFICERS**

Personnel records and records related to certain incidents, complaints, and investigations of officers shall be released pursuant to a proper request under the Public Records Act and subject to redaction and delayed release as provided by law.

The Custodian of Records should work as appropriate with the Chief of Police or the Professional Standards Unit supervisor in determining what records may qualify for disclosure when a request for records is received and if the requested record is subject to redaction or delay from disclosure.

For purposes of this section, a record includes (Penal Code § 832.7(b)(3):

- All investigation reports.
- Photographic, audio, and video evidence.
- Transcripts or recordings of interviews.
- Autopsy reports.
- All materials compiled and presented for review to the District Attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, whether the officer's action was consistent with law and department policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take.
- Documents setting forth findings or recommending findings.
- Copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the *Skelly* or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action.

Unless a record or information is confidential or qualifies for delayed disclosure as provided by Penal Code § 832.7(b)(8) or other law, the following records (hereinafter qualifying records) shall be made available for public inspection no later than 45 days from the date of a request (Penal Code § 832.7(b)(1)):

- (a) Records relating to the report, investigation, or findings of:
  1. The discharge of a firearm at another person by an officer.
  2. The use of force against a person resulting in death or in great bodily injury (as defined by Penal Code § 243(f)(4)) by an officer.
  3. A sustained finding involving a complaint that alleges unreasonable or excessive force.
  4. A sustained finding that [an\_officer-deputy] failed to intervene against another [officer-deputy] using force that is clearly unreasonable or excessive.
- (b) Records relating to an incident where a sustained finding was made by the Department or oversight agency regarding:

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1. An officer engaged in sexual assault of a member of the public (as defined by Penal Code § 832.7(b)).
2. Dishonesty of an officer relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another officer, including but not limited to any false statements, filing false reports, destruction, falsifying, or concealing of evidence, or perjury.
3. An officer engaged in conduct including but not limited to verbal statements, writings, online posts, recordings, and gestures involving prejudice or discrimination against a person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.
4. An officer made an unlawful arrest or conducted an unlawful search.

Qualifying records will be made available regardless of whether the officer resigns before the [DepartmentOffice] or an oversight agency concludes its investigation (Penal Code § 832.7(b)(3)).

A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure (Penal Code § 832.7(b)(4)).

When an investigation involves multiple officers, the Department shall not release information about allegations of misconduct or the analysis or disposition of an investigation of an officer unless it relates to a sustained finding of a qualified allegation as provided by Penal Code § 832.7(b)(5). However, factual information about the action of the officer during an incident or the statements of an officer shall be released if the statements are relevant to a finding of the qualified allegation against another officer that is subject to release (Penal Code § 832.7(b)(5)).

#### 1025.11.1 REDACTION

The Custodian of Records, in consultation with the Chief of Police or authorized designee, shall redact the following portions of qualifying records made available for release (Penal Code § 832.7(b)(6)):

- (a) Personal data or information (e.g., home address, telephone number, identities of family members) other than the names and work-related information of officers
- (b) Information that would compromise the anonymity of whistleblowers, complainants, victims, and witnesses
- (c) Confidential medical, financial, or other information where disclosure is prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about possible misconduct and use of force
- (d) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the officer or another person

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Additionally, a record may be redacted, including redacting personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosing it (Penal Code § 832.7(b)(7)).

#### 1025.11.2 DELAY OF RELEASE

Unless otherwise directed by the Chief of Police, the Custodian of Records should consult with a supervisor familiar with the underlying investigation to determine whether to delay disclosure of records relating to the discharge of a firearm or use of force resulting in death or in great bodily injury due to any of the following conditions (Penal Code § 832.7):

- (a) Active criminal investigations
  1. Disclosure may be delayed 60 days from the date the use of force occurred or until the District Attorney determines whether to file criminal charges, whichever occurs sooner.
  2. After the initial 60 days, delay of disclosure may be continued if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an officer or against someone other than an officer who used the force.
- (b) Filed criminal charges
  1. When charges are filed related to an incident where force was used, disclosure may be delayed until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to withdraw the plea has passed.
- (c) Administrative investigations
  1. Disclosure may be delayed until whichever occurs later:
    - (a) There is a determination from the investigation whether the use of force violated law or department policy, but no longer than 180 days after the date of the department's discovery of the use of force or allegation of use of force
    - (b) Thirty days after the close of any criminal investigation related to the officer's use of force

#### 1025.11.3 NOTICE OF DELAY OF RECORDS

When there is justification for delay of disclosure of qualifying records, the Custodian of Records shall provide written notice of the reason for any delay to a requester as follows (Penal Code § 832.7):

- (a) Provide the specific basis for the determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. The notice shall also include the estimated date for the disclosure of the withheld information.
- (b) When delay is continued beyond the initial 60 days because of criminal enforcement proceedings against anyone, at 180-day intervals provide the specific basis that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding and the estimated date for disclosure.

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1. Information withheld shall be disclosed when the specific basis for withholding the information is resolved, the investigation or proceeding is no longer active, or no later than 18 months after the date of the incident, whichever occurs sooner, unless:
  - (a) When the criminal proceeding is against someone other than an officer and there are extraordinary circumstances to warrant a continued delay due to the ongoing criminal investigation or proceeding, then the Department must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest for prompt disclosure of records about misconduct or use of force by officers.

In cases where an action to compel disclosure is brought pursuant to Government Code § 7923.000, the Department may justify delay by filing an application to seal the basis for withholding if disclosure of the written basis itself would impact a privilege or compromise a pending investigation (Penal Code § 832.7(b)(8)).

#### **1025.12 SENATE BILL 16 COMPLIANCE**

While all public complaints must still be retained for no less than five (5) years under Penal Code 832.5, “sustained” complaints must now be retained no less than fifteen (15) years. Further expanding the elimination of confidentiality for peace officer personnel files, SB16 also adds another category of misconduct which will now be subject to PRA disclosure:

- (a) Any sustained finding that an officer engaged in verbal comments, writings, online posts, gestures, etc. involving prejudice or discrimination based on any protected class (including gender identity, gender expression, etc.)
- (b) Refer to attached copy of Senate Bill 16 effective January 1, 2022.

## Request for Change of Assignment

### 1027.1 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.

### 1027.2 REQUEST FOR CHANGE OF ASSIGNMENT

Personnel wishing a change of assignment are to complete a Request for Change of Assignment Memorandum. The memorandum should then be forwarded through the chain of command to their Division Chief.

#### 1027.2.1 PURPOSE OF MEMORANDUM

The memorandum is designed to aid employees in listing their qualifications for specific assignments. All relevant experience, education and training should be included when completing this memorandum.

All assignments an employee is interested in should be listed on the memorandum.

### 1027.3 SUPERVISOR'S COMMENTARY

The officer's immediate supervisor shall make appropriate comments in the space provided on the memorandum before forwarding it to the Division Chief of the employee involved. In the case of patrol officers, the Watch Chief must comment on the request with his/her recommendation before forwarding the request to the Division Chief. If the Watch Chief does not receive the Change of Assignment Request Memorandum, the Division Chief will initial the memorandum and return it to the employee without consideration.

## Commendations

### 1029.1 PURPOSE AND SCOPE

This policy provides general guidelines for recognizing commendable or meritorious acts of members of the Indio Police Department and individuals from the community.

### 1029.2 POLICY

It is the policy of the Indio Police Department to recognize and acknowledge exceptional individual or group achievements, performance, proficiency, heroism and service of its members and individuals from the community through commendations and awards.

### 1029.3 COMMENDATIONS

Commendations for members of the department or for individuals from the community may be initiated by any department member or by any person from the community.

### 1029.4 CRITERIA

A meritorious or commendable act may include, but is not limited to:

- Superior handling of a difficult situation.
- Conspicuous bravery or outstanding performance.
- Any action or performance that is above and beyond typical duties.

#### 1029.4.1 DEPARTMENT MEMBER DOCUMENTATION

Members of the department should document meritorious or commendable acts. The documentation should contain:

- (a) Identifying information:
  1. For members of the department - name, division and assignment at the date and time of the meritorious or commendable act
  2. For individuals from the community - name, address, telephone number
- (b) A brief account of the meritorious or commendable act with report numbers, as appropriate.
- (c) The signature of the member submitting the documentation.

#### 1029.4.2 COMMUNITY MEMBER DOCUMENTATION

Documentation of a meritorious or commendable act submitted by a person from the community should be accepted in any form. However, written documentation is preferred. Department members accepting the documentation should attempt to obtain detailed information regarding the matter, including:

- (a) Identifying information:
  1. For members of the department - name, division and assignment at the date and time of the meritorious or commendable act



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2. For individuals from the community - name, address, telephone number
  - (b) A brief account of the meritorious or commendable act with report numbers, as appropriate.
  - (c) The signature of the person submitting the documentation.

#### 1029.4.3 PROCESSING DOCUMENTATION

Documentation regarding the meritorious or commendable act of a member of the department should be forwarded to the appropriate Division Chief for his/her review. The Division Chief should sign and forward the documentation to the Chief of Police for his/her review.

The Chief of Police or the authorized designee will present the commendation to the department member for his/her signature. The documentation will then be returned to the Office of the Chief for entry into the member's personnel file.

Documentation regarding the meritorious or commendable act of an individual from the community should be forwarded to the Support Services Division Chief. The documentation will be signed by the Division Chief and forwarded to the Chief of Police for his/her review. An appropriate venue or ceremony to acknowledge the individual's actions should be arranged. Documentation of the commendation shall be maintained in a file designated for such records.

## Fitness for Duty

### 1031.1 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).

### 1031.2 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.

### 1031.3 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 Chief, a determination should be made whether or not the employee should be temporarily relieved from his/her duties.
- (e) The Chief of Police shall be promptly notified in the event that any employee is relieved from duty.

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#### **1031.4 NON-WORK RELATED CONDITIONS**

Any employee suffering from a non-work related condition which warrants a temporary relief from duty may be required to use sick leave or other paid time off (PTO) in order to obtain medical treatment or other reasonable rest period.

#### **1031.5 WORK RELATED CONDITIONS**

Any employee suffering from a work related condition which warrants a temporary relief from duty shall be required to comply with personnel rules and guidelines for processing such claims.

Upon the recommendation of the Watch Commander or unit supervisor and concurrence of a Division Chief, 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.

#### **1031.6 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. If the employee places his/her condition at issue in any subsequent or related administrative action/grievance, the examining physician or therapist may be required to disclose any and all information which is relevant to such proceeding (Civil Code § 56.10(c)(8)).
- (c) In order to facilitate the examination of any employee, the Department will provide all appropriate documents and available information to assist in the evaluation and/or treatment.
- (d) All reports and evaluations submitted by the treating physician or therapist shall be part of the employee's confidential personnel file, which is maintained and housed by the Human Resources Department.
- (e) Any employee ordered to receive a fitness for duty examination shall comply with the terms of the order and cooperate fully with the examining physician or therapist regarding any clinical interview, tests administered or other procedures as directed.

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Any failure to comply with such an order and any failure to cooperate with the examining physician or therapist may be deemed insubordination and shall be subject to discipline up to and including termination.

- (f) Once an employee has been deemed fit for duty by the examining physician or therapist, the employee will be notified to resume his/her duties.

#### **1031.7 LIMITATION ON HOURS WORKED**

Absent emergency operations members should not work more than:

- 16 hours in one day (24 hour) period or
- 30 hours in any 2 day (48 hour) period or
- 84 hours in any 7 day (168 hour) period

Except in very limited circumstances members should have a minimum of 8 hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve to off-duty status any member who has exceeded the above guidelines.

Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, general overtime and any other work assignments.

#### **1031.8 APPEALS**

An employee who is separated from paid employment or receives a reduction in salary resulting from a fitness for duty examination shall be entitled to an administrative appeal as outlined in the Personnel Complaints Policy.

## Meal Periods and Breaks

### 1033.1 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.

#### 1033.1.1 MEAL PERIODS

Sworn employees and dispatchers shall remain on duty subject to call during meal breaks. All other employees are not on call during meal breaks unless directed otherwise by a supervisor.

Uniformed patrol and traffic officers shall request clearance from the Communications Center prior to taking a meal period. Uniformed officers shall take their breaks within the City limits unless on assignment outside of the City.

The time spent for the meal period shall not exceed the authorized time allowed.

#### 1033.1.2 15 MINUTE BREAKS

Each employee is entitled to a 15 minute break, near the mid point, for each four-hour work period. Only one 15 minute break shall be taken during each four hours of duty. No breaks shall be taken during the first or last hour of an employee's shift unless approved by a supervisor.

Employees normally assigned to the police facility shall remain in the police facility for their breaks. This would not prohibit them from taking a break outside the facility if on official business.

Field officers will take their breaks in their assigned areas, subject to call and shall monitor their radios. When field officers take their breaks away from their vehicles, they shall do so only with the knowledge and clearance of the Communications Center.

## Lactation Break Policy

### 1034.1 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 (Labor Code § 1034).

### 1034.2 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; Labor Code § 1030).

### 1034.3 LACTATION BREAK TIME

A rest period should be permitted each time the employee has the need to express breast milk (29 USC § 207; Labor Code § 1030). 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 Dispatch 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.

### 1034.4 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; 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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#### **1034.5 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.

##### 1034.5.1 STATE REQUIREMENTS

Employees have the right to request lactation accommodations. If a break time or location accommodation cannot be provided, the supervisor shall provide the member with a written response regarding the reasons for the determination (Labor Code § 1034).

Lactation rooms or other locations should comply with the prescribed feature and access requirements of Labor Code § 1031.

Employees who believe that their rights have been violated under this policy or have been the subject of discrimination or retaliation for exercising or attempting to exercise their rights under this policy, are encouraged to follow the chain of command in reporting a violation, but may also file a complaint directly with the Labor Commissioner (Labor Code § 1033).

## Payroll Records

### **1035.1 PURPOSE AND SCOPE**

This policy provides the guidelines for completing and submitting payroll records of department members who are eligible for the payment of wages.

### **1035.2 POLICY**

The Indio Police Department maintains timely and accurate payroll records.

### **1035.3 RESPONSIBILITIES**

Members are responsible for the accurate completion and timely submission of their payroll records for the payment of wages.

Supervisors are responsible for approving the payroll records for those under their commands.

### **1035.4 TIME REQUIREMENTS**

Members who are eligible for the payment of wages are paid on a scheduled, periodic basis, generally on the same day or date each period, with certain exceptions, such as holidays. Payroll records shall be completed and submitted to Support Services as established by the City payroll procedures.

### **1035.5 RECORDS**

The Support Services Division Chief shall ensure that accurate and timely payroll records are maintained as required by 29 CFR 516.2 for a minimum of three years (29 CFR 516.5).



## Overtime Compensation Requests

### 1037.1 PURPOSE AND SCOPE

It is the policy of the Department to compensate non-exempt salaried employees who work authorized overtime either by payment of wages as agreed and in effect through the Memorandum of Understanding (MOU), or by the allowance of accrual of compensatory time off. In order to qualify for either, the employee must complete and submit a Request for Overtime Payment as soon as practical after overtime is worked. The purpose of this policy is to provide a structure for monitoring, managing and controlling the use of personnel overtime. Therefore, it is the policy of this agency to effectively manage the use of overtime and that of each employee to use overtime in a responsible and judicious manner.

#### 1037.1.1 DEPARTMENT POLICY

Because of the nature of police work, and the specific needs of the Department, a degree of flexibility concerning overtime policies must be maintained.

Non-exempt employees shall not volunteer work time to the Department. All requests to work overtime shall be approved in advance by a supervisor. If circumstances do not permit prior approval, then approval shall be sought as soon as practical during the overtime shift and in no case later than the end of shift in which the overtime is worked.

The individual employee may request compensatory time in lieu of receiving overtime payment, consistent with their applicable MOU.

### 1037.2 REQUEST FOR OVERTIME COMPENSATION

Employees shall submit all overtime compensation requests to their immediate supervisors as soon as practicable for verification and forwarding to the Support Services Division. Employees should complete their overtime request via "www.Schedule Express.com" at the end of their respective overtime shift.

#### 1037.2.1 EMPLOYEES RESPONSIBILITY

Employees shall complete the request immediately after working the overtime and turn them in to their immediate supervisor or the Watch Commander. Employees submitting overtime requests for on-call pay, call-out, or court time when off duty shall submit the request the day the overtime was worked via our online overtime reporting system. Personnel shall document the court case number or case number in Schedule Express. Non-exempt employees who complete work tasks while off-duty are required to comply with this policy and their applicable MOU.

#### 1037.2.2 SUPERVISORS RESPONSIBILITY

The supervisor who verifies the overtime earned shall verify that the overtime was worked before approving the request.

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## Outside Employment

### 1039.1 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. The Indio Police Department personnel shall not engage in off-duty, outside, or additional employment, which is inconsistent with and/or in conflict with the fundamental responsibilities of a member of the Indio Police Department.

#### 1039.1.1 DEFINITIONS

**Outside Employment** - Any member of this department who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this department for services, product(s) or benefits rendered. For purposes of this section, the definition of outside employment includes those employees who are self-employed and not affiliated directly with this department for services, product(s) or benefits rendered.

**Outside Overtime** - Any member of this department who performs duties or services on behalf of an outside organization, company, or individual within this jurisdiction. Such outside overtime shall be requested and scheduled directly through this department so that the Department may be reimbursed for the cost of wages and benefits.

Outside employment is in conflict if it discredits, dishonors, or embarrasses the Indio Police Department, the employee, and/or:

- (a) Involves the use of the Indio Police Department's time, facilities, equipment, supplies, the badge, uniform, prestige, or the employee's authority, or;
- (b) Involves receipt or acceptance by the employee of any money or other consideration from anyone other than the Indio Police Department for the performance of an act which the employee would be required or expected to render in the regular course of hours of his/her employment or duties as a police employee, or;
- (c) Involves such time demands as would render performance of his/her duties as an employee of the Indio Police Department less efficient.
- (d) Highly regulated businesses such as tow companies, security businesses, etc.

### 1039.2 OBTAINING APPROVAL

No member of this department may engage in any outside employment without first obtaining prior written approval of the Chief of Police. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy may lead to disciplinary action.

In order to obtain approval for outside employment, the employee must complete an Outside Employment Application which shall be submitted to the employee's immediate supervisor. The

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application will then be forwarded through channels to the Chief of Police for consideration. The Outside Employment Application is available in the records office hall closet containing all pertinent operational forms.

If approved, the employee will be provided with a copy of the approved permit. Unless otherwise indicated in writing on the approved permit, a permit will be valid through the end of the calendar year in which the permit is approved. Any employee seeking to renew a permit shall submit a new Outside Employment Application in a timely manner.

Any employee seeking approval of outside employment, whose request has been denied, shall be provided with a written reason for the denial of the application at the time of the denial (Penal Code § 70(e)(3)).

The Chief of Police has final approval on all outside, off-duty, and additional employment.

#### 1039.2.1 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).

#### 1039.2.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT PERMITS

Any outside employment permit may be revoked or suspended under the following circumstances:

- (a) Should an employee's performance at this department decline to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of competency, the Chief of Police may, at his or her discretion, revoke any previously approved outside employment permit(s). That revocation will stand until the employee's performance has been reestablished at a satisfactory level and his/her supervisor recommends reinstatement of the outside employment permit
- (b) Suspension or revocation of a previously approved outside employment permit may be included as a term or condition of sustained discipline
- (c) If, at any time during the term of a valid outside employment permit, an employee's conduct or outside employment conflicts with the provisions of department policy, the permit may be suspended or revoked
- (d) When an employee is unable to perform at a full duty capacity due to an injury or other condition, any previously approved outside employment permit may be subject to similar restrictions as those applicable to the employee's full time duties until the employee has returned to a full duty status

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#### **1039.3 PROHIBITED OUTSIDE EMPLOYMENT**

Consistent with the provisions of Government Code § 1126, the Department expressly reserves the right to deny any Outside Employment Application submitted by an employee seeking to engage in any activity which:

- (a) Involves the employee's use of departmental time, facilities, equipment or supplies, the use of the Department badge, uniform, prestige or influence for private gain or advantage
- (b) Involves the employee's receipt or acceptance of any money or other consideration from anyone other than this department for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of employment or as a part of the employee's duties as a member of this department
- (c) Involves the performance of an act in other than the employee's capacity as a member of this department that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other employee of this department
- (d) Involves time demands that would render performance of the employee's duties for this department less efficient

#### **1039.3.1 OUTSIDE SECURITY AND PEACE OFFICER EMPLOYMENT**

Consistent with the provisions of Penal Code § 70, and because it would further create a potential conflict of interest, no member of this department may engage in any outside or secondary employment as a private security guard, private investigator or other similar private security position.

Any private organization, entity or individual seeking special services for security or traffic control from members of this department must submit a written request to the Chief of Police in advance of the desired service. Such outside extra duty overtime assignments will be assigned, monitored and paid through the Department.

- (a) The applicant will be required to enter into an indemnification agreement prior to approval.
- (b) The applicant will further be required to provide for the compensation and full benefits of all employees requested for such outside security services.
- (c) Should such a request be approved, any employee working outside overtime shall be subject to the following conditions:
  - 1. The officer(s) shall wear the departmental uniform/identification.
  - 2. The officer(s) shall be subject to the rules and regulations of this department.
  - 3. No officer may engage in such outside employment during or at the site of a strike, lockout, picket, or other physical demonstration of a labor dispute.

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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.

#### 1039.3.2 OUTSIDE OVERTIME ARREST AND REPORTING PROCEDURE

Any employee making an arrest or taking other official police action while working in an approved outside overtime assignment shall be required to complete all related reports in a timely manner pursuant to department policy. Time spent on the completion of such reports shall be considered incidental to the outside overtime assignment.

#### 1039.3.3 SPECIAL RESTRICTIONS

Except for emergency situations or with prior authorization from the Division Chief, 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.

### **1039.4 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.

#### 1039.4.1 REVIEW OF FINANCIAL RECORDS

Employees approved for outside employment expressly agree that their personal financial records may be requested and reviewed/audited for potential conflict of interest (Government Code § 3308; Government Code § 1126). Prior to providing written approval for an outside employment position, the Department may request that an employee provide his/her personal financial records for review/audit in order to determine whether a conflict of interest exists. Failure of the employee to provide the requested personal financial records could result in denial of the off-duty work permit. If, after approving a request for an outside employment position, the Department becomes concerned that a conflict of interest exists based on a financial reason, the Department may request that the employee provide his/her personal financial records for review/audit. If the employee elects not to provide the requested records, his/her off-duty work permit may be revoked pursuant to the Revocation/Suspension of Outside Employment Permits section of this policy.

### **1039.5 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

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through channels. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing to the Chief of Police any material changes in outside employment including any change in the number of hours, type of duties, or demands of any approved outside employment. Employees who are uncertain whether a change in outside employment is material are advised to report the change.

#### **1039.6 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 Indio Police Department, a request (in writing) may be made to the Chief of Police to restore the permit.

# Occupational Disease and Work-Related Injury Reporting

## 1041.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding the timely reporting of occupational diseases, mental health issues, and work-related injuries.

### 1041.1.1 DEFINITIONS

Definitions related to this policy include:

**Occupational disease or work-related injury** - An injury, disease, or mental health issue arising out of employment (Labor Code § 3208; Labor Code § 3208.3; Labor Code § 3212 et seq.).

## 1041.2 POLICY

The Indio Police Department will address occupational diseases and work-related injuries appropriately, and will comply with applicable state workers' compensation requirements (Labor Code § 3200 et seq.).

## 1041.3 RESPONSIBILITIES

### 1041.3.1 MEMBER RESPONSIBILITIES

Any member sustaining any occupational disease or work-related injury shall report such event as soon as practicable, but within 24 hours, to a supervisor, and shall seek medical care when appropriate (8 CCR 14300.35).

### 1041.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor learning of any occupational disease or work-related injury should ensure the member receives medical care as appropriate.

Supervisors shall ensure that required documents regarding workers' compensation are completed and forwarded promptly. Any related Citywide disease- or injury-reporting protocol shall also be followed.

Supervisors shall determine whether the Major Incident Notification and Illness and Injury Prevention policies apply and take additional action as required.

### 1041.3.3 DIVISION CHIEF RESPONSIBILITIES

The Division Chief who receives a report of an occupational disease or work-related 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, the City's risk management entity, and the Support Services Division Chief to ensure any required Division of Occupational Health and Safety Administration (Cal/OSHA) reporting is made as required in the illness and injury prevention plan identified in the Illness and Injury Prevention Policy.

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#### 1041.3.4 CHIEF OF POLICE RESPONSIBILITIES

The Chief of Police shall review and forward copies of the report to the Department of Human Resources. Copies of the report and related documents retained by the Department shall be filed in the member's confidential medical file.

#### 1041.4 OTHER DISEASE OR INJURY

Diseases and injuries caused or occurring on-duty that do not qualify for workers' compensation reporting shall be documented on the designated report of injury form, which shall be signed by a supervisor. A copy of the completed form shall be forwarded to the appropriate Division Chief through the chain of command and a copy sent to the Support Services Division Chief.

Unless the injury is extremely minor, this report shall be signed by the affected member, indicating that he/she desired no medical attention at the time of the report. By signing, the member does not preclude his/her ability to later seek medical attention.

#### 1041.5 SETTLEMENT OFFERS

When a member sustains an occupational disease or work-related injury that is caused by another person and is subsequently contacted by that person, his/her agent, insurance company or attorney and offered a settlement, the member shall take no action other than to submit a written report of this contact to his/her supervisor as soon as possible.

##### 1041.5.1 NO SETTLEMENT WITHOUT PRIOR APPROVAL

No less than 10 days prior to accepting and finalizing the settlement of any third-party claim arising out of or related to an occupational disease or work-related injury, the member shall provide the Chief of Police with written notice of the proposed terms of such settlement. In no case shall the member accept a settlement without first providing written notice to the Chief of Police. The purpose of such notice is to permit the City to determine whether the offered settlement will affect any claim the City may have regarding payment for damage to equipment or reimbursement for wages against the person who caused the disease or injury, and to protect the City's right of subrogation, while ensuring that the member's right to receive compensation is not affected.



## Personal Appearance Standards

### 1043.1 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.

### 1043.2 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.

#### 1043.2.1 HAIR

Hairstyles of all members of the department shall be neat in appearance.

A. Males - Hair should be neatly combed and arranged in a conservative, easy to maintain style. Extreme styles are not permitted. The hair shall not extend below the horizontal top edge of the uniform collar while assuming a normal stance. Hair must be neatly cut on the back and sides, forming a smooth symmetrical appearance so that it does not extend beyond or cover any part of the ears or the shirt of the collar.

1. A shaved head is permitted, as well as a very short military-style cut. Shaving of the eyebrows is not permitted.
2. Conservative braided hairstyles for men without beads or ornamentation are permitted. They must be styled above the ears and cut above the collar and be neatly braided close to the scalp in straight rows.
3. In order to present a professional appearance, the department shall not permit extremes in dyeing, bleaching or coloring. If hair color is changed, it must be natural looking and well-maintained. Subtle highlighting or frosting is permitted as long as it creates a uniform look over the whole head and meets all the previously listed guidelines.

B. Females – Hair should be neatly combed and arranged in a conservative, easy to maintain style. Extreme styles are not permitted. For non-field personnel hair below shoulder length should be confined if it falls forward over the face while working. For female field personnel, hair must be no longer than the horizontal level of the top of the collar when the employee is assuming a normal stance. If the hair length is below the top portion of the collar it shall be worn up or in a tightly wrapped braid or bun.

1. Shaving of the head or any portion of the head is not permitted unless authorized by the Chief or Police or his designee.

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### *Personal Appearance Standards*

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2. Artificial hair is permitted if it is natural looking and meets all the above requirements.
3. In order to present a professional appearance, the department shall not permit extremes in dyeing, bleaching or coloring. If hair color is changed, it must be natural looking and well-maintained. Subtle highlighting or frosting is permitted as long as it creates a uniform look over the whole head and meets all the previously listed guidelines.
4. Makeup – If makeup is worn it should be applied in a blended manner and in appropriate neutral colors.

Variations from this order are allowed at the discretion of the Chief of Police or designee when the employee's assignment or current task is not conducive to the wearing of such hair styles.

#### 1043.2.2 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.

#### 1043.2.3 SIDEBURNS

Sideburns shall not extend below the bottom of the outer ear opening (the top of the earlobes) and shall be trimmed and neat.

#### 1043.2.4 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.

#### 1043.2.5 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 fingertip for field personnel. For non-field personnel, fingernails should not exceed one-fourth of an inch from the fingertip. If nail polish is used, it should be an appropriate neutral color. This includes deeper, richer shades of polish. Polish that is not permitted while on-duty or representing the department are black, gold, silver, multicolored or neon. Charms or decals on fingernails are not permitted.

#### 1043.2.6 JEWELRY

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.

Only one ring may be worn on each hand of the employee while on-duty.

### **1043.3 TATTOOS**

Professionalism is a cornerstone of the Indio Police Department and is a major contributor to our reputation for excellence. The Department has a responsibility to ensure all on duty employees adhere to appropriate personal appearance standards to support this foundational value. A

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### *Personal Appearance Standards*

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professional image encourages community confidence and promotes esprit de corps among the organization.

This policy establishes specific guidelines for the display of tattoos, brandings, and/or scarifications by members of this Department. It places accountability for compliance not only upon each employee, but also upon their supervisors and commanding officers. This Policy may be rescinded or modified at any time by the chief of police.

#### **1043.3.1 DEFINITIONS**

**Body modification:** a deliberate altering of the human anatomy or human physical appearance. Brand: a picture, design, or other marking that is burned into the skin or other areas of the body. Body markings are pictures, designs, or other markings as a result of using means other than burning to permanently scar or mark the skin.

**Extremist:** extremist tattoos or brands are those affiliated with, depicting, or symbolizing extremist philosophies, organizations, or activities. Extremist philosophies, organizations, and activities are those which advocate hatred or intolerance based on race, ethnicity, national origin, gender, gender identity, sexual orientation, religion, economic status, age, or disability; advocate, create, or engage in illegal discrimination based on race, ethnicity, national origin, gender, sexual orientation, gender identity, religion, economic status, age or disability; or advocate violence or other unlawful means of depriving individuals rights infer the U.S. Constitution, and Federal or State law.

**Indecent:** indecent tattoos or brands are those that depict nudity or are offensive to modesty, decency, propriety, or professionalism.

**Political:** relating to the symbols, causes, ideas or strategies of a particular party or group in politics, including special interest groups.

**Racist:** racist tattoos or brands are those that advocate a philosophy that degrades or demeans a person or group of people based on race, ethnicity, or national origin.

**Sexist:** sexist tattoos or brands are those that advocate a philosophy that degrades or demeans a person or group of people based on gender.

**Tattoo/body art:** a picture, design, or marking made on the skin or other areas of the body by staining it with an indelible dye, or by any other methods including pictures, designs, or markings only detectable or visible under certain conditions (as in an ultraviolet light or invisible ink tattoo). The term tattoo and body art are interchangeable.

#### **1043.3.2 APPLICATION**

##### PROHIBITED MARKINGS

The following tattoos, brands, or scarifications are prohibited, regardless of visibility:

- (a) Extremist
- (b) Indecent

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- (c) Sexist
- (d) Racist
- (e) Inflammatory to the Police profession

Prospective employees are required to include information on all tattoos/body art in their background packet to ensure none are prohibited by this policy. Accordingly, current employees are encouraged to submit designs for new tattoos to the Chief or their designee when there is doubt about any compliance with this policy.

Any tattoo/body art or brand that implies a negative bias toward any group will cause the employee to be subject to disciplinary action, up to and including termination.

No group, station, shift, assignment, team, or other collection of employees, may display the same tattoo or marking if the theme message, content, or mere existence as a group tattoo or marking, is viewed by the Chief or his designee to be in conflict with our mission, professional image, or otherwise in violation with any other part of this policy. Employees are encouraged to consider the impact that such group tattoos may have upon their image, testimony in official proceedings, and upon our role as an unbiased law enforcement organization.

#### **1043.3.3 PROHIBITED LOCATIONS**

All employees are prohibited from having tattoos on any part of the neck, face, head, eyelids, mouth, and ears with the following exceptions:

- (a) Employees with existing tattoos hired before the implementation of this policy (04/14/2021) are exempt.
- (b) Permanent facial make-up on the eyebrows, eyeliner, and lips that is conservative.

#### **1043.3.4 CONCEALMENT**

The Department retains the right to require employees to conceal their tattoos/body art or brands if deemed necessary to comport with evolving standards. This policy and its exceptions do not grant permanent approval to display any tattoos/body art or brand subsequently deemed unacceptable for display, and employees may be required to cover them at any time.

The following tattoos/body art and brands must be concealed in accordance with this policy while wearing a recognizable part of the uniform or on duty in civilian attire:

- (a) Symbols or markings likely to elicit a strong negative reaction in the workplace or public or that are inconsistent with the Department's values or community relations objectives including, but not limited to, symbols or markings that promote or are associated with violence or weaponry.
- (b) Anything contrary to the purpose of law enforcement including, but not limited to, depictions symbolizing or indicative of alcohol or narcotics, illegal or gang

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related activity, or symbols suggestive of activity that undermines the mission or values of the Indio Police Department.

(c) Illustrations, references, symbols, acronyms or the like that denigrate the United States, State of California, or the Department.

(d) Symbols or markings that represent political beliefs, political parties, political slogans, or that cast any political group in a negative light.

Concealment for areas not naturally covered by the uniform or plainclothes attire shall be accomplished with flesh-colored or uniform colored matched "tattoo sleeves" or bandages while on duty.

#### **1043.3.5 AUTHORIZATION FOR VISIBLE TATTOOS/BODY ART**

(a) Current employees shall submit photos of their tattoos they are wishing to be displayed while on duty to the Chief or their designee to be included in their P-File.

(b) Current employees are encouraged to submit designs for new tattoos to the Chief or their designee when there is doubt about any compliance with this policy.

(c) The Chief or their designee shall make the final determination as to whether tattoo/ body art conforms to this policy.

#### **1043.3.6 DUTY ASSIGNMENTS AND VISIBLE TATTOOS/BODY ART**

(a) Employees working the following assignments are prohibited from displaying tattoos or body art:

1. Public Information Officer
2. Court Appearance

(b) Whenever deemed necessary by the Chief or their designee.

#### **1043.4 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. Females may have a single piercing in each earlobe. 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.

#### **1044.4(a) EXEMPTIONS**

Members who seek cultural (e.g., culturally protected hairstyles) or other exemptions to this policy that are protected by law should generally be accommodated (Government Code § 12926). In

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order to maintain legal compliance and prevent any undue hardship on an employee seeking accommodations based on their protected class status, executive staff and supervisors shall familiarize themselves with California Senate Bill 188 otherwise known as the "Crown Act" in order to meet compliance with employment laws governing protected classes. A member with an exemption may be ineligible for an assignment if the individual accommodation presents a security or safety risk. The Chief of Police shall be advised any time a request for such an accommodation is denied or when a member with a cultural or other exemption is denied an assignment based on a safety or security risk.

## Uniform Regulations

### 1045.1 PURPOSE AND SCOPE

The uniform policy of the Indio 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 policies:

Department Owned and Personal Property

Body Armor

Personal Appearance Standards

This policy is maintained and periodically updated by the Chief of Police or his/her designee. This policy should be consulted regarding authorized equipment and uniform specifications.

### 1045.2 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 Personal Appearance Standards (1044) 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 other than for safety purposes while in transit to and from work.
- (g) Uniforms are only to be worn while on duty, while in transit to or from work, for court, or at other official department functions or events.
- (h) If the uniform is worn while in transit while operating a personal vehicle, an outer garment shall be worn over the uniform shirt so as not to bring attention to the employee while he/she is off-duty.
- (i) Employees are not to purchase or drink alcoholic beverages while wearing any part of the department uniform, including the uniform pants.
- (j) Garish colored sunglasses will not be worn with any Department uniform.

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- (k) Visible jewelry, other than those items listed below, shall not be worn with the uniform unless specifically authorized by the Chief of Police or the authorized designee.
  - 1. Wrist watch
  - 2. Wedding ring(s), class ring, or other ring of tasteful design. A maximum of one ring/set may be worn on each hand
  - 3. Medical alert bracelet, memorial type bracelet or black physical fitness band (i.e. Fitbit)

#### 1045.2.1 DEPARTMENT ISSUED IDENTIFICATION

The Department issues each employee an official department identification card bearing the employee's name, identifying information and photo likeness. All employees shall be in possession of their department issued identification card at all times while on duty or when carrying a concealed weapon.

- (a) Whenever on duty or acting in an official capacity representing the department, employees shall display their department issued identification in a courteous manner to any person upon request and as soon as practical.
- (b) Officers working specialized assignments may be excused from the possession and display requirements when directed by their Division Chief.

#### 1045.3 UNIFORM CLASSES

##### 1045.3.1 CLASS "A" UNIFORM

The Class "A" uniform is to be worn on special occasions such as funerals, graduations, ceremonies, or as directed. The Class "A" uniform is required for all uniformed personnel. The Class "A" uniform includes the standard issue uniform with:

- (a) Long sleeve shirt with tie
- (b) Polished or high gloss (Corfram) shoes or boots (boots with pointed toes are not permitted)
- (c) Leather/Synthetic leather (Bianchi Accumold Elite) duty belt
- (d) Department's navy blue military dress hat with hat badge
- (e) "Ike" jacket (Lieutenants and above. Optional for sergeants.)
- (f) Department's blue straw "campaign" hat with hat badge (Honor Guard or Color Guard only).

##### 1045.3.2 CLASS "B" UNIFORM

All uniformed personnel will possess and maintain a serviceable Class "B" uniform at all times.

The Class "B" uniform will consist of the same garments and equipment as the Class "A" uniform with the following exceptions:

- (a) The long or short sleeve shirt may be worn with the collar open and a tie is not required



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- (b) A black crew neck t-shirt must be worn by sworn personnel, Code Enforcement, and Chaplains wearing a navy blue uniform shirt. A white crew neck t-shirt shall be worn by non-sworn personnel wearing a light blue or gray uniform shirt.
- (c) Polished shoes/boots or combination leather/nylon boots with a toe capable of being polished(boots with pointed toes are not permitted)
- (d) Bianchi Accumold duty-belt in lieu of the leather belt, except for Records/Dispatch personnel who will wear a garrison belt with a black anodized buckle

#### 1045.3.3 SWORN PERSONNEL AUTHORIZED UNIFORMS

##### **A. Shirts**

All shirts shall be LAPD style, navy blue in color. Shirts shall not have pleated pockets and shall be tailored for proper fit. A zipper in lieu of buttons is optional. Both long sleeve and short sleeve shirts are authorized for wear. Shirt materials shall be either 100% wool or a wool blend. The following are the authorized brand/style:

- [Flying Cross 100% Wool](#)
- [Elbeco 100% Wool](#)
- [United Uniforms Wool Blend](#)
- [Blauer Wool Blend](#)

##### **B. Trousers**

All trousers will be navy blue in color to match the above shirt selection. Trousers shall be either 100% wool or a wool blend. The following are the authorized brand/style:

- [Flying Cross 100% Wool](#)
- [United Uniform Wool Blend](#)
- [Elbeco Poly/Wool Blend](#)
- [Elbeco 100% Wool](#)
- [Blauer 4 or 6 Pocket Wool](#) or Wool blend

##### **C. Summer Uniform**

This uniform may be worn when weather conditions are calm and at least 80 degrees Fahrenheit. A cloth badge shall be sewn on the left chest area in lieu of a metal badge. Non-sworn personnel shall use the medium blue shirt with navy blue lettering for their name. This uniform is not authorized to be worn to court. The leather duty belt is not authorized with this uniform. This uniform shirt is not authorized for use with anything other than the approved summer uniform shorts. The following are the authorized shirt and shorts:

- [5.11 Class A Polo](#)
- [Blauer Streetgear Polo](#)
- [5.11 EMS 11 Shorts](#)

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- [5.11 9" Women's Shorts](#)
- Blauer Streetgear Shorts

An all-black low top sports shoe can be worn with the summer uniform. The shoe shall not have designs or stitching of a different color. The logo or brand name must be blackened and shall only be worn with black crew socks, also without visible branding. In lieu of the sports shoe, a quarter-top boot of no greater than 6 inches in height may be worn. The boot must be plain toe and capable of a polished shine, constructed of black leather, or a leather and nylon combination.

**NOTE: The Exterior Vest Carrier may be worn with the summer uniform shorts.**

#### **D. Utility Uniform**

This uniform may be worn during any shift regardless of day or night assignments. Long sleeves shall not be rolled/folded to wear as short sleeves. Either a metal name plate or a color-matched cloth name strip is authorized. The following are the authorized brands/styles:

- 5.11 PDU Shirt
- United Uniform ATU Shirt
- 5.11 PDU Pants
- United Uniforms ATU Pants

#### **E. Exterior Vest Carrier**

The exterior vest carrier is authorized to be worn by sworn personnel. The only authorized retailer for this carrier is [BPS Tactical](#). It shall be navy blue in color. The vest shall be configured as follows:

##### **Front of Carrier:**

Shall have badge tab on the left chest above the pocket. The carrier shall be worn with either a metal name plate or a color-matching fabric name strip, one inch in length and width, with white colored block lettering. Either option shall be worn flush with the top of the right breast pocket and shall contain the officer's first initial and last name only. The carrier will have two breast pockets and buttons down the center. Two straps shall be placed over the center buttons (for radio mic and BWC). Three pouches beneath the uniform pockets are authorized. Authorized equipment pouches: Utility pocket (handcuff pocket optional), magazine pouch, radio pouch, O.C holder, baton holder, flashlight or cell phone pocket.

##### **Side of Carrier:**

Three pouches authorized for the side of the carrier: O.C holder, baton holder, or cell phone pocket. The side pockets shall be placed on the side straps of the carrier.

##### **Back of Carrier:**

Two optional handcuff pouches may be placed on the bottom of the carrier, one on each side. No drag handle is authorized.

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#### **F. Exterior Vest Carrier Uniforms**

The authorized uniforms for wear with the exterior vest carrier are listed below:

- 5.11 Rapid PDU shirt with PDU pants
- Elbeco UV1 undervest shirt with wool blend pants
- Blauer FlexHeat Winter Base shirt with wool blend pants

The shirt and pants combination shall be the same brand to provide a consistent appearance. Either long sleeve or short sleeve shirts are authorized for wear with the exterior vest.

#### 1045.3.4 NON-SWORN PERSONNEL AUTHORIZED UNIFORMS

#### **F. Exterior Vest Carrier Uniforms**

The authorized uniforms for wear with the exterior vest carrier are listed below:

- 5.11 Rapid PDU shirt with PDU pants
- Elbeco UV1 undervest shirt with wool blend pants
- Blauer FlexHeat Winter Base shirt with wool blend pants

The shirt and pants combination shall be the same brand to provide a consistent appearance. Either long sleeve or short sleeve shirts are authorized for wear with the exterior vest.

#### 1045.3.4 NON-SWORN PERSONNEL AUTHORIZED UNIFORMS

Dispatch / Records / Crime Analyst / Property and Evidence:

Flying Cross Brand – Shirt

Trousers:

- Flying Cross 100% Wool
- United Uniform Wool Blend
- Elbeco Poly/Wool Blend

Optional Skirt:

A black cotton/polyester/wool blend uniform skirt with no pocket is authorized for day-to-day operations of non-field personnel. The skirt should have a button closure and a zipper. The skirt should be a minimum of 24" in length. The skirt shall be worn with an all-black, closed-toe, closed-heel dress flat or heel of no more than 3" high.

Footwear:

Personnel choosing to wear black slacks may wear a leather or combination of leather/nylon black boot/shoe with a toe capable of being shined. The boots and shoes shall not have colored designs or manufacturer's logos on the side. Black pointed cowboy style boots are not authorized.

Code Enforcement (CE) And Community Service Officers (CSO):

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#### Shirts

- 5.11 Taclite PDU Class B shirt (dark navy blue, long or short sleeve).

The standard Indio Police Department Code Enforcement / CSO patches shall be affixed to both sleeves. The patches shall have a rocker on top of the issued patch which spells out "Community Service Officer" in matching font. The sleeves shall not be folded up and worn as a short sleeve shirt. The uniform shall only be worn with a black crew-neck T-shirt underneath the uniform. The issued department metal badge shall be worn over the left chest pocket.

#### Pants

- 5.11 Taclite PDU Cargo Pants (dark navy blue).

The pants shall not be bloused above the boots with a blousing strap and the pants shall not be tucked or folded into the boots to blouse them.

#### Chaplains:

Chaplains will follow the same guidelines provided for the Class "A" and Class "B" uniforms for sworn personnel.

#### CHIPS/Cadets:

The authorized uniform shirt is the Flying Cross Deluxe Tropical in nickel grey. Both long and short sleeves are authorized for wear.

- [Flying Cross Deluxe Tropical Shirt](#)
- Flying Cross 100% Wool Trousers
- Elbeco Poly/Wool Blend Trousers

#### 1045.3.5 SPECIALIZED UNIT UNIFORMS

**BPS Tactical** 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.

#### Motor Uniform

Shirts - United Uniform or Sinatra long or short sleeve shirt which meets LAPD standards. Shirts shall be dark navy blue in color with optional traffic insignia patch (Officers only, patch not for use by Corporals or Sergeants).

Pants - United Uniform or Sinatra, dark navy blue with grey piping on the side (1/2 inch wide). Either 100% wool or nylon/lycra blend, meeting LAPD standards.

Footwear - The black motorcycle boots shall be of quality manufacturing and provided by the department.

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**Helmet and Radio Accessories** - The black and white motorcycle helmet shall be approved by the Department of Transportation and provided by the department. The helmet radio equipment shall also be of quality manufacturing and compatible with the department's current radio equipment.

**Duty Belt** - The only authorized duty belt shall be the approved nylon or leather belts. The nylon belt shall not be worn with the Class "A" uniform.

**Ascot** - A black ascot is authorized for wear while in Class "A" uniform.

**Gloves Leather** - Gloves are optional, but if worn they shall be either black or tan.

**Jacket** - The jacket shall be manufactured from black leather and provided by the department (jacket for use with motor uniform only).

#### Training Staff Uniform

- Red polo with officer's name in gold thread (right breast) and IPD logo in navy blue thread (left breast)
- Black BDU pants
- Optional red ball cap (navy blue IPD logo on the front, William number on the back)

The uniform for Range Staff will be a black polo shirt with khaki BDU pants and a red load bearing vest. The vest will display the words "Range Instructor" on the front and back and will be equipped with an Individual First Aid Kit (IFAK).

#### Special Weapons and Tactics Uniform (SWAT)

The Desert Regional SWAT uniform has the following authorized options:

- [5.11 Ripstop TDU Pants](#) (olive drab)
- [5.11 Ripstop TDU Shirt](#) (olive drab)
- [5.11 Rapid Assault Shirt](#) (olive drab)
- [5.11 Pursuit Polo](#) (black)
- [5.11 TDU Jacket](#) (olive drab)
- 5.11 baseball cap (black, team logo on front)

#### Major Crimes Unit/Street Crimes Unit

- [BPS Tactical vest](#)
- 5.11 Rapid PDU Shirt (black)
- Elbeco UV1 Shirt (black)

The shirts shall be worn with the corresponding brand of pants (5.11 PDU or Elbeco wool blend)

#### Detective Call-out Uniform

- Black 5.11 polo

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- Charcoal grey 5.11 Stryke pants

The first initial of the first name followed by the last name shall be embroidered in Helvetica font on the right side of the shirt and the title (Detective, Sergeant, etc.) shall be embroidered in the same font under the name, one size smaller. Indio Police Department shall be embroidered on the left side of the shirt.

#### **1045.4 DEPARTMENT UNIFORMS AND EQUIPMENT REGULATIONS ALL PERSONNEL**

##### A. Department Patches

All uniforms worn by department personnel shall have the "Indio Police" blue patches sewn one quarter inch below the shoulder seam and centered on the outer half of each sleeve. The exception to this rule is the olive drab patches for Regional Desert S.W.A.T.

##### B. Rank Insignia

Chief of Police - The Chief of Police rank shall be designated by four 5/8" gold-colored stars on each collar. When the rank insignia is worn on the shirt collar, the point of the ray of the stars shall point towards the top of the collar. The stars shall be centered between the top and bottom of the collar, with the outer edge of the insignia one half inch from the front of the collar. The rank designation for Chief of Police on the "Ike" jacket shall be four stripes on both cuffs with no stars on the epaulets.

Assistant Chief - The Assistant Chief rank shall be designated by three 5/8" gold-colored stars on each collar. When the rank insignia is worn on the shirt collar, the point of the ray of stars shall point towards the top of the collar, with the outer edge of the insignia one half inch from the edge of the collar. The rank designation on the "Ike" jacket shall be three stripes on both cuffs with no stars on the epaulets.

Lieutenant – The Lieutenant rank shall be designated by a gold colored 3/4" bar on each collar of the uniform shirt. When the rank insignia is worn on the shirt collar, the bars shall be centered between the top and bottom of the collar. The insignia shall be worn with the long axis of the bars parallel and one inch from the front edge of the collar. When the "Ike" jacket is worn, a 1" gold bar rank insignia shall be affixed to the shoulder strap. The rank insignia shall be worn with the long axis of the bars at right angles to the center of the shoulder straps. The bars shall be equally spaced between the front and rear edges of the shoulder straps. The bars shall be positioned so that the midpoint of the insignia outer edge is three quarters of an inch from the shoulder seam. The rank designation on the "Ike" jacket shall be two stripes on both cuffs.

Sergeants and Corporals - [Rank chevrons](#) shall be sewn one quarter inch below the bottom point of the department patch and centered on the outer half of each sleeve. When the optional "Ike" jacket is worn by Sergeants, the chevrons shall be affixed to the jacket below the department patches according to existing department policy. The rank designation on the "Ike" jacket shall be one stripe on both cuffs for Sergeants.

Chaplain - Personnel assigned as Department Chaplains shall wear a gold-colored cross on each collar which is centered between the top and bottom of the collar. It shall be worn with the long

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axis of the cross parallel and one-half inch from the front edge of the collar. Chaplains are not authorized to wear the "Ike" jacket.

CHIP and Cadet – The CHIP and Cadet Commander shall wear a single gold star on each collar as the Police Commander. The CHIP and Cadet Sergeants shall wear metal gold-colored chevrons on each collar. The chevrons shall be one half inch from the front edge of the collar and centered from the top and bottom. The tip of the chevron shall point toward the top of the collar.

#### C. Service Stripes (Hash Marks)

Uniformed sworn personnel are authorized to wear one "hash mark" for every five years of service as a full-time law enforcement officer. The service stripes shall only be worn on the left sleeve of the long-sleeve shirt  $\frac{3}{4}$ " from the top portion of the cuff. The outer portion of the service stripe shall be flush with the sleeve crease.

Uniformed non-sworn personnel are authorized to wear one "hash mark" for every five years of service.

#### D. Footwear

Class "A" uniforms shall be worn with black laced boots or shoes with plain toes, which are capable of a polished shine. All other uniforms may be worn with a leather or combination of leather/nylon black boot/shoe with a toe capable of being shined. The boots and shoes shall not have colored designs or manufacture's logos on the side. Black pointed cowboy style boots are not authorized.

#### E. Socks

All socks shall be black in color.

#### F. Outer Garments

When a jacket is worn, the department's cloth badge shall be affixed to the outer garment above the left chest. The name strip shall be of black cloth material with white lettering. The name strip shall be one inch in width and flush with the top and edges of the right breast pocket flap. The lettering on the name strip shall only have the officer's first initial and last name and shall be in block font. Pins such as the C.H.P.10851, DOJ, Officer Memorial, or other pins normally authorized with the "Class B" shall not be worn on the jacket. The authorized jacket shall be manufactured from water resistant black nylon or a similar material and be acceptable for police uniform wear. The jacket shall not have visible buttons or snaps.

The navy blue "Ike" jacket shall have gold "P" colored buttons and are optional for sergeants and mandatory for lieutenants and above. The "Ike" may be worn at the direction of the respective Division Chief or for specific designated special functions or events where dress or formal uniform is appropriate (i.e. funerals, graduations, award ceremonies, etc.) The jacket may be of a polyester/wool blend material or 100% wool. The Chief of Police may designate special individual uniform regulations to accommodate any condition, including medical and/or similar restrictions placed on any department employee.

#### G. Outer Garments – Dispatch / Property / Records / Crime Analyst and Evidence.

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Sweaters may also be worn with the uniform. The approved sweater is currently available from A Plus Career Apparel. The sweater shall be a Unisex Jersey Knit V-Neck Pocket Cardigan, navy in color with large dyed buttons to match. The material shall be 100 percent acrylic and pill resistant. No patches, badges, or name strips shall be attached to the sweater.

#### Optional Outer Garment – Dispatch / Records / Property / Crime Analyst and Evidence

The black 5.11 ¼ Zip Job Shirt (fleece pull-over) is an alternative outer garment to be worn by dispatch / Records / Property personnel / Crime Analyst and evidence personnel. The first initial of the first name followed by the last name shall be embroidered on the right side of the shirt, and Indio Police Department shall be embroidered on the left side of the shirt.

The black Condor Summit Softshell Jacket with Hood is an alternative outer garment to be worn by dispatch/property and evidence personnel. Indio Police Department Velcro badge patches shall be attached to both sleeves.

#### H. Badge

The department shall issue the authorized badge and it shall be for official business use only. The badge shall be in plain view at all times and worn on the shirt, "Ike" jacket, raincoat or other official department uniform, except for personnel assigned to plain clothes operations.

#### I. Name Plate

When wearing a removable metal name plate, it shall be in plain view at all times and worn centered and flush above the top line of the right pocket flap on the shirt and/or "Ike" jacket. The name plate shall be rectangular in shape, brushed gold, with black lettering. A special assignment designation may be inscribed below the name in black lettering (i.e. Field Training Officer, SWAT etc.) The metal name tag shall not be worn on the jacket made of nylon or similar material.

#### J. Tie Bar

Authorized Indio Police Department polished gold colored Smith & Warren brand tie bar with blue ink to notate "Indio Police" on the tie bar and it shall be worn across the tie and centered along the bottom line of the shirt pocket flaps.

#### K. Tie

The tie shall only be worn with the Class "A" uniform and be black in color with a maximum width not to exceed two inches. The tie shall be a "clip-on" or "breakaway" type and the length of tie should not exceed below top of the leather duty belt. A white ascot is authorized to be worn in lieu of a black tie if assigned to the Honor Guard Detail.

#### L. Pant Belt (Garrison)

The trouser belt shall be black basket weave leather approximately one and a half inches in width with a black anodized buckle. If a buckle-less belt is worn it may be one and a half inches in width with a "Velcro" fastener. A leather belt shall be used when in "Class A". A nylon trouser belt may be worn in lieu of the leather belt when a nylon duty belt is worn. The nylon belt must not be less



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than one and a half inches in width. The optional nylon trouser belt shall not be worn unless worn in conjunction with a nylon duty belt. At no time shall a nylon trouser belt replace the use of a leather belt if worn without a duty belt.

#### M. Duty Belt

The "Sam Browne" duty belt shall be black basketweave leather or Bianchi Accumold Elite synthetic leather, approximately two and a quarter inches in width, with either a black buckle or a buckle-less with Velcro fastener. The belt keepers shall have hidden snaps.

A nylon duty belt may be worn in lieu of a leather belt and it shall be maintained in a clean and serviceable manner. In an effort to standardize the use of nylon duty belts, the only authorized belt is the Bianchi Accumold Duty Belt System. No other nylon look-a-like duty belt systems are authorized. If the nylon belt is worn, the belt keeper snaps shall be black or hidden snaps.

#### N. Holsters

On-Duty Personnel -Holsters can be manufactured from either nylon or black leather basket weave and must be from a quality recognized name brand. It shall have a minimum of a level two retention metal thumb snap, not Velcro fasteners. It shall be able to fit on the "duty belt" as described in the existing policy and approved by the Range Coordinator

Tactical Holsters - Low ride tactical holsters are not authorized for patrol use, except for officers currently assigned to specialized units and at the discretion of the Chief of Police or designee.

Off-Duty Holsters – It shall be manufactured by a quality recognized name brand. All holsters shall be approved by the Range Coordinator prior to being deployed.

#### O. Duty Belt Accessories

In an effort to standardize the use of duty belt accessories and ensure uniformity, the accessories allowed are ammunition pouches, handcuff cases, belt keepers, flashlight holders, OC holder, Taser, and radio holders. The accessories that can be worn with the leather duty belt are the same as with the nylon belt, except that they are manufactured in black basketweave and from a quality name brand. All magazine pouches and handcuff cases in either nylon or basketweave must have a hidden snap closure or black snaps. An open top Kydex style magazine holder (2 or 3 magazine capacity) is authorized to be worn.

On-duty uniformed officers, except when assigned to office duties, at a minimum shall wear a gun belt and holster, carry their department issued handgun and ammunition, minimum of two spare magazines and ammunition, Oleoresin Capsicum (OC spray), department approved impact weapon, badge, identification card, a flashlight (as necessary), and handcuffs.

Uniformed Officers have the option to carry the PR-24 side handle baton, expandable ASP or RCB straight baton or a standard baton on their duty belt. Officers must have their PR-24 baton or fixed 26" or 29" wooden straight baton available for field incidents (i.e., crowd control). The expandable straight baton is not authorized for crowd control incidents.

#### P. Body Armor

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No specific manufacturer or model of body armor is recommended or endorsed. Refer to Section 1024 Body Armor Policy for specifications and requirements.

#### Q. Dress Hat

The department's navy blue military dress hat with hat badge shall be worn with the Class "A" uniform unless otherwise directed by the Chief of Police or designee. The dress hat shall be worn with the gold Mylar thread band for Sergeants and above. The gold metal dress hat band shall be worn by all other uniformed personnel.

#### R. Campaign Hat

The department's blue straw "campaign" hat shall only be worn by personnel assigned to Honor Guard or Color Guard duties in lieu of the dress hat.

#### S. Helmet

The authorized helmet shall be the Kevlar bullet resistant helmet with clear face shield which will be provided by the department.

#### T. Baseball Style Caps

The wearing of a department approved baseball cap is authorized as optional dress for sworn and non-sworn. The caps may be worn with any uniform except when in Class "A". The authorized baseball cap shall be navy blue with the department approved insignia on the front in silver thread. Personnel may have their "William" number embroidered on the back of the hat (i.e. W181) in the same color thread as the insignia. The style of the hat shall be fitted or flex fit with no snaps to the rear. The exception to the rule is for female officers who wear their hair in a bun and are authorized to wear a "snap back" cap to facilitate the hair style.

#### U. Sunglasses or Protective Eyewear

Uniformed personnel have the option of wearing sunglasses or protective eyewear while on-duty. If sunglasses or protective eyewear is worn on-duty, the frames shall be dark in color. The lens pieces can be clear, black, grey, brown or polarized.

#### V. Award Pins

Personnel have the option of wearing authorized department pins on uniforms except while in the PDU, external carrier and Summer Uniforms. If pins are worn, they shall be centered above the top portion of the name tag. Pins shall be worn two abreast. The metal American flag ribbon is authorized and is optional. When worn, the flag shall be centered and above all other pins (see attached image). If only one award pin is worn in conjunction with a metal flag pin, the metal flag pin shall be worn centered above the single award. The stars of the metal flag ribbon shall be to the right side of the pocket.

Lifesaving pins shall be worn next to any other award such as a SWAT pin. The first pin is centered, if there is a second, then they get placed side by side. A third goes above centered, and then a fourth gets placed next to it. Refer to attached images.

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#### W. Gloves

If gloves are worn, they shall be black in color. Gloves can be worn as protective gear or during inclement weather.

#### X. Whistles

May be black, gold, or silver and shall not be worn attached to any uniform except while directing traffic.

#### Y. Turtleneck or Dickey

The turtleneck and or dickey shall be black in color and can only be worn with the long sleeve shirt, PDU, or outer carrier if a long sleeve short is worn.

#### Z. Jewelry & Personal Adornment

Police Department employees are considered the most visible representative of government and conservative styles should generally be reflected in selection of personal adornment items.

No items of jewelry or personal adornment shall be worn which could create a hazardous condition due to the size and location of the items worn. Female field personnel are authorized to wear one pair of post type earrings that do not hang below the earlobes. Employees who wear such items of personal adornment while on duty do so at their own risk. Male officers are not authorized to wear earrings while on-duty. This restriction may be modified by the Chief of Police or designee for personnel assigned to special assignments.

[See attachment: 3060\\_001 Uniform Reference PDF.pdf](#)

#### 1045.4.1 MOURNING BADGE

Uniformed employees shall wear a black with thin blue line mourning band across the uniform badge whenever a law enforcement officer is killed in the line of duty. The following mourning periods will be observed:

- (a) An officer of this department - From the time of death until midnight on the 14th day after the death.
- (b) An officer from this or an adjacent county - From the time of death until midnight on the day of the funeral.
- (c) Funeral attendee - While attending the funeral of an out of region fallen officer.
- (d) National Peace Officers Memorial Day (May 15th) - From 0001 hours until 2359 hours.
- (e) As directed by the Chief of Police.

#### 1045.4.2 FOUL WEATHER GEAR

Rain Gear may be worn at any time during rain/inclement weather. Personnel have the option of wearing either the yellow two piece (jacket and pant) or the long overcoat style rain coat. Any other rain gear option may be worn at the officer's discretion (i.e. navy blue baseball hat with department baseball style hat, rain boots, etc.).

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#### **1045.5 BUSINESS / CIVILIAN ATTIRE**

There are assignments within the Department that do not require the wearing of a uniform because recognition and authority are not essential to their function. There are also assignments in which the wearing of civilian attire is necessary.

In an effort to standardize a business appearance for non-uniform personnel, the following shall apply. From April 1st through November 1st of each year, male personnel shall be permitted to wear short sleeve shirts (polo or button down) with slacks. Female non-sworn personnel shall be permitted to wear short sleeve blouses, skirts, dresses or other appropriate business attire with low/medium heel, open toe shoes. Male personnel shall wear long sleeve dress shirts, optional ties and slacks. Female sworn personnel shall wear appropriate business attire consistent with male personnel who are required to wear long sleeve shirts and ties. Sworn female personnel are not authorized to wear skirts or dresses and shall wear low heel, closed toe shoes.

Employees may deviate from these standards only with approval of the Chief of Police or designee. When attending any court or other designated on-duty assignment requiring a business appearance, when not in uniform, the following provisions for business attire shall apply: Males - business suit or sport coat and slacks with conventional shirt and tie. Females - dress, dress suit, skirt and blouse, pantsuit or blouse and pants appropriate to a business-like appearance.

All employees shall wear clothing that fits properly, is clean and free of stains, and not damaged or excessively worn.

The following items shall not be worn on duty:

- (a) T-shirts that are discolored, stretched at the collar or do not present a professional appearance
- (b) Open toed sandals or thongs
- (c) Swimsuit, tube tops, or halter tops
- (d) Spandex type pants or see-through clothing
- (e) Distasteful printed slogans, buttons or pins

Variations from this order are allowed at the discretion of the Chief of Police or designee when the employee's assignment or current task is not conducive to the wearing of such clothing.

No item of civilian attire may be worn on duty that would adversely affect the reputation of the Indio Police Department or the morale of the employees.

#### **1045.6 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS**

Unless specifically authorized by the Chief of Police, Indio 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 Indio Police Department to do any of the following (Government Code §§ 3206 and 3302):

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- (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.

#### **1045.7 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 (see the Department Owned and Personal Property Policy).

##### **1045.7.1 RETIREE BADGES**

The Chief of Police may issue identification in the form of a badge, insignia, emblem, device, label, certificate, card or writing that clearly states the person has honorably retired from the Indio Police Department. This identification is separate and distinct from the identification authorized by Penal Code § 25455 and referenced in the Retired Officer CCW Endorsement Policy in this manual.

A badge issued to an honorably retired peace officer that is not affixed to a plaque or other memento will have the words "Honorably Retired" clearly visible on its face. A retiree shall be instructed that any such badge will remain the property of the Indio Police Department and will be revoked in the event of misuse or abuse (Penal Code § 538d).

#### **1045.8 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES**

Indio 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.

Indio 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. The Chief of Police will institute a Uniform Committee which will be

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tasked with recommending uniform modifications. The committee will be made up of department personnel and will be chaired by a Division Chief or a designee as assigned by the Chief of Police.

## Police Cadets

### **1047.1 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.

### **1047.2 EDUCATION REQUIREMENTS**

Cadets are required to maintain a minimum grade point average of 2.0 ("C" grade) for all courses taken.

### **1047.3 PROGRAM COORDINATOR**

The Administrative Officer will serve as the Program Coordinator. This supervisor will be responsible for tracking the educational and job performance of interns 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.

#### **1047.3.1 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.

### **1047.4 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.

### **1047.5 CADET UNIFORMS**

Each cadet will be provided two uniforms meeting the specifications described in the Uniform Manual for non-sworn employees.

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#### **1047.6 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 Program Coordinator.

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.

#### **1047.7 RIDE-ALONG PROCEDURES**

All cadets are authorized to participate in the Ride-Along Program on their own time and as approved by their immediate supervisor and the appropriate Watch Commander. Applicable waivers must be signed in advance of the ride-along. Cadets shall wear their uniform while participating on a ride-along.



# Nepotism and Conflicting Relationships

## 1049.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure equal opportunity and effective employment practices by avoiding actual or perceived favoritism, discrimination or actual or potential conflicts of interest by or between members of this department. These employment practices include: recruiting, testing, hiring, compensation, assignment, use of facilities, access to training opportunities, supervision, performance appraisal, discipline and workplace safety and security.

### 1049.1.1 DEFINITIONS

**Business relationship** - Serving as an employee, independent contractor, compensated consultant, owner, board member, shareholder, or investor in an outside business, company, partnership, corporation, venture or other transaction, where the Department employee's annual interest, compensation, investment or obligation is greater than \$250.

**Conflict of interest** - Any actual, perceived or potential conflict of interest in which it reasonably appears that a department employee's action, inaction or decisions are or may be influenced by the employee's personal or business relationship.

**Nepotism** - The practice of showing favoritism to relatives over others in appointment, employment, promotion or advancement by any public official in a position to influence these personnel decisions.

**Personal relationship** - Includes marriage, cohabitation, dating or any other intimate relationship beyond mere friendship.

**Public official** - A supervisor, officer or employee vested with authority by law, rule or regulation or to whom authority has been delegated.

**Relative** - An employee's parent, stepparent, spouse, domestic partner, significant other, child (natural, adopted or step), sibling or grandparent.

**Subordinate** - An employee who is subject to the temporary or ongoing direct or indirect authority of a supervisor.

**Supervisor** - An employee who has temporary or ongoing direct or indirect authority over the actions, decisions, evaluation and/or performance of a subordinate employee.

## 1049.2 RESTRICTED DUTIES AND ASSIGNMENTS

The Department will not prohibit all personal or business relationships between employees. However, in order to avoid nepotism or other inappropriate conflicts, the following reasonable restrictions shall apply (Government Code § 12940):

- (a) Employees are prohibited from directly supervising, occupying a position in the line of supervision or being directly supervised by any other employee who is a relative or with whom they are involved in a personal or business relationship.

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1. If circumstances require that such a supervisor/subordinate relationship exist temporarily, the supervisor shall make every reasonable effort to defer matters pertaining to the involved employee to an uninvolved supervisor.
  2. When personnel and circumstances permit, the Department will attempt to make every reasonable effort to avoid placing employees in such supervisor/subordinate situations. The Department, however, reserves the right to transfer or reassign any employee to another position within the same classification in order to avoid conflicts with any provision of this policy.
- (b) Employees are prohibited from participating in, contributing to or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting an employee who is a relative or with whom they are involved in a personal or business relationship.
  - (c) Whenever possible, FTOs and other trainers will not be assigned to train relatives. FTOs and other trainers are prohibited from entering into or maintaining personal or business relationships with any employee they are assigned to train until such time as the training has been successfully completed and the employee is off probation.
  - (d) To avoid actual or perceived conflicts of interest, members of this department shall refrain from developing or maintaining personal or financial relationships with victims, witnesses or other individuals during the course of or as a direct result of any official contact.
  - (e) Except as required in the performance of official duties or, in the case of immediate relatives, employees shall not develop or maintain personal or financial relationships with any individual they know or reasonably should know is under criminal investigation, is a convicted felon, parolee, fugitive or registered sex offender or who engages in serious violations of state or federal laws.

#### 1049.2.1 EMPLOYEE RESPONSIBILITY

Prior to entering into any personal or business relationship or other circumstance which the employee knows or reasonably should know could create a conflict of interest or other violation of this policy, the employee shall promptly notify his/her uninvolved, next highest level of supervisor.

Whenever any employee is placed in circumstances that would require the employee to take enforcement action or provide official information or services to any relative or individual with whom the employee is involved in a personal or business relationship, the employee shall promptly notify his/her uninvolved, immediate supervisor. In the event that no uninvolved supervisor is immediately available, the employee shall promptly notify dispatch to have another uninvolved employee either relieve the involved employee or minimally remain present to witness the action.

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#### 1049.2.2 SUPERVISOR'S RESPONSIBILITY

Upon being notified of, or otherwise becoming aware of any circumstance that could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps to promptly mitigate or avoid such violations whenever possible. Supervisors shall also promptly notify the Chief of Police of such actual or potential violations through the chain of command.

## Department Badges

### 1051.1 PURPOSE AND SCOPE

The Indio Police Department badge and uniform patch as well as the likeness of these items and the name of the Indio Police Department are property of the Department and their use shall be restricted as set forth in this policy.

### 1051.2 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.

#### 1051.2.1 FLAT BADGE

Sworn officers, with the written approval of the Chief of Police may purchase, at his/her own expense, a flat badge capable of being carried in a wallet. The use of the flat badge is subject to all the same provisions of departmental policy as the uniform badge.

- (a) An officer may sell, exchange, or transfer the flat badge he/she purchased to another officer within the Indio Police Department with the written approval of the Chief of Police.
- (b) Should the flat badge become lost, damaged, or otherwise removed from the officer's control, he/she shall make the proper notifications as outlined in the Department Owned and Personal Property Policy.
- (c) An honorably retired officer may keep his/her flat badge upon retirement.
- (d) The purchase, carrying or display of a flat badge is not authorized for non-sworn personnel.

#### 1051.2.2 NON-SWORN PERSONNEL

Badges and departmental identification cards issued to non-sworn personnel shall be clearly marked to reflect the position of the assigned employee (e.g. Parking 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.

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### *Department Badges*

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#### 1051.2.3 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.

#### 1051.3 UNAUTHORIZED USE

Except as required for on-duty use by current employees, no badge designed for carry or display in a wallet, badge case or similar holder shall be issued to anyone other than a current or honorably retired peace officer.

Department badges are issued to all sworn employees and non-sworn uniformed employees for official use only. The department badge, shoulder patch or the likeness thereof, or the department name shall not be used for personal or private reasons including, but not limited to, letters, memoranda, and electronic communications such as electronic mail or web sites and web pages.

The use of the badge, uniform patch and department name for all material (printed matter, products or other items) developed for department use shall be subject to approval by the Chief of Police.

Employees shall not loan his/her department badge or identification card to others and shall not permit the badge or identification card to be reproduced or duplicated.

#### 1051.4 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 Indio Police Department. The following modifications shall be included:
  1. The text on the upper and lower ribbons is replaced with the name of the employee association.
  2. The badge number portion displays the acronym of the employee association.
- (b) The likeness of the department badge for endorsement of political candidates shall not be used without the expressed approval of the Chief of Police.

## DMV Confidentiality Requests

### 1052.1 PURPOSE AND SCOPE

It is understood and accepted that law enforcement professionals who deal with the criminal element on a daily basis may become the subject of retaliatory actions. For this reason, it is important that the home address of law enforcement personnel not be available for access through DMV computer systems. To this end, the DMV has established a Confidential Records Unit which allows law enforcement professionals to apply for confidentiality of their home address on driver's licenses, and vehicles/vessels registered jointly or solely by the law enforcement professional. This policy is established to govern the issuance and completion of REQUEST FOR CONFIDENTIALITY OF HOME ADDRESS (INV 32) forms. Refer to California Vehicle Section 1808.4 for eligibility criteria.

### 1052.2 POLICY

Any employee requesting the addition of DMV Confidentiality or requesting to make a change in their DMV confidentiality information shall comply with the guidelines set forth in this policy.

### 1052.3 PROCEDURE

#### A. Request for DMV Confidentiality:

All employees requesting a REQUEST FOR CONFIDENTIALITY OF HOME ADDRESS (INV32) form must submit a memorandum to the Office of the Chief of Police stating their desire to have DMV Confidentiality added to their DMV records. The following information shall be included in the request memorandum:

1. A copy of each vehicle's/vessel's current registration slip.
2. A copy of the current proof of insurance on each vehicle/vessel.
3. A copy of a current driver's license/ID card for each person that confidentiality is being requested.

#### B. Completing the DMV (INV32) form:

Upon receipt of the completed memorandum requesting DMV confidentiality, the Executive Assistant to the Chief of Police shall complete the DMV Request for Confidentiality of Home Address form. The Executive Assistant shall have the requesting employee verify that the information on the form is complete and accurate. If the information is complete and accurate, the employee shall sign the completed form in the appropriate space and return it to the Executive Assistant.

The Executive Assistant shall be responsible for mailing the completed Request for Confidentiality of Home Address forms to the DMV in a timely manner. A copy of the form, along with the original request memorandum and accompanying supporting documents, shall be retained in the employee's personnel file at the police department.

#### C. Additions/Deletions to Confidentiality Status:

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Any employee requesting an addition or deletion of a vehicle/vessel or eligible person shall complete a memorandum detailing the requested addition or deletion to be made. The memorandum shall include the necessary supporting documents as outlined in Section A above in cases where an additional vehicle/vessel or person is being requested. The memorandum shall be directed to the Office of the Chief of Police. Upon approval by the Chief of Police, the Executive Assistant to the Chief of Police shall complete a new INV 32 which will be handled and routed in accordance with Section B above.

#### **1052.4 SEPARATION FROM EMPLOYMENT**

It shall be the responsibility of the Executive Assistant to the Chief of Police to complete a new INV 32 for all employees who leave the employment of the Indio Police Department, advising DMV of the separation date. The Chief of Police or his designee shall sign the form and the form will then be forwarded to the DMV to have all confidentiality status removed. It shall be the responsibility of the affected employee to re-establish confidentiality with his/her new employer he/she qualifies.

# Background / Criminal Investigators Contract Agreement and Responsibilities

## 1054.1 PURPOSE AND SCOPE

This policy shall provide the guidelines for the employment relationship between Background / Criminal Investigators and the City.

## 1054.2 QUALIFICATIONS AND REQUIREMENTS

The Background / Criminal Investigator must be trained and qualified to provide Background/ Criminal Investigations, shall be honorably retired as a Peace Officer in the State of California, and shall serve as an Independent Contractor.

## 1054.3 DUTIES AND RESPONSIBILITIES

A. The City will:

- (a) Provide the Contractor with supplies, equipment, and working space necessary to perform duties as assigned.
- (b) Pay the Contractor once a month upon the submission of an invoice to the City by the Contractor.

B. The Contractor agrees to:

- (a) Conduct thorough Background Investigations for all Police Officers, Public Safety Dispatchers, and Civilian staff and Volunteers, in accordance with Peace Officers Standards and Training (POST) and Indio Police Department Background Standards.
- (b) Conduct Background Investigations in conjunction with all personnel at the request of the City Manager or his designee.
- (c) Conduct Background Investigations in conjunction with Entertainment Permit, Business License and Certificates of Public Convenience and Necessity applications as required and in accordance with the Indio Municipal Code.
- (d) Complete all assigned Background Investigations within six (6) weeks of assignment, unless mitigating circumstances, not within the Independent Background / Criminal Investigator's control, prevent timely completion. In such cases, a written memorandum explaining the mitigating circumstances shall be submitted to the Division Chief responsible for Background Investigations.
- (e) Be re-assigned or re-deployed to meet the Department's needs in any background or criminal investigation as required by the Department.
- (f) Wear plainclothes on all assignments.
- (g) Notify the City immediately about any changes in name, address, home and cellular telephone number.



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### *Background / Criminal Investigators Contract Agreement and Responsibilities*

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- (h) Be responsible for any keys checked out to him/her.
- (i) Be responsible for adhering to requests from department and city staff, and complying with all City rules and regulations, policies and procedures, as well as all Local, State and Federal laws.

#### **1054.4 COMPENSATION AND CONTRACT TERMINATION**

##### A. Compensation for the services shall be as follows:

- (a) Pay shall be at the hourly rate, entry level step of the position of Corporal.
- (b) Contractors shall not receive any additional compensation or any benefits. The Contractor expressly acknowledges he/she, as an Independent Contractor, is not covered under any worker's compensation or liability insurance programs unless he/she so provides.
- (c) The Contractor will not be compensated for time missed from his/her assignment for any reason.

##### B. Contract Provisions:

- (a) City and/or Contractor may terminate the agreement by giving no less than thirty (30) days notice to the other party. The termination notice shall be in writing and specify the date of the termination.
- (b) If the Contractor breaches the terms of the Agreement, or for other reasons deemed appropriate by the City, the City shall have the right to terminate this Agreement with the Contractor immediately.
- (c) During the performance of the Agreement, the Contractor will not discriminate against any employee, volunteer, participant, applicant, citizen or student, because of race, religion, creed, color, national origin, gender, sexual orientation, physical or mental disability, marital status, veteran status or age.
- (d) The Contractor agrees to indemnify and hold harmless the City of Indio, all City employees, agents, officers and volunteers from any liability, obligation, cost, claim, or damage howsoever caused, by reason of any injury, whether to body, property or reputation and whether of personal or business nature, sustained by any person or to any person or to property by reason of any act, default, or omission of Contractor.
- (e) The Contractor is not an officer, employee, or agent of the City. He/she shall be issued appropriate identification to enable him/her to carry out the terms and conditions of the Agreement. Any Contractor whose Agreement is effective after July 1, 2007, is not eligible for benefits from Social Security, State Unemployment Insurance, Disability Insurance, Liability Insurance, or Worker's Compensation Insurance. All current benefits and insurances, whether hired as an employee or contract worker, prior to July 1, 2007 will remain in effect.

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### *Background / Criminal Investigators Contract Agreement and Responsibilities*

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#### **1054.5 FINGERPRINTING**

California State Law, Fingerprinting - Public Resource Code Section 5164, states that all instructors, staff, contractors, subcontractors and volunteers who have supervisory or disciplinary authority over any minor under the age of 18 years, must be fingerprinted. Until there is fingerprint clearance from the Department of Justice, no instructor, staff, contractor, subcontractor, or volunteer will be allowed to work. Contractors are required to report to the Indio Police Department for fingerprinting. In accordance with the Department of Justice's Subsequent Arrest Notification Program, the City is notified of any offenses through the tenure of the contract. When a Contractor terminates his/her Agreement with the City, the Contractor must complete a request in writing for the City to cease receiving Department of Justice reports.

#### **1054.6 INDIO POLICE SWORN EMPLOYEES ASSIGNED TO PERFORM BACKGROUND INVESTIGATIONS**

Effective July 1, 2023, every Indio Police Officer assigned to perform background investigations shall satisfactorily complete POST - certified background investigation training prior to conducting investigations to meet the Section 1953 and 1959 requirements of the California Code of Regulations.

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## Temporary Modified-Duty Assignments

### 1055.1 PURPOSE AND SCOPE

This policy establishes procedures for providing temporary modified-duty or light duty assignments. This policy is not intended to affect the rights or benefits of employees under federal or state law, City rules, current memorandums of understanding or collective bargaining agreements. For example, nothing in this policy affects the obligation of the Department to engage in a good faith, interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability that is protected under federal or state law.

### 1055.2 POLICY

Subject to operational considerations, the Indio Police Department may identify temporary modified-duty or light duty assignments for employees who have an injury or medical condition resulting in temporary work limitations or restrictions. A temporary or light duty assignment allows the employee to work, while providing the Department with a productive employee during the temporary period. This policy establishes procedures for providing temporary modified or light duty assignments to enable employees who are recovering from an industrial or non-industrial illness or injury, when medical approval has been granted, to work while they are temporarily limited from performing all the duties of their regular assignment. The **Human Resources Department** is responsible for overseeing the modified or light duty work program. The City of Indio may provide employees the opportunity to work a modified or light duty assignment who have been released by their treating medical professional to return to work under certain work restrictions. It covers non-industrial and industrial disabilities, injuries, and illnesses and under the following conditions:

1. Eligibility of modified or light duty assignments will be determined on a case-by-case basis.
2. Modified or light duty are intended to be temporary in nature. Modified or light duty assignments do not imply entitlement to a permanently modified position. No position in the police department shall be created or maintained as a temporary modified duty or light duty assignment.
3. Temporary Modified or light duty assignments are a management prerogative and not an employee right. The availability of temporary modified or light duty assignments will be determined on a case-by-case basis, consistent with the operational needs of the department. Temporary modified or light duty assignments are subject to continuous reassessment, with consideration given to operational needs and the employee's ability to perform in a modified or light duty assignment.
4. The Chief of Police, or the authorized designee, may restrict police department employees working in temporary modified or light duty assignments from wearing a uniform, displaying a badge, carrying a firearm, operating an emergency vehicle, engaging in outside employment, or being otherwise limited in employing their peace officer powers.
5. Modified or light duty assignments do not normally extend beyond ninety (**90**) calendar days from the time the employee begins his or her modified or light duty work

# Indio Police Department

## Indio PD Policy Manual

### *Temporary Modified-Duty Assignments*

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assignment. However, modified or light duty assignments may be extended upon approval by the Director of Human Resources or his/her designee, in consultation with the department head, City Attorney, and/or the City Manager, as needed, at ninety **(90)**calendar day intervals if working is supporting the employee to recover and the employee continues to medically improve as evidenced by reduced work restrictions. If the employee has not sufficiently recovered to return to his/her position within this period, then a leave of absence will be considered. If a leave is no longer reasonable to provide, then reasonable accommodation discussions will continue and may involve an exploration of alternative work placement.

6. It is the employee's responsibility to provide to Human Resources a new medical notice at the conclusion of the initial approval period within **24** hours. If the employee's restrictions change at any time, the employee must notify their supervisor immediately and give the **supervisor** and **Human Resources** a copy of the revised medical certification within **24** hours.
7. While working a modified or light duty assignment, the employee may be required to provide periodic updates from their Physician. Modified or light duty assignments may be ended if the employee fails to provide any of the needed medical certifications.
8. An employee must adhere to the restrictions noted on the medical certification.
9. No employee shall work overtime while on modified duty for an industrial or non-industrial injury/illness. No employee on 4850 time or state disability is eligible for overtime payment for a date that they also received 4850 time or disability pay.
10. An employee shall not exercise in the fitness center while off work or on modified duty for an industrial or non-industrial injury or illness unless approved by the treating physician.
11. The Chief of Police or their designee may change the work schedule of an employee on modified duty to facilitate the employee's return to work and to benefit the department. The schedule change will not affect the employee's pay.
12. Any employee claiming an inability to respond to a subpoena for court due to an industrial or non-industrial injury/illness must provide a written physician's certification to Human Resources and Court Liaison, confirming said inability to respond. The member must notify Court Liaison immediately after service of the subpoena so that proper notification to the affected parties may be made.
13. An employee who refuses a reasonable offer of a modified duty work assignment may not be eligible for salary continuation or Labor Code 4850 time.
14. The Modified or Light Duty assignment ends on the earliest of:
  - The date the Employee is released to his/her regular schedule with no restrictions as evidenced on the treating medical professional's medical certification; or
  - The date the treating medical professional determines the employee has reached permanent and stationary status and/or if the employee is provided with permanent work restrictions.

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## Indio PD Policy Manual

### *Temporary Modified-Duty Assignments*

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#### **1055.3 PROCEDURE**

Following an injury or medical condition resulting in temporary work limitations, employees shall contact Human Resources for further instructions in order to comply with the **City Administrative Policy Manual**, specifically **Policy number A-27** (Policy establishing the (RTW) known as the "Return To Work program"). After establishing contact with Human Resources, employees will notify their immediate supervisor to keep the department abreast of the employee status, along with notifying the Administrative Secretary within **24 hours** of establishing contact with Human Resources. The RTW coordinator (human resources) will then assume responsibility for returning the employee to work as deemed appropriate by the medical prognosis. A copy of city Administrative Policy A-27 has been attached for familiarity with the RTW program administered by HR;

[See attachment: A-27 Return to Work Program Policy.pdf](#)

#### **1055.4 ACCOUNTABILITY**

Written notification of assignments, work schedules and any restrictions should be provided to employees assigned to temporary modified-duty assignments and their supervisors. Those assignments and schedules may be adjusted to accommodate department operations and the employee's medical appointments, as mutually agreed upon with the Division Chief.

##### **1055.4.1 EMPLOYEE RESPONSIBILITIES**

- (a) Adhering to restrictions established by his or her treating medical professional and any additional restrictions and requirements established by the City to ensure no further harm to the disabled, injured or ill employee.
- (b) Notifying their Supervisor of any change in restrictions or limitations and of their current status within 24 hours.
- (c) Updating Human Resources of their work status within **24** hours of seeing their treating physician, even if no change of status occurred.

##### **1055.4.2 SUPERVISOR RESPONSIBILITIES**

The supervisor overseeing the modified or light duty work shall monitor and manage the work schedule of those assigned to temporary modified or light duty.

The responsibilities of supervisors shall include, but not be limited to:

- (a) Periodically apprising the Division Chief of the status and performance of employees assigned to temporary modified or light duty.
- (b) Notifying the Division Chief and ensuring that the required documentation facilitating a return to full duty is received from the employee.
- (c) Ensuring that employees returning to full duty have completed any required training and certification. Employees exempt from firearms qualifications are still required to complete qualification upon return to full-duty.
- (d) Ensuring employees on modified or light duty are working within their medical restrictions.

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### *Temporary Modified-Duty Assignments*

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- (e) Monitoring and managing the work schedule of the employee assigned to modified or light duty.
- (f) Notify Human Resources when an employee with a WC claim calls out sick because of / or related to their WC claim.
- (g) Check in with the employee periodically (do not ask about medical diagnosis or treatment) to see if they have any questions or concerns.
- (h) A review of “new or continued work restrictions” must be done by Human Resources & the Chief of Police or his designee following every appointment. If the restrictions are unclear, Human Resources will obtain clarification.

#### **1055.5 MEDICAL EXAMINATIONS**

Prior to returning to full-duty status, employees shall be required to provide certification from their treating medical professionals stating that they are medically cleared to perform the essential functions of their jobs without restrictions or limitations.

The Department may require a fitness-for-duty examination prior to returning an employee to full-duty status, in accordance with the Fitness for Duty Policy.

#### **1055.6 PREGNANCY**

If an employee is temporarily unable to perform regular duties due to a pregnancy, childbirth or a related medical condition, the employee will be treated the same as any other temporarily disabled employee (42 USC § 2000e(k)).

Pregnant employees should notify their immediate Supervisor as soon as practicable and provide a statement from their medical providers identifying any job restrictions or limitations. If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted in accordance with the City's personnel rules and regulations regarding family and medical care leave.

##### **1055.6.1 NOTIFICATION**

Pregnant employees should notify their immediate supervisors as soon as practicable and provide a statement from their medical providers identifying any pregnancy-related job restrictions or limitations. If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted in accordance with the City's personnel rules and regulations regarding family and medical care leave.

#### **1055.7 PROBATIONARY EMPLOYEES**

Probationary employees who are assigned to a temporary modified-duty / light duty assignment shall have their probation extended by a period of time equal to their assignment to temporary modified duty / light duty.

#### **1055.8 MAINTENANCE OF CERTIFICATION AND TRAINING**

Employees assigned to temporary modified duty / light duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided that

# Indio Police Department

## Indio PD Policy Manual

### *Temporary Modified-Duty Assignments*

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the certification, training or qualifications are not in conflict with any medical limitations or restrictions. Refer to department **Training Policy 208 section 208.8** for employee and training unit responsibilities.

## Critical Incident Peer Support Policy

### 1057.1 PURPOSE

The purpose of this policy is to provide guidelines that should be applied following any critical incident, officer death, serious injury, serious medical problems or officer involved shooting incident, in order to minimize the chance that officers or department employees will suffer from the negative emotional and psychological reactions that can occur after the use of deadly force in an on- or off-duty critical incident. This policy is designed to address the needs of our employees and the officer who is involved in a critical incident or discharges their firearm. Law enforcement duties can expose employees to mentally painful and highly stressful situations that may be resolved through normal stress coping mechanisms. Unless adequately treated, these situations can cause disabling emotional and physical problems. Critical incidents resulting in the death of or serious bodily injury to a citizen or a fellow officer may cause adverse reactions and behaviors in our employees and our officers.

### 1057.2 POLICY

It is the policy of this agency to take action after any critical incident, employee death, serious injury, [See attachment: Post Incident Protocols and Peer Support\\_ FINAL.pdf](#) serious medical problems or officer involved shooting incident to safeguard the mental health of all our employees. The peer support and crisis referral program team may provide employee support and referral services for matters including, but not limited to, the following:

- (a) Substance use and substance abuse.
- (b) Critical incident stress.
- (c) Family issues.
- (d) Grief support.
- (e) Legal issues.
- (f) Line-of-duty deaths.
- (g) Serious injury or illness.
- (h) Suicide.
- (i) Victims of crime.
- (j) Workplace issues.

### 1057.3 DEFINITIONS

**Post-Traumatic Stress Disorder:** An anxiety disorder that can result from exposure to a traumatic event and is diagnosed as such if symptoms persist after 30 days.

**Acute Stress Disorder:** An anxiety disorder that can result from exposure to a traumatic event and occurs within 30 days of exposure.



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## Indio PD Policy Manual

### *Critical Incident Peer Support Policy*

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**Officer-Involved Shooting Incident:** An incident where a law enforcement officer fires his or her weapon in the course of his or her duties. This is not limited to causing serious bodily injury to an officer or other person. It can include firing the weapon accidentally, or missing the intended target during the shooting.

**Debriefings:** In the context of this policy, a formal process that is conducted by a qualified mental health professional to address the psychological and emotional effects of the officer-involved shooting.

**Agency Briefing:** An informational administrative report on what happened during the officer-involved shooting.

**Qualified Mental Health Professional (QMHP):** Any individual who is licensed as a mental health professional and has an in-depth understanding of the law enforcement culture.

**Peer Support Team:** A formal group of individuals consisting of approved members who have undergone training in peer support methods.

**Companion Officer:** An officer assigned to provide emotional support and assistance to another officer following an officer-involved shooting. The assigned officer is normally a member of the department's peer support team, but may also be an officer who has had a similar experience, is a close friend, or both.

**Officer:** In the context of this policy, an officer who discharged his or her firearm.

**Critical incident:** A event or situation that involves crisis, disaster, trauma, or emergency.

#### **1057.4 PERSONNEL PEER SUPPORT PARTICIPATION**

Peer Support members will consist of both sworn and civilian personnel.

Peer Support members may also be supported and assisted by the following personnel

- (a) Chaplaincy representative
- (b) Selected psychologist
- (c) Refer to attached peer support team roster and protocol PDF document.

#### **1058.4.1 CONFIDENTIALITY**

A critical aspect of the post shooting personnel support is the promotion of trust, anonymity, and confidentiality. Therefore, communications between personnel support designees and employees involved in traumatic incidents shall be confidential, with the following exceptions:

- (a) There is child abuse involved.
- (b) There is reason to believe the employee intends to hurt himself/herself or another person.
- (c) The employee is involved in any crime.

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## Indio PD Policy Manual

### *Critical Incident Peer Support Policy*

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- (d) At the discretion of the personnel support member, where, due to substance abuse or other reasons, the employee is a clear and present danger to self, citizens, or fellow employees.
- (e) If any of the above conditions exist, the personnel support program supervisor shall be notified. In the case of threatened injury, the intended victim shall also be notified.
- (f) Situations related to sexual harassment and/or EEO violations.
- (g) These exceptions to confidentiality are either required by law or are necessary. Employees who become personnel support members cannot abdicate their responsibilities to report criminal conduct as is defined in this section. If concerns arise, personnel support members shall contact the program supervisor for guidance.
- (h) Confidentiality, as it applies to this program, is protected. Refer to AB 1117 in addition to Government code 8669.1 through 8669.7, specifically Government code section 8669.4.

#### **1057.5 MEMBER RESPONSIBILITIES**

The Peer Support Member is not exempt from federal, state or local laws, or the rules and regulations of the Department. If a conflict arises where judgment regarding the confidentiality of a contact is necessary, the Peer Support Member should consult with the Program Coordinator for assistance and guidance. The Peer Support Member shall:

- (a) Provide assistance on a voluntary basis.
- (b) Convey trust and anonymity within the confines of the law.
- (c) Refer the employee to the appropriate outside resources when necessary.
- (d) Maintain contact with the Program Coordinator regarding program activities.
- (e) Agree to be contacted and to respond if necessary at any hour to assist an employee in need.
- (f) Attend training as required.
- (g) Preserve confidentiality.

#### **1057.6 CALL OUT PROCEDURE**

In the event of a critical incident, a Peer Support Member shall respond in person to offer assistance. It will be the responsibility of the Watch Commander to notify a Peer Support Coordinator for member response. If the involved employee desires, he or she may request a particular Peer Support Member.

#### **1057.7 TRAINING**

The Indio Police Department (Training Specialist) shall provide employees with training pertaining to critical peer support and the uniform procedures contained in this policy on a regular basis.

- (a) Peer support team members are required to attend the POST Peer Support 24 hr. class #22639 - This course is designed to provide public safety peer support team members the basic knowledge and skills necessary to provide support, guidance and resources to their peers during difficult times in their personal and professional lives.

# Employee Speech, Expression and Social Networking

## 1059.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with employee use of social networking sites and to provide guidelines for the regulation and balancing of employee speech and expression with the needs of the Department.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected or privileged under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws. For example, this policy does not limit an employee from speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, about matters of public concern, such as misconduct or corruption.

Employees are encouraged to consult with their supervisor regarding any questions arising from the application or potential application of this policy.

### 1059.1.1 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.

## 1059.2 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 Indio 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.

## 1059.3 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 Indio Police Department employees, such as posting personal information in a public forum, can result in compromising an employee's home address or family ties. Employees should therefore not disseminate or post any information on any forum or medium that could reasonably be anticipated to compromise the safety of any employee, an employee's family, or associates. Examples of the type of information that could reasonably be expected to compromise safety include:

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## Indio PD Policy Manual

### *Employee Speech, Expression and Social Networking*

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- Disclosing a photograph and name or address of an officer who is working undercover.
- Disclosing the address of a fellow officer.
- Otherwise disclosing where another officer can be located off-duty.

#### **1059.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT**

To meet the department's safety, performance and public-trust needs, the following are prohibited unless the speech is otherwise protected (for example, an employee speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, on a matter of public concern):

- (a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation or professionalism of the Indio Police Department or its employees.
- (b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the Indio Police Department and tends to compromise or damage the mission, function, reputation or professionalism of the Indio Police Department or its employees. Examples may include:
  1. Statements that indicate disregard for the law or the state or U.S. Constitution.
  2. Expression that demonstrates support for criminal activity.
  3. Participating in sexually explicit photographs or videos for compensation or distribution.
- (c) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the employee as a witness. For example, posting statements or expressions to a website that glorify or endorse dishonesty, unlawful discrimination or illegal behavior.
- (d) Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the employees of the Department. For example, a statement on a blog that provides specific details as to how and when prisoner transportations are made could reasonably be foreseen as potentially jeopardizing employees by informing criminals of details that could facilitate an escape or attempted escape.
- (e) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the Indio Police Department.
- (f) Use or disclosure, through whatever means, of any information, photograph, video or other recording obtained or accessible as a result of employment with the Department for financial or personal gain, or any disclosure of such materials without the express authorization of the Chief of Police or the authorized designee.

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## Indio PD Policy Manual

### *Employee Speech, Expression and Social Networking*

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- (g) Posting, transmitting or disseminating any photographs, video or audio recordings, likenesses or images of department logos, emblems, uniforms, badges, patches, marked vehicles, equipment or other material that specifically identifies the Indio Police Department on any personal or social networking or other website or web page, without the express authorization of the Chief of Police.
- (h) Accessing websites for non-authorized purposes, or use of any personal communication device, game device or media device, whether personally or department-owned, for personal purposes while on-duty, except in the following circumstances:
  1. When brief personal communication may be warranted by the circumstances (e.g., inform family of extended hours).
  2. During authorized breaks such usage should be limited as much as practicable to areas out of sight and sound of the public and shall not be disruptive to the work environment.

Employees must take reasonable and prompt action to remove any content, including content posted by others, that is in violation of this policy from any web page or website maintained by the employee (e.g., social or personal website).

#### 1059.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

While employees are not restricted from engaging in the following activities as private citizens or as authorized members of a recognized bargaining unit or officer associations, employees may not represent the Indio Police Department or identify themselves in any way that could be reasonably perceived as representing the Indio Police Department in order to do any of the following, unless specifically authorized by the Chief of Police (Government Code § 3206; Government Code § 3302):

- (a) Endorse, support, oppose or contradict any political campaign or initiative.
- (b) Endorse, support, oppose or contradict any social issue, cause or religion.
- (c) Endorse, support or oppose any product, service, company or other commercial entity.
- (d) Appear in any commercial, social or nonprofit publication or any motion picture, film, video, public broadcast or on any website.

Additionally, when it can reasonably be construed that an employee, acting in his/her individual capacity or through an outside group or organization (e.g., bargaining group or officer associations), is affiliated with this department, the employee shall give a specific disclaiming statement that any such speech or expression is not representative of the Indio Police Department.

Employees retain their right to vote as they choose, to support candidates of their choice and to express their opinions as private citizens, including as authorized members of a recognized bargaining unit or officer associations, on political subjects and candidates at all times while off-duty.

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## Indio PD Policy Manual

### *Employee Speech, Expression and Social Networking*

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However, employees may not use their official authority or influence to interfere with or affect the result of an election or a nomination for office. Employees are also prohibited from directly or indirectly using their official authority to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes (5 USC § 1502).

#### **1059.5 PRIVACY EXPECTATION**

Employees forfeit any expectation of privacy with regard to e-mails, texts, or anything published or maintained through file-sharing software or any internet site (e.g., Facebook) that is accessed, transmitted, received, or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

The Department shall not require an employee to disclose a personal user name or password for accessing personal social media or to open a personal social website; however, the Department may request access when it is reasonably believed to be relevant to the investigation of allegations of work-related misconduct (Labor Code § 980).

#### **1059.6 CONSIDERATIONS**

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Chief of Police or authorized designee should consider include:

- (a) Whether the speech or conduct would negatively affect the efficiency of delivering public services.
- (b) Whether the speech or conduct would be contrary to the good order of the Department or the efficiency or morale of its members.
- (c) Whether the speech or conduct would reflect unfavorably upon the Department.
- (d) Whether the speech or conduct would negatively affect the member's appearance of impartiality in the performance of his/her duties.
- (e) Whether similar speech or conduct has been previously authorized.
- (f) Whether the speech or conduct may be protected and outweighs any interest of the Department.

#### **1059.7 TRAINING**

Subject to available resources, the Department should provide training regarding employee speech and the use of social networking to all members of the Department.

## Illness and Injury Prevention

### 1060.1 PURPOSE AND SCOPE

The purpose of this policy is to establish an ongoing and effective plan to reduce the incidence of illness and injury for members of the Indio Police Department, in accordance with the requirements of 8 CCR § 3203.

This policy specifically applies to illness and injury that results in lost time or that requires medical treatment beyond first aid. Although this policy provides the essential guidelines for a plan that reduces illness and injury, it may be supplemented by procedures outside the Policy Manual.

This policy does not supersede, but supplements any related Citywide safety efforts.

### 1060.2 POLICY

The Indio Police Department is committed to providing a safe environment for its members and visitors and to minimizing the incidence of work-related illness and injuries. The Department will establish and maintain an Illness and Injury Prevention program and will provide tools, training and safeguards designed to reduce the potential for accidents, illness and injuries. It is the intent of the Department to comply with all laws and regulations related to occupational safety.

### 1060.3 ILLNESS AND INJURY PREVENTION PLAN

The Support Services Division Chief is responsible for developing an illness and injury prevention plan that shall include:

- (a) Workplace safety and health training programs.
- (b) Regularly scheduled safety meetings.
- (c) Posted or distributed safety information.
- (d) A system for members to anonymously inform management about workplace hazards.
- (e) Establishment of a safety and health committee that will:
  1. Meet regularly.
  2. Prepare a written record of safety and health committee meetings.
  3. Review the results of periodic scheduled inspections.
  4. Review investigations of accidents and exposures.
  5. Make suggestions to command staff for the prevention of future incidents.
  6. Review investigations of alleged hazardous conditions.
  7. Submit recommendations to assist in the evaluation of member safety suggestions.
  8. Assess the effectiveness of efforts made by the Department to meet relevant standards.

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### *Illness and Injury Prevention*

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- (f) Establishment of a process to ensure serious illnesses or injuries and death are reported as required by the Division of Occupational Safety and Health Administration (Cal/OSHA) (8 CCR § 342).

#### **1060.4 SUPPORT SERVICES DIVISION CHIEF RESPONSIBILITIES**

The responsibilities of the Support Services Division Chief include but are not limited to:

- (a) Managing and implementing a plan to reduce the incidence of member illness and injury.
- (b) Ensuring that a system of communication is in place that facilitates a continuous flow of safety and health information between supervisors and members. This system shall include:
  - 1. New member orientation that includes a discussion of safety and health policies and procedures.
  - 2. Regular member review of the illness and injury prevention plan.
  - 3. Access to the illness and injury prevention plan to members or their representatives as set forth in 8 CCR 3203.
- (c) Ensuring that all safety and health policies and procedures are clearly communicated and understood by all members.
- (d) Taking reasonable steps to ensure that all members comply with safety rules in order to maintain a safe work environment. This includes but is not limited to:
  - 1. Informing members of the illness and injury prevention guidelines.
  - 2. Recognizing members who perform safe work practices.
  - 3. Ensuring that the member evaluation process includes member safety performance.
  - 4. Ensuring department compliance to meet standards regarding the following:
    - (a) Respiratory protection (8 CCR 5144)
    - (b) Bloodborne pathogens (8 CCR 5193)
    - (c) Aerosol transmissible diseases (8 CCR 5199)
    - (d) Heat illness (8 CCR 3395)
    - (e) Emergency Action Plan (8 CCR 3220)
    - (f) Fire Prevention Plan (8 CCR 3221)
    - (g) Hazards associated with wildfire smoke (8 CCR 5141.1)
- (e) Making available the Identified Hazards and Correction Record form to document inspections, unsafe conditions or work practices, and actions taken to correct unsafe conditions and work practices.
- (f) Making available the Investigation/Corrective Action Report to document individual incidents or accidents.



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### *Illness and Injury Prevention*

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- (g) Making available a form to document the safety and health training of each member. This form will include the member's name or other identifier, training dates, type of training, and training providers.
- (h) Conducting and documenting a regular review of the illness and injury prevention plan.

#### **1060.5 SUPERVISOR RESPONSIBILITIES**

Supervisor responsibilities include, but are not limited to:

- (a) Ensuring member compliance with illness and injury prevention guidelines and answering questions from members about this policy.
- (b) Training, counseling, instructing or making informal verbal admonishments any time safety performance is deficient. Supervisors may also initiate discipline when it is reasonable and appropriate under the Standards of Conduct Policy.
- (c) Establishing and maintaining communication with members on health and safety issues. This is essential for an injury-free, productive workplace.
- (d) Completing required forms and reports relating to illness and injury prevention; such forms and reports shall be submitted to the Support Services Division Chief.
- (e) Notifying the Support Services Division Chief when:
  1. New substances, processes, procedures or equipment that present potential new hazards are introduced into the work environment.
  2. New, previously unidentified hazards are recognized.
  3. Occupational illnesses and injuries occur.
  4. New and/or permanent or intermittent members are hired or reassigned to processes, operations or tasks for which a hazard evaluation has not been previously conducted.
  5. Workplace conditions warrant an inspection.

#### **1060.6 HAZARDS**

All members should report and/or take reasonable steps to correct unsafe or unhealthy work conditions, practices or procedures in a timely manner. Members should make their reports to a supervisor (as a general rule, their own supervisors).

Supervisors should make reasonable efforts to correct unsafe or unhealthy work conditions in a timely manner, based on the severity of the hazard. These hazards should be corrected when observed or discovered, when it is reasonable to do so. When a hazard exists that cannot be immediately abated without endangering members or property, supervisors should protect or remove all exposed members from the area or item, except those necessary to correct the existing condition.

Members who are necessary to correct the hazardous condition shall be provided with the necessary protection.

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All significant actions taken and dates they are completed shall be documented on an Identified Hazards and Correction Record form. This form should be forwarded to the Support Services Division Chief via the chain of command.

The Support Services Division Chief will take appropriate action to ensure the illness and injury prevention plan addresses potential hazards upon such notification.

#### **1060.7 INSPECTIONS**

Safety inspections are crucial to a safe work environment. These inspections identify and evaluate workplace hazards and permit mitigation of those hazards. A hazard assessment checklist should be used for documentation and to ensure a thorough assessment of the work environment.

The Support Services Division Chief shall ensure that the appropriate documentation is completed for each inspection.

##### **1060.7.1 EQUIPMENT**

Members are charged with daily vehicle inspections of their assigned vehicles and of their personal protective equipment (PPE) prior to working in the field. Members shall complete the Identified Hazards and Correction Record form if an unsafe condition cannot be immediately corrected. Members should forward this form to their supervisors.

#### **1060.8 INVESTIGATIONS**

Any member sustaining any work-related illness or injury, as well as any member who is involved in any accident or hazardous substance exposure while on-duty shall report such event as soon as practicable to a supervisor. Members observing or learning of a potentially hazardous condition are to promptly report the condition to their immediate supervisors.

A supervisor receiving such a report should personally investigate the incident or ensure that an investigation is conducted. Investigative procedures for workplace accidents and hazardous substance exposures should include:

- (a) A visit to the accident scene as soon as possible.
- (b) An interview of the injured member and witnesses.
- (c) An examination of the workplace for factors associated with the accident/exposure.
- (d) Determination of the cause of the accident/exposure.
- (e) Corrective action to prevent the accident/exposure from reoccurring.
- (f) Documentation of the findings and corrective actions taken.
- (g) Completion of an Investigation/Corrective Action Report form.
- (h) Completion of an Identified Hazards and Correction Record form.

Additionally, the supervisor should proceed with the steps to report an on-duty injury, as required under the Occupational Disease and Work-Related Injury Reporting Policy, in conjunction with this investigation to avoid duplication and ensure timely reporting.

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#### **1060.9 TRAINING**

The Support Services Division Chief should work with the Training Coordinator to provide all members, including supervisors, with training on general and job-specific workplace safety and health practices. Training shall be provided:

- (a) To supervisors to familiarize them with the safety and health hazards to which members under their immediate direction and control may be exposed.
- (b) To all members with respect to hazards specific to each member's job assignment.
- (c) To all members given new job assignments for which training has not previously been provided.
- (d) Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard.
- (e) Whenever the Department is made aware of a new or previously unrecognized hazard.

#### **1060.9.1 TRAINING TOPICS**

The Training Coordinator shall ensure that training includes:

- (a) Reporting unsafe conditions, work practices and injuries, and informing a supervisor when additional instruction is needed.
- (b) Use of appropriate clothing, including gloves and footwear.
- (c) Use of respiratory equipment.
- (d) Availability of toilet, hand-washing and drinking-water facilities.
- (e) Provisions for medical services and first aid.
- (f) Handling of bloodborne pathogens and other biological hazards.
- (g) Prevention of heat and cold stress.
- (h) Identification and handling of hazardous materials, including chemical hazards to which members could be exposed, and review of resources for identifying and mitigating hazards (e.g., hazard labels, Safety Data Sheets (SDS)).
- (i) Mitigation of physical hazards, such as heat and cold stress, noise, and ionizing and non-ionizing radiation.
- (j) Identification and mitigation of ergonomic hazards, including working on ladders or in a stooped posture for prolonged periods.
- (k) Back exercises/stretchers and proper lifting techniques.
- (l) Avoidance of slips and falls.
- (m) Good housekeeping and fire prevention.
- (n) Other job-specific safety concerns.

#### **1060.10 RECORDS**

Records and training documentation relating to illness and injury prevention will be maintained in accordance with the established records retention schedule.

## Line-of-Duty Deaths

### 1061.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of the Indio Police Department in the event of the death of a member occurring in the line of duty and to direct the Department in providing proper support for the member's survivors, coworkers, and others who may be affected.

The Chief of Police may also apply some or all of this policy in situations where members are injured in the line of duty and the injuries are life-threatening.

#### 1061.1.1 DEFINITIONS

Definitions related to this policy include:

**Line-of-duty death** - The death of a sworn member during the course of performing law enforcement-related functions while on- or off-duty or a non-sworn member during the course of performing their assigned duties.

**Survivors** - Immediate family members of the deceased member, which can include spouse, children, parents, other next of kin or significant others. The determination of who should be considered a survivor for purposes of this policy should be made on a case-by-case basis given the individual's relationship with the member and whether the individual was previously designated by the deceased member.

**Next of Kin** - The closest relative(s) of the deceased officer, for example, spouse, parents, siblings, or children.

### 1061.2 POLICY

It is the policy of the Indio Police Department to make appropriate notifications and to provide assistance and support to survivors and coworkers of a member who dies in the line of duty during this traumatic period of readjustment.

It is also the policy of this department to respect the requests of the survivors when they conflict with these guidelines, as appropriate.

### 1061.3 INITIAL ACTIONS BY COMMAND STAFF

- (a) Upon learning of a line-of-duty death, the deceased member's supervisor should provide all reasonably available information to the Watch Commander and the Dispatch Center.
  1. Communication of information concerning the member and the incident should be restricted to secure networks to avoid interception by the media or others (see the Public Information Officer section of this policy).
- (b) The Watch Commander should ensure that notifications are made in accordance with the Officer-Involved Shootings and Deaths and Major Incident Notification policies as applicable.

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### *Line-of-Duty Deaths*

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- (c) If the member has been transported to the hospital, the Watch Commander or the designee should respond to the hospital to assume temporary responsibilities as the Hospital Liaison.
- (d) The Chief of Police or the authorized designee should assign members to handle survivor notifications and assign members to the roles of Hospital Liaison (to relieve the temporary Hospital Liaison) and the Department Liaison as soon as practicable (see the Notifying Survivors section and the Department Liaison and Hospital Liaison subsections in this policy).

#### **1061.4 NOTIFYING SURVIVORS**

Due to the impact of social media, notifications should be made as soon as possible.

The Chief of Police or the authorized designee should review the deceased member's emergency contact information and make accommodations to respect the member's wishes and instructions specific to notifying survivors. However, notification should not be excessively delayed because of attempts to assemble a notification team in accordance with the member's wishes.

The Chief of Police, or the authorized designee should select a member of the agency with personal knowledge of the deceased officer and their family to conduct notification of survivors, along with a chaplain, crisis intervention specialist, victim advocate, or other support personnel.

Notifying members should:

- (a) Make notifications in a direct and compassionate manner, communicating as many facts of the incident as possible, including the current location of the member. Information that is not verified should not be provided until an investigation has been completed.
- (b) Determine the method of notifying surviving children by consulting with other survivors and taking into account factors such as the child's age, maturity and current location (e.g., small children at home, children in school).
- (c) Plan for concerns such as known health concerns of survivors or language barriers.
- (d) Offer to transport survivors to the hospital, if appropriate. Survivors should be transported in department vehicles. Notifying members shall inform the Hospital Liaison over a secure network that the survivors are on their way to the hospital and should remain at the hospital while the survivors are present.
- (e) When survivors are not at their residences or known places of employment, actively seek information and follow leads from neighbors, other law enforcement, postal authorities and other sources of information in order to accomplish notification in as timely a fashion as possible. Notifying members shall not disclose the reason for their contact other than a family emergency.
- (f) If making notification at a survivor's workplace, ask a workplace supervisor for the use of a quiet, private room to meet with the survivor. Members shall not inform the workplace supervisor of the purpose of their visit other than to indicate that it is a family emergency.

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- (g) Offer to call other survivors, friends or clergy to support the survivors and to avoid leaving survivors alone after notification.
- (h) Assist the survivors with meeting childcare or other immediate needs.
- (i) Provide other assistance to survivors and take reasonable measures to accommodate their needs, wishes and desires. Care should be taken not to make promises or commitments to survivors that cannot be met.
- (j) Inform the survivors of the name and phone number of the Survivor Support Liaison (see the Survivor Support Liaison section of this policy), if known, and the Department Liaison.
- (k) Provide their contact information to the survivors before departing.
- (l) Document the survivor's names and contact information, as well as the time and location of notification. This information should be forwarded to the Department Liaison.
- (m) Inform the Chief of Police or the authorized designee once survivor notifications have been made so that other Indio Police Department members may be apprised that survivor notifications are complete.

#### 1061.4.1 OUT-OF-AREA NOTIFICATIONS

The Department Liaison should request assistance from law enforcement agencies in appropriate jurisdictions for in-person notification to survivors who are out of the area.

- (a) The Department Liaison should contact the appropriate jurisdiction using a secure network and provide the assisting agency with the name and telephone number of the department member that the survivors can call for more information following the notification by the assisting agency.
- (b) The Department Liaison may assist in making transportation arrangements for the member's survivors, but will not obligate the Department to pay travel expenses without the authorization of the Chief of Police.

#### 1061.5 NOTIFYING DEPARTMENT MEMBERS

Supervisors or members designated by the Chief of Police are responsible for notifying department members of the line-of-duty death as soon as possible after the survivor notification is made. Notifications and related information should be communicated in person or using secure networks and should not be transmitted over the radio.

Notifications should be made in person and as promptly as possible to all members on-duty at the time of the incident. Members reporting for subsequent shifts within a short amount of time should be notified in person at the beginning of their shift. Members reporting for duty from their residence should be instructed to contact their supervisor as soon as practicable. Those members who are working later shifts or are on days off should be notified by phone as soon as practicable.

Members having a close bond with the deceased member should be notified of the incident in person. Supervisors should consider assistance (e.g., peer support group, modifying work schedules, approving sick leave) for members who are especially affected by the incident.

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Supervisors should direct members not to disclose any information outside the Department regarding the deceased member or the incident.

#### **1061.6 LIAISONS AND COORDINATORS**

The Chief of Police or the authorized designee should select members to serve as liaisons and coordinators to handle responsibilities related to a line-of-duty death, including, but not limited to:

- (a) Department Liaison.
- (b) Hospital Liaison.
- (c) Survivor Support Liaison.
- (d) Critical Incident Stress Management (CISM) coordinator.
- (e) Funeral Liaison.
- (f) Mutual aid coordinator.
- (g) Benefits Liaison.
- (h) Finance coordinator.

Liaisons and coordinators will be directed by the Department Liaison and should be given sufficient duty time to complete their assignments.

Members may be assigned responsibilities of more than one liaison or coordinator position depending on available department resources. The Department Liaison may assign separate liaisons and coordinators to accommodate multiple family units, if needed.

##### **1061.6.1 DEPARTMENT LIAISON**

The Department Liaison should be a Division Chief or of sufficient rank to effectively coordinate department resources, and should serve as a facilitator between the deceased member's survivors and the Department. The Department Liaison reports directly to the Chief of Police. The Department Liaison's responsibilities include, but are not limited to:

- (a) Directing the other liaisons and coordinators in fulfilling survivors' needs and requests. Consideration should be given to organizing the effort using the National Incident Management System (NIMS).
- (b) Establishing contact with survivors within 24 hours of the incident and providing them contact information.
- (c) Advising survivors of the other liaison and coordinator positions and their roles and responsibilities.
- (d) Identifying locations that will accommodate a law enforcement funeral and presenting the options to the appropriate survivors, who will select the location.
- (e) Coordinating all official law enforcement notifications and arrangements.
- (f) Making necessary contacts for authorization to display flags at half-mast.

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- (g) Ensuring that department members are reminded of appropriate information—sharing restrictions regarding the release of information that could undermine future legal proceedings.
- (h) Coordinating security checks of the member's residence as necessary and reasonable.
- (i) Serving as a liaison with visiting law enforcement agencies during memorial and funeral services.

#### 1061.6.2 HOSPITAL LIAISON

The Hospital Liaison should work with hospital personnel to:

- (a) Arrange for appropriate and separate waiting areas for:
  - 1. The survivors and others whose presence is requested by the survivors.
  - 2. Department members and friends of the deceased member.
  - 3. Media personnel.
- (b) Ensure, as much as practicable, that any suspects who are in the hospital and their families or friends are not in close proximity to the member's survivors or Indio Police Department members (except for members who may be guarding the suspect).
- (c) Ensure that survivors receive timely updates regarding the member before information is released to others.
- (d) Arrange for survivors to have private time with the member, if requested.
  - 1. The Hospital Liaison or hospital personnel may need to explain the condition of the member to the survivors to prepare them accordingly.
  - 2. The Hospital Liaison should accompany the survivors into the room, if requested.
- (e) Stay with survivors and ensure that they are provided with other assistance as needed at the hospital.
- (f) If applicable, explain to the survivors why an autopsy may be needed.
- (g) Ensure hospital bills are directed to the Department, that the survivors are not asked to sign as guarantor of payment for any hospital treatment and that the member's residence address, insurance information and next of kin are not included on hospital paperwork.

Other responsibilities of the Hospital Liaison include, but are not limited to:

- Arranging transportation for the survivors back to their residence.
- Working with investigators to gather and preserve the deceased member's equipment and other items that may be of evidentiary value.
- Documenting his/her actions at the conclusion of his/her duties.
- Ensure survivors are provided with any necessary assistance, such as that related to the care of children or coordinating with other family members.



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#### 1061.6.3 SURVIVOR SUPPORT LIAISON

The Survivor Support Liaison should work with the Department Liaison to fulfill the immediate needs and requests of the survivors of any member who has died in the line of duty, and serve as the long-term department contact for survivors.

The Survivor Support Liaison should be selected by the deceased member's Division Chief. The following should be considered when selecting the Survivor Support Liaison:

- The liaison should be an individual the survivors know and with whom they are comfortable working.
- If the survivors have no preference, the selection may be made from names recommended by the deceased member's supervisor and/or coworkers. The deceased member's partner or close friends may not be the best selections for this assignment because the emotional connection to the member or survivors may impair their ability to conduct adequate liaison duties.
- The liaison must be willing to assume the assignment with an understanding of the emotional and time demands involved.

The responsibilities of the Survivor Support Liaison include, but are not limited to:

- (a) Arranging for transportation of survivors to hospitals, places of worship, funeral homes and other locations, as appropriate.
- (b) Communicating with the Department Liaison regarding appropriate security measures for the family residence, as needed.
- (c) If requested by the survivors, providing assistance with instituting methods of screening telephone calls made to their residence after the incident.
- (d) Providing assistance with travel and lodging arrangements for out-of-town survivors.
- (e) Returning the deceased member's personal effects from the Department and the hospital to the survivors. The following should be considered when returning the personal effects:
  1. Items should not be delivered to the survivors until they are ready to receive the items.
  2. Items not retained as evidence should be delivered in a clean, unmarked box.
  3. All clothing not retained as evidence should be cleaned and made presentable (e.g., items should be free of blood or other signs of the incident).
  4. The return of some personal effects may be delayed due to ongoing investigations.
- (f) Assisting with the return of department-issued equipment that may be at the deceased member's residence.
  1. Unless there are safety concerns, the return of the equipment should take place after the funeral at a time and in a manner considerate of the survivors' wishes.
- (g) Working with the CISM coordinator to ensure that survivors have access to available counseling services.

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- (h) Coordinating with the department's Public Information Officer (PIO) to brief the survivors on pending press releases related to the incident and to assist the survivors with media relations in accordance with their wishes (see the Public Information Officer section of this policy).
- (i) Briefing survivors on investigative processes related to the line-of-duty death, such as criminal, internal and administrative investigations.
- (j) Informing survivors of any related criminal proceedings and accompanying them to such proceedings.
- (k) Introducing survivors to prosecutors, victim's assistance personnel and other involved personnel as appropriate.
- (l) Maintaining long-term contact with survivors and taking measures to sustain a supportive relationship (e.g., follow-up visits, phone calls, cards on special occasions, special support during holidays).
- (m) Inviting survivors to department activities, memorial services or other functions as appropriate.

Survivor Support Liaisons providing services after an incident resulting in multiple members being killed should coordinate with and support each other through conference calls or meetings as necessary.

The Department recognizes that the duties of a Survivor Support Liaison will often affect regular assignments over many years, and is committed to supporting members in the assignment.

If needed, the Survivor Support Liaison should be issued a personal communication device (PCD) owned by the Department to facilitate communications necessary to the assignment. The department-issued PCD shall be used in accordance with the Personal Communication Devices Policy.

#### 1061.6.4 CRITICAL INCIDENT STRESS MANAGEMENT COORDINATOR

The CISM coordinator should work with the Chief of Police or the authorized designee, liaisons, coordinators and other resources to make CISM and counseling services available to members and survivors who are impacted by a line-of-duty death. The responsibilities of the CISM coordinator include, but are not limited to:

- (a) Identifying members who are likely to be significantly affected by the incident and may have an increased need for CISM and counseling services, including:
  - 1. Members involved in the incident.
  - 2. Members who witnessed the incident.
  - 3. Members who worked closely with the deceased member but were not involved in the incident.
- (b) Ensuring that members who were involved in or witnessed the incident are relieved of department responsibilities until they can receive CISM support as appropriate and possible.

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- (c) Ensuring that CISM and counseling resources (e.g., peer support, debriefing, grief counselors) are available to members as soon as reasonably practicable following the line-of-duty death.
- (d) Coordinating with the Survivor Support Liaison to ensure survivors are aware of available CISM and counseling services and assisting with arrangements as needed.
- (e) Following up with members and the Survivor Support Liaison in the months following the incident to determine if additional CISM or counseling services are needed.

#### 1061.6.5 FUNERAL LIAISON

The Funeral Liaison should work with the Department Liaison, Survivor Support Liaison and survivors to coordinate funeral arrangements to the extent the survivors wish. The Funeral Liaison's responsibilities include, but are not limited to:

- (a) Assisting survivors in working with the funeral director regarding funeral arrangements and briefing them on law enforcement funeral procedures.
- (b) Completing funeral notification to other law enforcement agencies.
- (c) Coordinating the funeral activities of the Department, including, but not limited to the following:
  - 1. Honor Guard
    - (a) Casket watch
    - (b) Color guard
    - (c) Pallbearers
    - (d) Bell/rifle salute
  - 2. Bagpipers/bugler
  - 3. Uniform for burial
  - 4. Flag presentation
  - 5. Last radio call
- (d) Briefing the Chief of Police and command staff concerning funeral arrangements.
- (e) Assigning an officer to remain at the family home during the viewing and funeral.
- (f) Arranging for transportation of the survivors to and from the funeral home and interment site using department vehicles and drivers.

#### 1061.6.6 MUTUAL AID COORDINATOR

The mutual aid coordinator should work with the Department Liaison and the Funeral Liaison to request and coordinate any assistance from outside law enforcement agencies needed for, but not limited to:

- (a) Traffic control during the deceased member's funeral.
- (b) Area coverage so that as many Indio Police Department members can attend funeral services as possible.

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The mutual aid coordinator should perform his/her duties in accordance with the Mutual Aid and Outside Agency Assistance Policy.

#### 1061.6.7 BENEFITS LIAISON

The Benefits Liaison should provide survivors with information concerning available benefits and assist them in applying for benefits. Responsibilities of the Benefits Liaison include, but are not limited to:

- (a) Confirming the filing of workers' compensation claims and related paperwork (see the Occupational Disease and Work-Related Injury Reporting Policy).
- (b) Researching and assisting survivors with application for federal government survivor benefits, such as those offered through the:
  - 1. Public Safety Officers' Benefits (PSOB) Programs.
  - 2. Public Safety Officers' Educational Assistance (PSOEA) Program.
  - 3. Social Security Administration.
  - 4. Department of Veterans Affairs.
- (c) Researching and assisting survivors with application for state and local government survivor benefits.
  - 1. Education benefits (Education Code § 68120)
  - 2. Health benefits (Labor Code § 4856)
  - 3. Worker's compensation death benefit (Labor Code § 4702)
- (d) Researching and assisting survivors with application for other survivor benefits such as:
  - 1. Private foundation survivor benefits programs.
  - 2. Survivor scholarship programs.
- (e) Researching and informing survivors of support programs sponsored by police associations and other organizations.
- (f) Documenting and informing survivors of inquiries and interest regarding public donations to the survivors.
  - 1. If requested, working with the finance coordinator to assist survivors with establishing a process for the receipt of public donations.
- (g) Providing survivors with a summary of the nature and amount of benefits applied for, including the name of a contact person at each benefit office. Printed copies of the summary and benefit application documentation should be provided to affected survivors.
- (h) Maintaining contact with the survivors and assisting with subsequent benefit questions and processes as needed.

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#### 1061.6.8 FINANCE COORDINATOR

The finance coordinator should work with the Chief of Police and the Department Liaison to manage financial matters related to the line-of-duty death. The finance coordinator's responsibilities include, but are not limited to:

- (a) Establishing methods for purchasing and monitoring costs related to the incident.
- (b) Providing information on finance-related issues, such as:
  - 1. Paying survivors' travel costs if authorized.
  - 2. Transportation costs for the deceased.
  - 3. Funeral and memorial costs.
  - 4. Related funding or accounting questions and issues.
- (c) Working with the Benefits Liaison to establish a process for the receipt of public donations to the deceased member's survivors.
- (d) Providing accounting and cost information as needed.

#### 1061.7 PRESS INFORMATION OFFICER

In the event of a line-of-duty death, the department's PIO should be the department's contact point for the media. As such, the PIO should coordinate with the Department Liaison to:

- (a) Collect and maintain the most current incident information and determine what information should be released.
- (b) Ensure that department members are instructed to direct any media inquiries to the PIO.
- (c) Prepare necessary press releases.
  - 1. Ensure coordination with other entities having media roles (e.g., outside agencies involved in the investigation or incident).
  - 2. Ensure that important public information is disseminated, such as information on how the public can show support for the Department and deceased member's survivors.
- (d) Arrange for community and media briefings by the Chief of Police or the authorized designee as appropriate.
- (e) Respond, or coordinate the response, to media inquiries.
- (f) If requested, assist the member's survivors with media inquiries.
  - 1. Brief the survivors on handling sensitive issues such as the types of questions that reasonably could jeopardize future legal proceedings.
- (g) Release information regarding memorial services and funeral arrangements to department members, other agencies and the media as appropriate.
- (h) If desired by the survivors, arrange for the recording of memorial and funeral services via photos and/or video.

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The identity of deceased members should be withheld until the member's survivors have been notified. If the media has obtained identifying information for the deceased member prior to survivor notification, the PIO should request that the media withhold the information from release until proper notification can be made to survivors. The PIO should ensure that media are notified when survivor notifications have been made.

#### **1061.8 DEPARTMENT CHAPLAIN**

The Department chaplain may serve a significant role in line-of-duty deaths. His/her duties may include, but are not limited to:

- Assisting with survivor notifications and assisting the survivors with counseling, emotional support or other matters, as appropriate.
- Assisting liaisons and coordinators with their assignments, as appropriate.
- Assisting department members with counseling or emotional support, as requested and appropriate.

Further information on the potential roles and responsibilities of the chaplain is in the Chaplains Policy.

#### **1061.9 INVESTIGATION OF THE INCIDENT**

The Chief of Police shall ensure that line-of-duty deaths are investigated thoroughly and may choose to use the investigation process outlined in the Officer-Involved Shootings and Deaths Policy.

Investigators from other agencies may be assigned to work on any criminal investigation related to line-of-duty deaths. Partners, close friends or personnel who worked closely with the deceased member should not have any investigative responsibilities because such relationships may impair the objectivity required for an impartial investigation of the incident.

Involved department members should be kept informed of the progress of the investigations and provide investigators with any information that may be pertinent to the investigations.

#### **1061.10 LINE-OF-DUTY DEATH OF A LAW ENFORCEMENT ANIMAL**

The Chief of Police may authorize appropriate memorial and funeral services for law enforcement animals killed in the line of duty.

#### **1061.11 NON-LINE-OF-DUTY DEATH**

The Chief of Police may authorize certain support services for the death of a member not occurring in the line of duty.

## Attachments

**th\_Exhibit B.jpg**



**20210SB16\_93 Senate Bill No. 16.pdf**

## Senate Bill No. 16

### CHAPTER 402

An act to amend Section 1045 of the Evidence Code, and to amend Sections 832.5, 832.7, and 832.12 of, and to add Section 832.13 to, the Penal Code, relating to peace officers.

[Approved by Governor September 30, 2021. Filed with  
Secretary of State September 30, 2021.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 16, Skinner. Peace officers: release of records.

(1) Existing law makes peace officer and custodial officer personnel records and specified records maintained by any state or local agency, or information obtained from these records, confidential and prohibits these records from being disclosed in any criminal or civil proceeding except by discovery. Existing law sets forth exceptions to this policy, including, among others, records relating to specified incidents involving the discharge of a firearm, sexual assault, perjury, or misconduct by a peace officer or custodial officer. Existing law makes a record related to an incident involving the use of force against a person resulting in death or great bodily injury subject to disclosure. Existing law requires a state or local agency to make these excepted records available for inspection pursuant to the California Public Records Act, subject to redaction as specified.

This bill would make a sustained finding involving force that is unreasonable or excessive, and any sustained finding that an officer failed to intervene against another officer using unreasonable or excessive force, subject to disclosure. The bill would require records relating to sustained findings of unlawful arrests and unlawful searches to be subject to disclosure. The bill would also require the disclosure of records relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in conduct involving prejudice or discrimination on the basis of specified protected classes. The bill would make the limitations on delay of disclosure inapplicable until January 1, 2023, for the described records relating to incidents that occurred before January 1, 2022. The bill would require the retention of all complaints and related reports or findings currently in the possession of a department or agency, as specified. The bill would require that records relating to an incident in which an officer resigned before an investigation is completed to also be subject to release. For purposes of releasing records, the bill would exempt from protection under the lawyer-client privilege, the disclosure of factual information provided by the public entity to its attorney, factual information discovered by any investigation by the public entity's attorney, or billing records related to the

work done by the attorney. The bill would expand the authorization to redact records to allow redaction to preserve the anonymity of victims and whistleblowers. The bill would require records subject to disclosure to be provided at the earliest possible time and no later than 45 days from the date of a request for their disclosure, except as specified. By imposing additional duties on local law enforcement agencies, the bill would impose a state-mandated local program.

(2) Existing law authorizes an agency to delay the release of a record involving the discharge of a firearm or the use of force during an active criminal investigation, as provided.

This bill would expand the authorization to delay the release of records during an investigation to include records of incidents involving sexual assault and dishonesty by officers, and the records of incidents involving prejudice or discrimination, wrongful arrests, and wrongful searches that are required to be made public by this bill.

(3) Existing law requires a court, in determining the relevance of evidence, to exclude from trial any information consisting of complaints concerning peace officer conduct that is more than 5 years older than the subject of the litigation.

This bill would delete that provision.

(4) Existing law requires an agency or department employing peace officers to make a record of any investigations of misconduct. Existing law requires a peace officer seeking employment with a department or agency to give written permission to the hiring agency or department to view that file.

This bill would require each department or agency to request and review that file prior to hiring a peace officer. The bill would also require every person employed as a peace officer to immediately report all uses of force by the officer to the officer's department or agency. By imposing additional duties on local law enforcement, the bill would impose a state-mandated local program.

(5) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1045 of the Evidence Code is amended to read:

1045. (a) This article does not affect the right of access to records of complaints, or investigations of complaints, or discipline imposed as a result of those investigations, concerning an event or transaction in which the peace officer or custodial officer, as defined in Section 831.5 of the Penal Code, participated, or which the officer perceived, and pertaining to the manner in which the officer performed the officer's duties, provided that information is relevant to the subject matter involved in the pending litigation.

(b) In determining relevance, the court shall examine the information in chambers in conformity with Section 915, and shall exclude from disclosure both of the following:

(1) In any criminal proceeding the conclusions of any officer investigating a complaint filed pursuant to Section 832.5 of the Penal Code.

(2) Facts sought to be disclosed that are so remote as to make disclosure of little or no practical benefit.

(c) In determining relevance where the issue in litigation concerns the policies or pattern of conduct of the employing agency, the court shall consider whether the information sought may be obtained from other records maintained by the employing agency in the regular course of agency business which would not necessitate the disclosure of individual personnel records.

(d) Upon motion seasonably made by the governmental agency which has custody or control of the records to be examined or by the officer whose records are sought, and upon good cause showing the necessity thereof, the court may make any order which justice requires to protect the officer or agency from unnecessary annoyance, embarrassment or oppression.

(e) The court shall, in any case or proceeding permitting the disclosure or discovery of any peace or custodial officer records requested pursuant to Section 1043, order that the records disclosed or discovered may not be used for any purpose other than a court proceeding pursuant to applicable law.

SEC. 2. Section 832.5 of the Penal Code is amended to read:

832.5. (a) (1) Each department or agency in this state that employs peace officers shall establish a procedure to investigate complaints by members of the public against the personnel of these departments or agencies, and shall make a written description of the procedure available to the public.

(2) Each department or agency that employs custodial officers, as defined in Section 831.5, may establish a procedure to investigate complaints by members of the public against those custodial officers employed by these departments or agencies, provided however, that any procedure so established shall comply with the provisions of this section and with the provisions of Section 832.7.

(b) Complaints and any reports or findings relating to these complaints, including all complaints and any reports currently in the possession of the

department or agency, shall be retained for a period of no less than 5 years for records where there was not a sustained finding of misconduct and for not less than 15 years where there was a sustained finding of misconduct. A record shall not be destroyed while a request related to that record is being processed or any process or litigation to determine whether the record is subject to release is ongoing. All complaints retained pursuant to this subdivision may be maintained either in the peace or custodial officer's general personnel file or in a separate file designated by the department or agency as provided by department or agency policy, in accordance with all applicable requirements of law. However, prior to any official determination regarding promotion, transfer, or disciplinary action by an officer's employing department or agency, the complaints described by subdivision (c) shall be removed from the officer's general personnel file and placed in a separate file designated by the department or agency, in accordance with all applicable requirements of law.

(c) Complaints by members of the public that are determined by the peace or custodial officer's employing agency to be frivolous, as defined in Section 128.5 of the Code of Civil Procedure, or unfounded or exonerated, or any portion of a complaint that is determined to be frivolous, unfounded, or exonerated, shall not be maintained in that officer's general personnel file. However, these complaints shall be retained in other, separate files that shall be deemed personnel records for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and Section 1043 of the Evidence Code.

(1) Management of the peace or custodial officer's employing agency shall have access to the files described in this subdivision.

(2) Management of the peace or custodial officer's employing agency shall not use the complaints contained in these separate files for punitive or promotional purposes except as permitted by subdivision (f) of Section 3304 of the Government Code.

(3) Management of the peace or custodial officer's employing agency may identify any officer who is subject to the complaints maintained in these files which require counseling or additional training. However, if a complaint is removed from the officer's personnel file, any reference in the personnel file to the complaint or to a separate file shall be deleted.

(d) As used in this section, the following definitions apply:

(1) "General personnel file" means the file maintained by the agency containing the primary records specific to each peace or custodial officer's employment, including evaluations, assignments, status changes, and imposed discipline.

(2) "Unfounded" means that the investigation clearly established that the allegation is not true.

(3) "Exonerated" means that the investigation clearly established that the actions of the peace or custodial officer that formed the basis for the complaint are not violations of law or department policy.

SEC. 3. Section 832.7 of the Penal Code is amended to read:

832.7. (a) Except as provided in subdivision (b), the personnel records of peace officers and custodial officers and records maintained by a state or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This section does not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, or the Attorney General's office.

(b) (1) Notwithstanding subdivision (a), subdivision (f) of Section 6254 of the Government Code, or any other law, the following peace officer or custodial officer personnel records and records maintained by a state or local agency shall not be confidential and shall be made available for public inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code):

(A) A record relating to the report, investigation, or findings of any of the following:

(i) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer.

(ii) An incident involving the use of force against a person by a peace officer or custodial officer that resulted in death or in great bodily injury.

(iii) A sustained finding involving a complaint that alleges unreasonable or excessive force.

(iv) A sustained finding that an officer failed to intervene against another officer using force that is clearly unreasonable or excessive.

(B) (i) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public.

(ii) As used in this subparagraph, "sexual assault" means the commission or attempted initiation of a sexual act with a member of the public by means of force, threat, coercion, extortion, offer of leniency or other official favor, or under the color of authority. For purposes of this definition, the propositioning for or commission of any sexual act while on duty is considered a sexual assault.

(iii) As used in this subparagraph, "member of the public" means any person not employed by the officer's employing agency and includes any participant in a cadet, explorer, or other youth program affiliated with the agency.

(C) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency involving dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any false statements, filing false reports, destruction, falsifying, or concealing of evidence, or perjury.

(D) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in conduct including, but not limited to, verbal statements, writings, online posts, recordings, and gestures, involving prejudice or discrimination against a person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.

(E) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that the peace officer made an unlawful arrest or conducted an unlawful search.

(2) Records that are subject to disclosure under clause (iii) or (iv) of subparagraph (A) of paragraph (1), or under subparagraph (D) or (E) of paragraph (1), relating to an incident that occurred before January 1, 2022, shall not be subject to the time limitations in paragraph (8) until January 1, 2023.

(3) Records that shall be released pursuant to this subdivision include all investigative reports; photographic, audio, and video evidence; transcripts or recordings of interviews; autopsy reports; all materials compiled and presented for review to the district attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, whether the officer's action was consistent with law and agency policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take; documents setting forth findings or recommended findings; and copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the Skelly or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action. Records that shall be released pursuant to this subdivision also include records relating to an incident specified in paragraph (1) in which the peace officer or custodial officer resigned before the law enforcement agency or oversight agency concluded its investigation into the alleged incident.

(4) A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure pursuant to this subdivision.

(5) If an investigation or incident involves multiple officers, information about allegations of misconduct by, or the analysis or disposition of an investigation of, an officer shall not be released pursuant to subparagraph (B), (C), (D), or (E) of paragraph (1), unless it relates to a sustained finding regarding that officer that is itself subject to disclosure pursuant to this section. However, factual information about that action of an officer during an incident, or the statements of an officer about an incident, shall be released if they are relevant to a finding against another officer that is subject to release pursuant to subparagraph (B), (C), (D), or (E) of paragraph (1).

(6) An agency shall redact a record disclosed pursuant to this section only for any of the following purposes:

(A) To remove personal data or information, such as a home address, telephone number, or identities of family members, other than the names and work-related information of peace and custodial officers.

(B) To preserve the anonymity of whistleblowers, complainants, victims, and witnesses.

(C) To protect confidential medical, financial, or other information of which disclosure is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about possible misconduct and use of force by peace officers and custodial officers.

(D) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the peace officer, custodial officer, or another person.

(7) Notwithstanding paragraph (6), an agency may redact a record disclosed pursuant to this section, including personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosure of the information.

(8) An agency may withhold a record of an incident described in paragraph (1) that is the subject of an active criminal or administrative investigation, in accordance with any of the following:

(A) (i) During an active criminal investigation, disclosure may be delayed for up to 60 days from the date the misconduct or use of force occurred or until the district attorney determines whether to file criminal charges related to the misconduct or use of force, whichever occurs sooner. If an agency delays disclosure pursuant to this clause, the agency shall provide, in writing, the specific basis for the agency's determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. This writing shall include the estimated date for disclosure of the withheld information.

(ii) After 60 days from the misconduct or use of force, the agency may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an officer who engaged in misconduct or used the force. If an agency delays disclosure pursuant to this clause, the agency shall, at 180-day intervals as necessary, provide, in writing, the specific basis for the agency's determination that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding. The writing shall include the estimated date for the disclosure of the withheld information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner.

(iii) After 60 days from the misconduct or use of force, the agency may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement



proceeding against someone other than the officer who engaged in the misconduct or used the force. If an agency delays disclosure under this clause, the agency shall, at 180-day intervals, provide, in writing, the specific basis why disclosure could reasonably be expected to interfere with a criminal enforcement proceeding, and shall provide an estimated date for the disclosure of the withheld information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner, unless extraordinary circumstances warrant continued delay due to the ongoing criminal investigation or proceeding. In that case, the agency must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest in prompt disclosure of records about misconduct or use of force by peace officers and custodial officers. The agency shall release all information subject to disclosure that does not cause substantial prejudice, including any documents that have otherwise become available.

(iv) In an action to compel disclosure brought pursuant to Section 6258 of the Government Code, an agency may justify delay by filing an application to seal the basis for withholding, in accordance with Rule 2.550 of the California Rules of Court, or any successor rule, if disclosure of the written basis itself would impact a privilege or compromise a pending investigation.

(B) If criminal charges are filed related to the incident in which misconduct occurred or force was used, the agency may delay the disclosure of records or information until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to withdraw the plea pursuant to Section 1018.

(C) During an administrative investigation into an incident described in paragraph (1), the agency may delay the disclosure of records or information until the investigating agency determines whether the misconduct or use of force violated a law or agency policy, but no longer than 180 days after the date of the employing agency's discovery of the misconduct or use of force, or allegation of misconduct or use of force, by a person authorized to initiate an investigation.

(9) A record of a complaint, or the investigations, findings, or dispositions of that complaint, shall not be released pursuant to this section if the complaint is frivolous, as defined in Section 128.5 of the Code of Civil Procedure, or if the complaint is unfounded.

(10) The cost of copies of records subject to disclosure pursuant to this subdivision that are made available upon the payment of fees covering direct costs of duplication pursuant to subdivision (b) of Section 6253 of the Government Code shall not include the costs of searching for, editing, or redacting the records.

(11) Except to the extent temporary withholding for a longer period is permitted pursuant to paragraph (8), records subject to disclosure under this subdivision shall be provided at the earliest possible time and no later than 45 days from the date of a request for their disclosure.

(12) (A) For purposes of releasing records pursuant to this subdivision, the lawyer-client privilege does not prohibit the disclosure of either of the following:

(i) Factual information provided by the public entity to its attorney or factual information discovered in any investigation conducted by, or on behalf of, the public entity's attorney.

(ii) Billing records related to the work done by the attorney so long as the records do not relate to active and ongoing litigation and do not disclose information for the purpose of legal consultation between the public entity and its attorney.

(B) This paragraph does not prohibit the public entity from asserting that a record or information within the record is exempted or prohibited from disclosure pursuant to any other federal or state law.

(c) Notwithstanding subdivisions (a) and (b), a department or agency shall release to the complaining party a copy of the complaining party's own statements at the time the complaint is filed.

(d) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may disseminate data regarding the number, type, or disposition of complaints (sustained, not sustained, exonerated, or unfounded) made against its officers if that information is in a form which does not identify the individuals involved.

(e) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may release factual information concerning a disciplinary investigation if the officer who is the subject of the disciplinary investigation, or the officer's agent or representative, publicly makes a statement they know to be false concerning the investigation or the imposition of disciplinary action. Information may not be disclosed by the peace or custodial officer's employer unless the false statement was published by an established medium of communication, such as television, radio, or a newspaper. Disclosure of factual information by the employing agency pursuant to this subdivision is limited to facts contained in the officer's personnel file concerning the disciplinary investigation or imposition of disciplinary action that specifically refute the false statements made public by the peace or custodial officer or their agent or representative.

(f) (1) The department or agency shall provide written notification to the complaining party of the disposition of the complaint within 30 days of the disposition.

(2) The notification described in this subdivision is not conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding brought before an arbitrator, court, or judge of this state or the United States.

(g) This section does not affect the discovery or disclosure of information contained in a peace or custodial officer's personnel file pursuant to Section 1043 of the Evidence Code.

(h) This section does not supersede or affect the criminal discovery process outlined in Chapter 10 (commencing with Section 1054) of Title 6 of Part 2, or the admissibility of personnel records pursuant to subdivision

(a), which codifies the court decision in *Pitchess v. Superior Court* (1974) 11 Cal.3d 531.

(i) Nothing in this chapter is intended to limit the public's right of access as provided for in *Long Beach Police Officers Association v. City of Long Beach* (2014) 59 Cal.4th 59.

SEC. 4. Section 832.12 of the Penal Code is amended to read:

832.12. (a) Each department or agency in this state that employs peace officers shall make a record of any investigations of misconduct involving a peace officer in the officer's general personnel file or a separate file designated by the department or agency. A peace officer seeking employment with a department or agency in this state that employs peace officers shall give written permission for the hiring department or agency to view the officer's general personnel file and any separate file designated by a department or agency.

(b) Prior to employing any peace officer, each department or agency in this state that employs peace officers shall request, and the hiring department or agency shall review, any records made available pursuant to subdivision (a).

SEC. 5. Section 832.13 is added to the Penal Code, to read:

832.13. Every person employed as a peace officer shall immediately report all uses of force by the officer to the officer's department or agency.

SEC. 6. The Legislature finds and declares that Sections 2 and 3 of this act, which amend Sections 832.5 and 832.7 of the Penal Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act furthers public access and provides greater transparency with respect to certain law enforcement records.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.

However, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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## Assembly Bill No. 1475

### CHAPTER 126

An act to add Section 13665 to the Penal Code, relating to law enforcement.

[Approved by Governor July 23, 2021. Filed with Secretary of State July 23, 2021.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1475, Low. Law enforcement: social media.

Existing law requires law enforcement agencies, departments, or entities to consider specified best practices regarding the downloading and storage of body-worn camera data, including prohibiting agency personnel from uploading recorded data onto public and social media internet websites, when establishing policies and procedures for the implementation and operation of a body-worn camera system.

This bill would prohibit a police department or sheriff's office from sharing, on social media, booking photos of an individual arrested on suspicion of committing a nonviolent crime, as defined, unless specified circumstances exist. The bill would require a police department or sheriff's office that shares, on social media, a booking photo of an individual arrested for the suspected commission of a nonviolent crime to remove the information from its social media page, upon request, unless the same specified circumstances exist. The bill would require a police department or sheriff's office to remove the booking photo of a person who has committed any other crime from social media if the individual's record has been sealed, the individual's conviction has been dismissed, expunged, pardoned, or eradicated pursuant to law, the individual has been issued a certificate of rehabilitation, the individual is found not guilty of committing the crime for which they were arrested, or the individual was ultimately not charged with the crime or the charges were dismissed.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) In our criminal justice system, suspects are considered innocent until proven guilty.

(b) In recent years, law enforcement departments have begun to use social media platforms like Facebook, Twitter, Instagram, and Nextdoor to communicate with the public.

(c) Some departments post the booking photos of suspects on their social media accounts even though the suspect is no longer at large or an ongoing threat to public safety.

(d) Information posted to these social media accounts can remain on the internet for years, seriously affecting the life of the person depicted.

(e) In 2016, the United States Sixth Circuit Court of Appeals stated, in *Detroit Free Press Inc. v. United States Department of Justice* (829 F. 3d 478, 482) that booking photos are “more than just ‘vivid symbols of criminal accusation, booking photos convey guilt to the viewer;’ effectively ‘eliminating the presumption of innocence and replacing it with an unmistakable badge of criminality.’”

(f) The Sixth Circuit also noted that booking photos are “snapped ‘in the vulnerable and embarrassing moments immediately after [an individual is] accused, taken into custody, and deprived of most liberties;’” putting them in the realm of “embarrassing and humiliating information.” (Id.)

(g) Section 1 of Article 1 of the California Constitution protects the privacy of Californians, including limiting the disclosure of arrest information unless that disclosure serves a compelling state interest (*Central Valley Ch. 7th Step Foundation, Inc. v. Younger* (1989) 214 Cal.App.3d 415, 151).

(h) In July 2020, San Francisco Police Chief Bill Scott instituted a department directive against the release of booking photos in most circumstances because their publication creates an “illusory correlation for viewers that fosters racial bias and vastly overstates the propensity of black and brown men to engage in criminal behavior.”

(i) The Legislature finds that publishing booking photos on social media when there is a low risk to public safety is detrimental to the right to a fair trial because it diminishes the presumption of innocence and potentially violates privacy rights of Californians without a commensurate benefit to public safety.

SEC. 2. Section 13665 is added to the Penal Code, to read:

13665. (a) A police department or sheriff’s office shall not share, on social media, booking photos of an individual arrested on suspicion of committing a nonviolent crime unless any of the following circumstances exist:

(1) A police department or sheriff’s office has determined that the suspect is a fugitive or an imminent threat to an individual or to public safety and releasing or disseminating the suspect’s image will assist in locating or apprehending the suspect or reducing or eliminating the threat.

(2) A judge orders the release or dissemination of the suspect’s image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest.

(3) There is an exigent circumstance that necessitates the dissemination of the suspect’s image in furtherance of an urgent and legitimate law enforcement interest.

(b) (1) A police department or sheriff’s office that shares, on social media, a booking photo of an individual arrested for the suspected

commission of a nonviolent crime shall remove the booking photo from its social media page within 14 days, upon the request of the individual who is the subject of the social media post or the individual's representative, unless any of the circumstances described in subdivision (a) exist.

(2) A police department or sheriff's office that shares, on social media, a booking photo of an individual arrested for the suspected commission of a crime identified in subdivision (c) of Section 667.5 shall remove the booking photo from its social media page within 14 days, upon the request of the individual who is the subject of the social media post or the individual's representative, if the individual or their representative demonstrates any of the following:

(A) The individual's record has been sealed.

(B) The individual's conviction has been dismissed, expunged, pardoned, or eradicated pursuant to law.

(C) The individual has been issued a certificate of rehabilitation.

(D) The individual was found not guilty of the crime for which they were arrested.

(E) The individual was ultimately not charged with the crime or the charges were dismissed.

(3) This subdivision shall apply retroactively to any booking photo shared on social media.

(c) For purposes of this section, the following terms have the following meanings:

(1) "Nonviolent crime" means a crime not identified in subdivision (c) of Section 667.5.

(2) "Social media" has the same meaning as in Section 632.01, except that social media does not include an internet website or an electronic data system developed and administered by the police department or sheriff's office.

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## Assembly Bill No. 26

### CHAPTER 403

An act to amend Section 7286 of the Government Code, relating to peace officers.

[Approved by Governor September 30, 2021. Filed with  
Secretary of State September 30, 2021.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 26, Holden. Peace officers: use of force.

Existing law requires each law enforcement agency, on or before January 1, 2021, to maintain a policy that provides a minimum standard on the use of force. Existing law requires that policy, among other things, to require that officers report potential excessive force to a superior officer when present and observing another officer using force that the officer believes to be unnecessary, and to require that officers intercede when present and observing another officer using force that is clearly beyond that which is necessary, as specified.

This bill would require those law enforcement policies to require those officers to immediately report potential excessive force, as defined. The bill would additionally require those policies to, among other things, prohibit retaliation against officers that report violations of law or regulation of another officer to a supervisor, as specified, and to require that an officer who fails to intercede be disciplined up to and including in the same manner as the officer who used excessive force. By imposing additional duties on local agencies, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

*The people of the State of California do enact as follows:*

SECTION 1. Section 7286 of the Government Code is amended to read:  
7286. (a) For the purposes of this section:

(1) "Deadly force" means any use of force that creates a substantial risk of causing death or serious bodily injury. Deadly force includes, but is not limited to, the discharge of a firearm.

(2) “Excessive force” means a level of force that is found to have violated Section 835a of the Penal Code, the requirements on the use of force required by this section, or any other law or statute.

(3) “Feasible” means reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

(4) “Intercede” includes, but is not limited to, physically stopping the excessive use of force, recording the excessive force, if equipped with a body-worn camera, and documenting efforts to intervene, efforts to deescalate the offending officer’s excessive use of force, and confronting the offending officer about the excessive force during the use of force and, if the officer continues, reporting to dispatch or the watch commander on duty and stating the offending officer’s name, unit, location, time, and situation, in order to establish a duty for that officer to intervene.

(5) “Law enforcement agency” means any police department, sheriff’s department, district attorney, county probation department, transit agency police department, school district police department, the police department of any campus of the University of California, the California State University, or community college, the Department of the California Highway Patrol, the Department of Fish and Wildlife, and the Department of Justice.

(6) “Retaliation” means demotion, failure to promote to a higher position when warranted by merit, denial of access to training and professional development opportunities, denial of access to resources necessary for an officer to properly perform their duties, or intimidation, harassment, or the threat of injury while on duty or off duty.

(b) Each law enforcement agency shall, by no later than January 1, 2021, maintain a policy that provides a minimum standard on the use of force. Each agency’s policy shall include all of the following:

(1) A requirement that officers utilize deescalation techniques, crisis intervention tactics, and other alternatives to force when feasible.

(2) A requirement that an officer may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.

(3) A requirement that officers immediately report potential excessive force to a superior officer when present and observing another officer using force that the officer believes to be beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances based upon the totality of information actually known to the officer.

(4) A prohibition on retaliation against an officer that reports a suspected violation of a law or regulation of another officer to a supervisor or other person of the law enforcement agency who has the authority to investigate the violation.

(5) Clear and specific guidelines regarding situations in which officers may or may not draw a firearm or point a firearm at a person.

(6) A requirement that officers consider their surroundings and potential risks to bystanders, to the extent reasonable under the circumstances, before discharging a firearm.

(7) Procedures for disclosing public records in accordance with Section 832.7.

(8) Procedures for the filing, investigation, and reporting of citizen complaints regarding use of force incidents.

(9) A requirement that an officer intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject.

(10) Comprehensive and specific guidelines regarding approved methods and devices available for the application of force.

(11) An explicitly stated requirement that officers carry out duties, including use of force, in a manner that is fair and unbiased.

(12) Comprehensive and specific guidelines for the application of deadly force.

(13) Comprehensive and detailed requirements for prompt internal reporting and notification regarding a use of force incident, including reporting use of force incidents to the Department of Justice in compliance with Section 12525.2.

(14) The role of supervisors in the review of use of force applications.

(15) A requirement that officers promptly provide, if properly trained, or otherwise promptly procure medical assistance for persons injured in a use of force incident, when reasonable and safe to do so.

(16) Training standards and requirements relating to demonstrated knowledge and understanding of the law enforcement agency's use of force policy by officers, investigators, and supervisors.

(17) Training and guidelines regarding vulnerable populations, including, but not limited to, children, elderly persons, people who are pregnant, and people with physical, mental, and developmental disabilities.

(18) Procedures to prohibit an officer from training other officers for a period of at least three years from the date that an abuse of force complaint against the officer is substantiated.

(19) A requirement that an officer that has received all required training on the requirement to intercede and fails to act pursuant to paragraph (9) be disciplined up to and including in the same manner as the officer that committed the excessive force.

(20) Comprehensive and specific guidelines under which the discharge of a firearm at or from a moving vehicle may or may not be permitted.

(21) Factors for evaluating and reviewing all use of force incidents.

(22) Minimum training and course titles required to meet the objectives in the use of force policy.

(23) A requirement for the regular review and updating of the policy to reflect developing practices and procedures.

(c) Each law enforcement agency shall make their use of force policy adopted pursuant to this section accessible to the public.

(d) This section does not supersede the collective bargaining procedures established pursuant to the Myers-Milias-Brown Act (Chapter 10

(commencing with Section 3500) of Division 4), the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4), or the Higher Education Employer-Employee Relations Act (Chapter 12 (commencing with Section 3560) of Division 4).

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

**20210AB490\_95 AB 490 PDF.pdf**

## Assembly Bill No. 490

### CHAPTER 407

An act to amend Section 7286.5 of the Government Code, relating to law enforcement agency policies.

[Approved by Governor September 30, 2021. Filed with  
Secretary of State September 30, 2021.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 490, Gipson. Law enforcement agency policies: arrests: positional asphyxia.

Existing law authorizes a peace officer to make an arrest pursuant to a warrant or based upon probable cause, as specified. Under existing law, an arrest is made by the actual restraint of the person or by submission to the custody of the arresting officer. Existing law authorizes a peace officer to use reasonable force to effect the arrest, to prevent escape, or to overcome resistance.

Existing law requires law enforcement agencies to maintain a policy on the use of force, as specified. Existing law requires the Commission on Peace Officer Standards and Training to implement courses of instruction for the regular and periodic training of law enforcement officers in the use of force.

Existing law prohibits a law enforcement agency from authorizing the use of a carotid restraint or a choke hold, as defined.

This bill would additionally prohibit a law enforcement agency from authorizing techniques or transport methods that involve a substantial risk of positional asphyxia, as defined.

By requiring local agencies to amend use of force policies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

*The people of the State of California do enact as follows:*

SECTION 1. Section 7286.5 of the Government Code is amended to read:

7286.5. (a) (1) A law enforcement agency shall not authorize the use of a carotid restraint or choke hold by any peace officer employed by that agency.

(2) A law enforcement agency shall not authorize techniques or transport methods that involve a substantial risk of positional asphyxia.

(b) As used in this section, the following terms are defined as follows:

(1) “Carotid restraint” means a vascular neck restraint or any similar restraint, hold, or other defensive tactic in which pressure is applied to the sides of a person’s neck that involves a substantial risk of restricting blood flow and may render the person unconscious in order to subdue or control the person.

(2) “Choke hold” means any defensive tactic or force option in which direct pressure is applied to a person’s trachea or windpipe.

(3) “Law enforcement agency” means any agency, department, or other entity of the state or any political subdivision thereof, that employs any peace officer described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

(4) “Positional asphyxia” means situating a person in a manner that compresses their airway and reduces the ability to sustain adequate breathing. This includes, without limitation, the use of any physical restraint that causes a person’s respiratory airway to be compressed or impairs the person’s breathing or respiratory capacity, including any action in which pressure or body weight is unreasonably applied against a restrained person’s neck, torso, or back, or positioning a restrained person without reasonable monitoring for signs of asphyxia.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

**20210SB98\_94 SB 98 PDF 100421.pdf**



**Senate Bill No. 98**

\_\_\_\_\_

Passed the Senate September 10, 2021

\_\_\_\_\_  
*Secretary of the Senate*

\_\_\_\_\_

Passed the Assembly September 10, 2021

\_\_\_\_\_  
*Chief Clerk of the Assembly*

\_\_\_\_\_

This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2021, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to add Section 409.7 to the Penal Code, relating to public safety.

## LEGISLATIVE COUNSEL'S DIGEST

SB 98, McGuire. Public peace: media access.

Existing law makes every person who willfully resists, delays, or obstructs any public officer, peace officer, or an emergency medical technician, as defined, in the discharge or attempt to discharge any duty of the office or employment, when no other punishment is prescribed, guilty of a misdemeanor. Existing law also authorizes specified peace officers to close an area where a menace to the public health or safety is created by a calamity and to close the immediate area surrounding any emergency field command post or other command post activated for the purpose of abating a calamity, riot, or other civil disturbance, as specified. Existing law makes any unauthorized person who willfully and knowingly enters those areas and who remains in the area after receiving notice to evacuate or leave guilty of a misdemeanor. Existing law exempts a duly authorized representative of any news service, newspaper, or radio or television station or network from the provisions prohibiting entry into the closed areas, as specified.

This bill would, if peace officers close the immediate area surrounding any emergency field command post or any other command post, or establish a police line, or rolling closure at a demonstration, march, protest, or rally where individuals are engaged primarily in constitutionally protected activity, as described, require that a duly authorized representative of any news service, online news service, newspaper, or radio or television station or network, as described, be allowed to enter those closed areas and would prohibit a peace officer or other law enforcement officer from intentionally assaulting, interfering with, or obstructing a duly authorized representative who is gathering, receiving, or processing information for communication to the public. The bill would also prohibit a duly authorized representative who is in a closed area and gathering, receiving, or processing information from being cited for the failure to disperse, a violation of a curfew,

or a violation of other, specified law. The bill would require that if a representative is detained by a peace officer or other law enforcement officer, the representative be permitted to contact a supervisory officer immediately for the purpose of challenging the detention. The bill would not impose criminal liability. The bill would state the Legislature's intention to achieve parity in the access and protections in these circumstances as those established pursuant to a specified law.

*The people of the State of California do enact as follows:*

SECTION 1. It is the intent of the Legislature that this act achieve parity in the access and protections for journalists and news media as those established pursuant to Section 409.5 of the Penal Code.

SEC. 2. Section 409.7 is added to the Penal Code, to read:

409.7. (a) If peace officers, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, close the immediate area surrounding any emergency field command post or any other command post, or establish a police line, or rolling closure at a demonstration, march, protest, or rally where individuals are engaged in activity that is protected pursuant to the First Amendment to the United States Constitution or Article I of the California Constitution, the following requirements shall apply:

(1) A duly authorized representative of any news service, online news service, newspaper, or radio or television station or network may enter the closed areas described in this section.

(2) A peace officer or other law enforcement officer shall not intentionally assault, interfere with, or obstruct the duly authorized representative of any news service, online news service, newspaper, or radio or television station or network who is gathering, receiving, or processing information for communication to the public.

(3) A duly authorized representative of any news service, online news service, newspaper, or radio or television station or network that is in a closed area described in this section shall not be cited for the failure to disperse, a violation of a curfew, or a violation of paragraph (1) of subdivision (a) of Section 148, for gathering, receiving, or processing information. If the duly authorized representative is detained by a peace officer or other law enforcement officer, that representative shall be permitted to

contact a supervisory officer immediately for the purpose of challenging the detention, unless circumstances make it impossible to do so.

(b) This section does not prevent a law enforcement officer from enforcing other applicable laws if the person is engaged in activity that is unlawful.

(c) This section does not impose, and shall not be used as the basis for, criminal liability.







Approved \_\_\_\_\_, 2021

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*Governor*



**FINAL - DA OFFICE - BWC  
Discovery Procedures 072022.pdf**



## OFFICE OF THE DISTRICT ATTORNEY RIVERSIDE COUNTY

# 10-8 Update



A Publication for Riverside County Law Enforcement Agencies

### Body Worn Camera Discovery Procedures

<sup>(1)</sup> The Riverside County District Attorney's Office fully supports the use of body worn cameras (BWC) by law enforcement agencies. The District Attorney's Office regularly sees that BWCs have a dramatic and positive evidentiary effect on the investigation and prosecution of crimes. However, while BWC clearly provides a benefit to all parties involved, officers must remember this kind of digital evidence may capture a variety of information, which you may not want booked into evidence. For example, you may forget the camera is on when looking at your cell phone, thereby capturing a personal text message or an e-mail with your bank or credit card information.

Since the pandemic, our attorney caseloads have more than doubled, mostly due to court congestion and BWC evidence needing to be reviewed before discovered to the defense. Court congestion has led to Preliminary Hearings and trials being scheduled without intervening settlement dates. Moreover, this is happening when the demands to provide discovery at an early stage in the criminal proceedings have vastly increased. Until now, Deputy District Attorneys and specially trained support staff have reviewed all BWC footage submitted to our office, hour-for-hour, minute by minute, to make the necessary legal redactions and blur confidential, private, or privileged information that was captured on the BWC, including that e-mail you accidentally captured or medical information your camera recorded in a hospital.

However, with the monumental increase in the volume of BWC evidence the District Attorney's Office has received and will continue to receive, it is no longer possible for our office to approach discovery review in this labor-intensive way. The prosecution team must adapt our discovery processes to conform with our legal obligations and ethical duties to provide early and full discovery to the defense, while also protecting confidential, private, and privileged information.

To meet these demands and expedite the settlement of cases, as of **August 1, 2022, the District Attorney's Office will provide discovery, including unredacted BWC footage, at the time of arraignment subject to a protective order.** The protective order will be required in any case where unredacted BWC footage is discovered to the defense. Should the defense refuse to stipulate and sign the protective order, they will not receive the BWC at arraignment. Instead, the defense attorneys who refuse to sign the protective order will wait for the BWC evidence to be viewed and potentially redacted by the People before it is discovered. The District Attorney's Office has reached

an agreement with the Office of the Public Defender, the County's contracted Conflict Panels and the criminal courts regarding this new discovery process. The protective order will prevent the defense from sharing the BWC footage for *any purpose, other than defending the current case, under threat of possible legal, judicial and/or licensing sanctions.*

In those limited instances where an agency or law enforcement officer has a particular concern with discovering unredacted BWC footage with a judicial protective order in a specific case, the agency and/or officer may notify the District Attorney's Office and request for a Deputy District Attorney to review and redact the footage prior to its discovery. The agency or office may notify the District Attorney's Office of this request in one of two ways: (1) Submit the BWC footage through Evidence.com into the secure confidential portal; or (2) Notify within the agency report that the BWC evidence contains confidential, privileged or privacy concerns, which will need to be reviewed and may require redaction prior to providing discovery to the defense. **Individual officers and law enforcement agencies should NOT redact BWC footage prior to submitting it to the District Attorney's Office.** This could lead to criminal and civil claims of tampering with evidence, *Brady* violations and/or judicial sanctions, including dismissal of the case.

#### What Does This Mean?

BWC videos disclosed with a protective order will not be reviewed by a DDA prior to being made available to defense, unless you notify the District Attorney's Office that review is required in one of the two manners described above.

#### Your Privacy and Confidentiality Remain Important

If a video contains information which should be redacted, the officer or law enforcement agency must notify the District Attorney's Office either by using the confidential Evidence.com portal or by clear notation in the report of the portion(s) of the video that should be redacted and why. If given notice, the District Attorney's Office will ensure the video is internally reviewed and appropriately redacted before being discovered to the defense.

#### The Protective Order

An unredacted BWC video will only be turned over to defense with a Protective Order. The Protective Order will ensure the defense is ordered to only use the video

(continued on reverse)

in a specific case and order that the video shall not be copied or disseminated further. If the defense refuses to stipulate and sign the protective order, the BWC will not be turned over until a DDA has manually reviewed and redacted the video.

### **Tips For Preventing Issues With BWC Recordings:**

1. **Do not forget your camera is recording.** Be careful when making statements which could be taken out of context or interpreted as inappropriate. Officers should be careful with jokes or sarcasm, especially among fellow officers. Many may not understand the joke or its intent.
2. **Do not forget to turn the BWC off.** Remember to turn your camera off, especially before going into a locker room, restroom, evidence room, hospital/examination room, or any other area where there is a legitimate expectation of privacy.
3. **Draft reports carefully.** While it is appropriate to explain the report is a summary, and full details can be obtained by reviewing the BWC, an officer should not direct the reader to "refer to video" instead of drafting a thorough report. To avoid the appearance of inconsistency, if an officer viewed something which was not captured on the BWC or if the video captured something the officer did not notice, simply document the difference and why there is a difference. As well, if an observation is made but not clearly captured on the BWC, such as a closed fist, hard stare, or clenched jaw, simply document the report with your observations.
4. **Clarify or document unusual events.** If something unusual occurs with the BWC, such as the camera was not on, malfunctioned, or did not record, simply explain within the report. If an officer must mute or turn off their BWC unnaturally (i.e., in the middle of taking a statement), the officer should document why. This helps to prevent speculative accusations by the defense.
5. **Provide every video of an investigation.** If six officers videotaped the same witness, all six recordings must be provided to the District Attorney's Office. Penal Code §1054.1 and *Brady v. Maryland* require the District Attorney's Office to review and discover to the defense all recordings. It is sufficient for one officer to document the existence of all six recordings, but all six videos must be digitally booked. Otherwise, a case may be dismissed for discovery violations.
6. **Catalogue the BWC evidence.** The District Attorney's Office prosecutes over 40,000 crimes per year. To efficiently organize and provide discovery in these cases, all BWC evidence submitted to the District Attorney's Office must include the agency report number and appropriate identifiers. As we transition to Evidence.com this will be done automatically.
7. **Evidence obtained from personal equipment must be provided.** If an officer uses a personally owned device to capture digital evidence, that digital evidence must be provided, just as any evidence obtained using a departmentally issued device. Penal Code §1054.1 and *Brady v. Maryland* do not distinguish between department issued and privately-owned devices. *This applies to BWC, audio recording devices, and personal cell phone photos and videos.*
8. **Avoid recording sensitive information.** Officers are often exposed to a wide variety of sensitive information. When recording potentially private or privileged information, officers should identify that information within their report and notify the prosecutor. This will allow redaction before inadvertently being provided to the defense.
9. **Communication is key.** Officers are in the best position to notify the prosecutor when an item of digital evidence contains sensitive or confidential information. The officer should notify and inform the District Attorney's Office of the sensitive or confidential information and why it should be protected or redacted. This can be done by submitting it through the confidential portal in Evidence.com and/or making a clear notation in the report. The prosecutor and the officer can then work together to ensure the digital evidence is handled appropriately. It is the prosecutor's responsibility to conduct a *Brady* review. It is the officer's responsibility to provide all digital evidence to facilitate this review.
10. **Carefully handle confidential information.** Be vigilant when recording and processing digital evidence that may contain confidential information. Confidential information is not limited to confidential informants. It may include S.W.A.T. tactics, surveillance locations, interview strategies, or other information which should be protected from dissemination for a variety of reasons. The recording of confidential information can be intentional (for example, if an agency's policy requires S.W.A.T. officers to record operations), or it could be unintentional (for example, if unrelated radio traffic is recorded while running a suspect for warrants). The District Attorney's Office must be aware of the information for two primary reasons: (1) The prosecutor must conduct a *Brady* review of the confidential material; and (2) The prosecutor must be prepared to protect the information or assert the appropriate privilege.
11. **The prosecution has tools to protect confidential or sensitive information.** Evidence Code §1040 is used to protect "official information" and can be claimed to protect investigative methods, tactics, or similar information. Evidence Code §1041 is used to protect the identities of confidential informants. Penal Code §1054.7 may be used to delay, modify, or restrict discovery to protect ongoing investigations, prevent the destruction of evidence or to protect public safety.
12. **Recordings will be scrutinized in court.** Officers are strongly encouraged to review their BWC recordings prior to testifying. This is especially important when testifying at jury trial, in complicated cases, or when a long period of time has lapsed since the incident. Officers should be aware that defense attorneys will almost always view the video prior to the hearing and will seek to exploit any discrepancies between the officer's testimony and the video, both in motions and during cross examination.

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**Questions can be directed to**  
[Appellate-Unit@RivCoDA.org](mailto:Appellate-Unit@RivCoDA.org).

**IPD Fentanyl Admonishment  
Document for lexipol 405.pdf**



IPD CASE# \_\_\_\_\_

**INDIO POLICE DEPARTMENT FENTANYL ADMONISHMENT**

**(English)**

*It is extremely dangerous to human life to provide, distribute, or furnish, drugs in any form, and regardless of whether the drugs are real or counterfeit. Selling, furnishing, distributing drugs to those who intend to use them has the potential to cause serious bodily harm or death as they are often mixed with deadly substances such as fentanyl or analogs of fentanyl. Fentanyl is a synthetic opioid that is 50-100 times stronger than morphine and can kill human beings even in very small doses. Therefore, if you sell, furnish, or distribute drugs to someone, and that persons dies as a result of using the drugs, you can be charged with murder.*

**(Spanish)**

**Amonestacion de Fentanilo**

*Es bien peligroso para la vida humana proveer, distribuir, vender, regalar, drogas a cualquier manera, sin importar si las drogas son verdaderas o falsificadas. Vender, regalar, y distribuir drogas a personas que usan drogas o planean usar drogas que tienen potencial de causar la muerte or danos corporals como son normalmente causas de usar drogas como el fentanilo o chemicos asociados con fentanilo es peligroso. Fentanilo es un opioide syntetico que es 50-100 veces mas fuerte y peligroso que morfina y causa la muerte hasta en dosis bien pequenos. Si usted vende, regala, o distribuye drogas a halquien y esa persona se muere por resultado de usar esas drogas, usted puede ser arrestado y jusgado por homicidio en el Estado de California en un tribunal criminal.*

*The Fentanyl Admonishment shall be delivered without unnecessary delay and the disposition of the notification shall be documented in the arrest report and preferably recorded with the officers' body worn camera. For further guidance refer to **IPD Policy 405**.*

**Do you understand this admonishment?**

Yes \_\_\_\_\_

No \_\_\_\_\_

**SUBJECT SIGNATURE** \_\_\_\_\_ **OFFICER SIGNATURE** \_\_\_\_\_  
**WITNESS SIGNATURE** \_\_\_\_\_ **DATE / TIME** \_\_\_\_\_

## CityofIndioPolice DispersalOrderCards Front F.pdf



IPD Dispersal Order - Penal Code 409  
Officers shall use the following dispersal order:

I am (YOUR NAME AND RANK), a Police Officer of the City of Indio. I hereby declare this to be an unlawful assembly, and in the name of the People of the State of California, I command all those assembled at (GIVE A SPECIFIC LOCATION) to immediately disperse. You may move to (GIVE A SUITABLE LOCATION FOR CROWD DESTINATION). If you remain in the area, which was just described, regardless of your purpose in remaining, you will be in violation of Penal Code Section 409. The following routes to dispersal are available; (GIVE THE MOST CONVENIENT ROUTE(S) OF DISPERSAL). You have (A REASONABLE AMOUNT OF TIME) to disperse. If you refuse to move, chemical agents and other weapons will be used. (PROVIDE THE CHEMICAL AGENT/PROJECTILE WARNING ONLY IF THEIR USE IS ANTICIPATED.) Updated: 05/21

**DLE AB1506 OIS Program Procedural  
Guidelines FINAL 6.30.21.pdf**





**DIVISION OF LAW ENFORCEMENT  
CALIFORNIA POLICE SHOOTING INVESTIGATION TEAMS  
INVESTIGATION PROCEDURAL GUIDELINES**

**JULY 2021**

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## Foreword

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In California, approximately 150 cases per year involve either an officer involved shooting (OIS) or a use of force by a peace officer that results in death of the involved subject(s). On average, an officer involved use of force resulting in a fatality occurs every 2.5 days.

On September 30, 2020, Assembly Bill (AB) 1506 (Stats. 2020, ch. 326) was signed into law, which requires the California Department of Justice (DOJ) to investigate incidents of an OIS resulting in the death of an unarmed civilian. This mandate will be in effect starting on July 1, 2021, at which point the DOJ, while working collaboratively with the respective local law enforcement agency (LEA), will be responsible for the OIS investigation from the inception to the conclusion. The investigation will include the totality of the circumstances and analysis per California Penal Code § 835a, along with the legal review by California Department of Justice Deputy Attorneys General. Based on Fiscal Year 2019-2020 California use of force data, and the definition of unarmed as used in AB 1506, the DOJ estimates this will result in the investigation of approximately 40 to 50 OIS incidents annually by the Division of Law Enforcement (DLE).

All AB 1506 incidents shall be thoroughly investigated in a comprehensive, and timely manner. The initial crime scene response and preliminary investigation serves as the foundation for the entire investigative process, and often lasts unabated for several days or longer depending on the circumstances involved in each unique situation. The DLE investigative teams have the inherent obligation to ensure that the investigative process and the investigations are continually improving while taking advantage of all new technology, methodology, and techniques by constantly reviewing the technological, scientific, legal, academic, and nationwide law enforcement environments.

The DLE investigative teams will work collaboratively with the respective LEA in conducting a collaborative OIS investigation. This will involve investigators from the DLE and respective agencies working cooperatively in all aspects of the investigation, which will entail the sharing of all investigative information and all duties related to the OIS.

This comprehensive investigative process will ensure that the AB 1506 OIS Program's investigations accurately provide the overall findings as to what occurred during the incident based on the facts investigated, which in turn, will allow the investigation to withstand the scrutiny of subsequent reviews by civilian and law enforcement review panels, as well as criminal and civil courts whether in the state or federal justice systems. The goal of the DLE's California Police Shooting Investigation Teams (CaPSIT) is to produce the most comprehensive, thorough, accurate and timely investigation possible which can be confidently relied on by all concerned.

This manual will serve as a guide for the CaPSIT investigative process implemented by the DOJ, DLE and the Office of the Attorney General Legal Divisions. The CaPSIT investigative process will be reviewed regularly, as needed, to remain consistent and contemporaneous with the current best practices in Officer Involved Shootings and Use of Force law enforcement investigations.

## Division of Law Enforcement Mission Statement

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"Protecting the promise of California by pursuing truth, enforcing the law and seeking justice for a safer California."

## Historical Information

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Statewide Research Survey:

The DLE utilized the DOJ Criminal Justice Information Services Division Research Center, along with subject matter experts from the DLE, to find publicly available studies and/or data that could assist in establishing a framework for the allocation of resources and funding. It was immediately evident that the information sought either did not exist or was not readily available. There were no known published studies or reports that the DOJ could identify at the time that could provide guidance on the actual costs and resources needed to evaluate the funding and resources needed to meet the requirements of AB 1506. In the absence of such empirical research, the DOJ was required to conduct its own statewide study of law enforcement entities as noted below. With the assistance of the Research Center, and under the supervision of several Ph.D. data specialists, the DOJ created a survey focused on three primary entities responsible for the OIS investigative process; (1) Law Enforcement Agencies, (2) County District Attorneys, and (3) City and County Crime Laboratories.

In July 2020, the DOJ distributed surveys to 393 law enforcement agencies, 58 district attorney offices, and 19 crime laboratories in California. When the survey closed, the DOJ collected data from 326 law enforcement agencies, 54 district attorney offices, and 14 crime laboratories. The survey results varied and provided only a starting point for additional study on the matter. Many organizations did not collect or track the data the DOJ needed in order to evaluate the true costs and resources for OIS investigations. Many of the organizations admitted to guessing and providing low-confidence estimates, because they simply did not track the information. The survey validated that more research was necessary. Thus, the DLE systematically conducted, and continues to do so, interviews to provide additional data and context to the survey results. By September 2020, the DLE interviewed eight of the ten most active OIS involved agencies per calendar year in California. Following the interviews, the Research Center evaluated the information and conducted further inquiries to ensure the validation of the data. This process is ongoing and will require intensive time and methodology to accomplish the goal of producing a comprehensive empirical study of the data required to establish a reliable baseline for the costs and resources needed to conduct the anticipated number of AB 1506 investigations.

**AB 1506 (Stats. 2020, ch. 326)**

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- (a) For purposes of this subdivision, the following definitions apply:
- (1) "Deadly weapon" includes, but is not limited to, any loaded weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged, or a switchblade knife, pilum ballistic knife, metal knuckle knife, dagger, billy, blackjack, plastic knuckles, or metal knuckles.
  - (2) "Unarmed civilian" includes anyone who is not in possession of a deadly weapon.
- (b) (1) A state prosecutor shall investigate incidents of an officer-involved shooting resulting in the death of an unarmed civilian. The Attorney General is the state prosecutor unless otherwise specified or named.
- (2) The state prosecutor is authorized to do all of the following:
- (A) Investigate and gather facts in an incident involving a shooting by a peace officer that results in the death of an unarmed civilian.
  - (B) For all investigations conducted, prepare and submit a written report. The written report shall include, at a minimum, the following information:
    - (i) A statement of the facts.
    - (ii) A detailed analysis and conclusion for each investigatory issue.
    - (iii) Recommendations to modify the policies and practices of the law enforcement agency, as applicable.
  - (C) If criminal charges against the involved officer are found to be warranted, initiate and prosecute a criminal action against the officer.
- (3) The state prosecutor shall post and maintain on a public internet website each written report prepared by the state prosecutor pursuant to this subdivision, appropriately redacting any information in the report that is required by law to be kept confidential.
- (c) (1) Commencing on July 1, 2023, the Attorney General shall operate a Police Practices Division within the Department of Justice to, upon request of a local law enforcement agency, review the use of deadly force policies of that law enforcement agency.
- (2) The program described in paragraph (1) shall make specific and customized recommendations to any law enforcement agency that requests a review pursuant to paragraph (1), based on those policies identified as recommended best practices.
- (d) This section does not limit the Attorney General's authority under the California Constitution or any applicable state law.
  - (e) Subject to an appropriation for this purpose by the Legislature, the department shall implement this section.

## **Purpose**

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To establish recommended uniform guidelines for the investigation of AB 1506 (Stats. 2020, ch. 326) incident investigations.

## **Goals**

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To investigate OIS incidents involving unarmed civilians with fact-based investigations based on foundations of objectivity and transparency.

To utilize to the fullest capacity those leading investigative techniques and technological resources which will meet the highest OIS investigative industry standards

To ensure that the comprehensive joint investigation is accomplished in a timely manner for all involved.

## **Definitions**

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The definitions have been reviewed and provided by the Office of the Attorney General, Division of Criminal Law. For the purpose of this guideline, reference the below definitions to assist in understanding these highly complex and time intensive investigations:

### **AB 1506 Program**

The "AB 1506 Program" is the DOJ personnel assigned to fulfill the legislative mandate to investigate incidents of an OIS resulting in the death of an unarmed civilian in California.

### **Officer-Involved**

A shooting is "officer-involved" if the death to the unarmed civilian is caused by a California peace officer, within the meaning of Penal Code § 830, acting under color of authority. Shootings committed by officers while on-duty are considered officer-involved shootings. Shootings committed by officers while off-duty are considered officer-involved shootings only if the officer is acting under color of authority.

### **Color of Authority**

Officers are acting under "color of authority" when they are performing an act that is made possible only because they are clothed with the authority of law, or when they are acting under pretense of law. Conversely, officers are not acting under "color of authority" when they commit private acts in furtherance of personal pursuits. Shootings by correctional officers as defined in Penal Code § 830.55 are excluded.

## **AB 1506 Incident**

An “AB 1506 Incident” is any officer involved shooting resulting in the death of an unarmed civilian. A “shooting” is the discharge of a metal projectile by a firearm. A “firearm” is a “device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion.” (Pen. Code, § 16520.) A “shooting” does not include incidents involving the use of electronic control devices, stun guns, BB, pellet, air, gas-powered guns, or weapons that discharge rubber bullets or beanbags.

## **Unarmed Civilian**

An “Unarmed Civilian” is “anyone who is not in possession of a deadly weapon.” (Gov. Code, § 12525.3, subd. (a)(2).)

A civilian is in “possession” if the weapon is under the civilian’s dominion and control at the time of the shooting. Possession usually requires that the weapon is available for use. Where a civilian attempts to take control of an officer’s firearm, the civilian is not in possession unless the officer loses control of the firearm.

## **Deadly Weapon**

A “Deadly Weapon” includes, but is not limited to, any loaded weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged, or a switchblade knife, pilum, ballistic knife, metal knuckle knife, dagger, billy, blackjack, plastic knuckles, or metal knuckles. (Gov. Code, § 12525.3, subd. (a)(1).) All firearms, and BB/pellet guns, even if unloaded or inoperable, are deadly weapons.

Objects that have a legitimate non-weapon purposes are considered deadly weapons only when, based on all the circumstances, they are used in a manner likely to produce death or great bodily injury. The following are examples of objects have been considered a deadly weapon when used in that manner: knives, box cutters, screwdrivers, bottles, chains, automobiles, rocks, razor blades, and iron bars. Replica firearms are not considered deadly weapons unless they are used in some particular manner likely to produce death or great bodily injury (e.g., as a bludgeon).

## **Death**

“Death” occurs when “[a]n individual ... has sustained either (1) irreversible cessation of circulatory and respiratory functions, or (2) irreversible cessation of all functions of the entire brain, including the brain stem[.]” (Health & Saf. Code, § 7180.) DOJ may assume responsibility for cases where death appears to be imminent.



## **Criminal Investigation**

A "Criminal Investigation" is a type of investigation performed by the Incident Investigative Team for criminal (e.g. non-administrative or civil) purposes. Criminal investigations are conducted to determine whether any of the Involved Officers did or did not commit a crime. The DLE will conduct criminal investigations pursuant to the mandate of AB 1506.

## **Administrative Investigation**

An "Administrative Investigation" is a type of investigation performed by the Employing Agency for administrative (e.g. non-criminal) purposes. Administrative investigations are conducted to determine if the Involved Officer(s) acted within the Employing Agency's policies, procedures, training and orders; determine if and how the Employing Agency can improve any aspect of its operations; and provide information about the incident to the Employing Agency's leadership for management purposes.

## **Jurisdiction**

The "Jurisdiction" is determined by the location of the incident and/or the Employing Agency of the Involved Officer(s). The Employing Agency and/or LEA having jurisdiction is responsible for any additional criminal investigations that are potentially related with the OIS, the civil investigation, and the administrative investigation. However, for the purposes of these guidelines, the DLE shall conduct the AB 1506 mandated criminal investigation of the Involved Officer(s) regardless of local LEA jurisdiction.

## **Peace Officer**

A "Peace Officer" is any law enforcement officer as defined by Penal Code § 830-832.19, any out of State (Penal Code § 830.39 only officers)<sup>1</sup> or Federal law enforcement officer is not a peace officer pursuant to Penal Code § 830.8.

## **Primary Agency**

The "Primary Agency" is the LEA with primary law enforcement jurisdiction over the area where the incident occurred. However, for the purposes of these guidelines, the Primary Agency is the DLE which is the agency responsible for investigating all AB 1506 Incidents in California, but will include investigative assistance of an LEA(s) having geographic jurisdiction over the incident.

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<sup>1</sup> Subject to certain exceptions involving Oregon State Police, the Nevada Department of Motor Vehicles and Public Safety, or the Arizona Department of Public Safety.

## **Involved Officer**

The "Involved Officer" is the officer(s) whose act may be a proximate cause of the death to the unarmed civilian. The "Proximate Cause" is a cause which, in a natural and continuous sequence, produces the injury, and without which the injury would not have occurred.

## **Employing Agency**

The "Employing Agency" is the LEA that employs the Involved Officer(s).

## **Involved-Agencies**

The "Involved-Agencies" refers to multiple LEAs directly or indirectly involved in the incident. The Involved Agencies may or may not be the employer of the Involved Officer(s).

## **Agency of Jurisdiction**

The "Agency of Jurisdiction" is the LEA with responsibility where the incident occurred.

## **AB 1506 OIS Team**

The "AB 1506 OIS Team" consists of the DLE agents, analysts, criminalists and associated personnel assigned to conduct the criminal investigation.

## **Case Agent**

The "Case Agent" or incident investigator is the lead DLE special agent assigned to the Incident Investigative Team.

## **Co-Case Agent**

The "Co-Case Agent" is a special agent who assists the Case Agent in all matters of the investigation.

## **Senior Criminalist**

The "Senior Criminalist" is the Bureau of Forensic Services (BFS) Forensic Scientist who will conduct crime scene processing and forensic analysis for AB 1506 incidents.<sup>2</sup>

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<sup>2</sup> The actual duties will be contingent upon crime scenes that are the responsibility of BFS.

## **Latent Print Analyst**

The "Latent Print Analyst" is the BFS Forensic Scientist who will conduct latent print processing and analysis for AB 1506 incidents.<sup>3</sup>

## **Crime Scene Agent**

The "Crime Scene Agent" is a special agent who manages the crime scene, coordinates with criminalists, liaises with participating agencies, safeguards evidence, controls entry/exit into the crime scene, and delegates other crime scene tasks.

## **Canvassing Agent**

The "Canvassing Agent" is a special agent who coordinates, collects, and evaluates all interviews during the investigative canvassing process, facilitates the interviewing of all actual and potential witnesses who may have relevant information.

## **Incident Investigative Team**

The "Incident Investigative Team" is comprised of the DLE special agents, respective LEA investigators and crime scene responders, and professional staff conducting the AB 1506 Incident investigation, it may also include both Employing Agency and allied agencies' support personnel as assigned by the DLE (Primary LEA), BFS senior criminalists, and/or Deputy Attorneys General with the Office of the Attorney General Personnel from other agencies may also be assigned to the Incident Investigative Team upon mutual agreement of the DLE and the Office of the Attorney General.

## **Investigation Management Team**

The "Investigation Management Team" generally consists of DLE (Primary Agency) command personnel and designees of the Office of the Attorney General. However, it may also include personnel from the Employing Agency, other local LEA(s) having jurisdiction, and the local District Attorney's Office.

## **Application**

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The procedures contained herein are recommended guidelines for the Incident Investigative Teams. It is also important to recognize the respective jurisdictional OIS investigative protocols of the Involved Agencies. The Incident Investigative Team has the authority, subject to the approval of the Special Agent in Charge, to adopt, reject, and/or modify these guidelines in accordance with the investigative protocols of the Employing Agency(s) in order to accomplish

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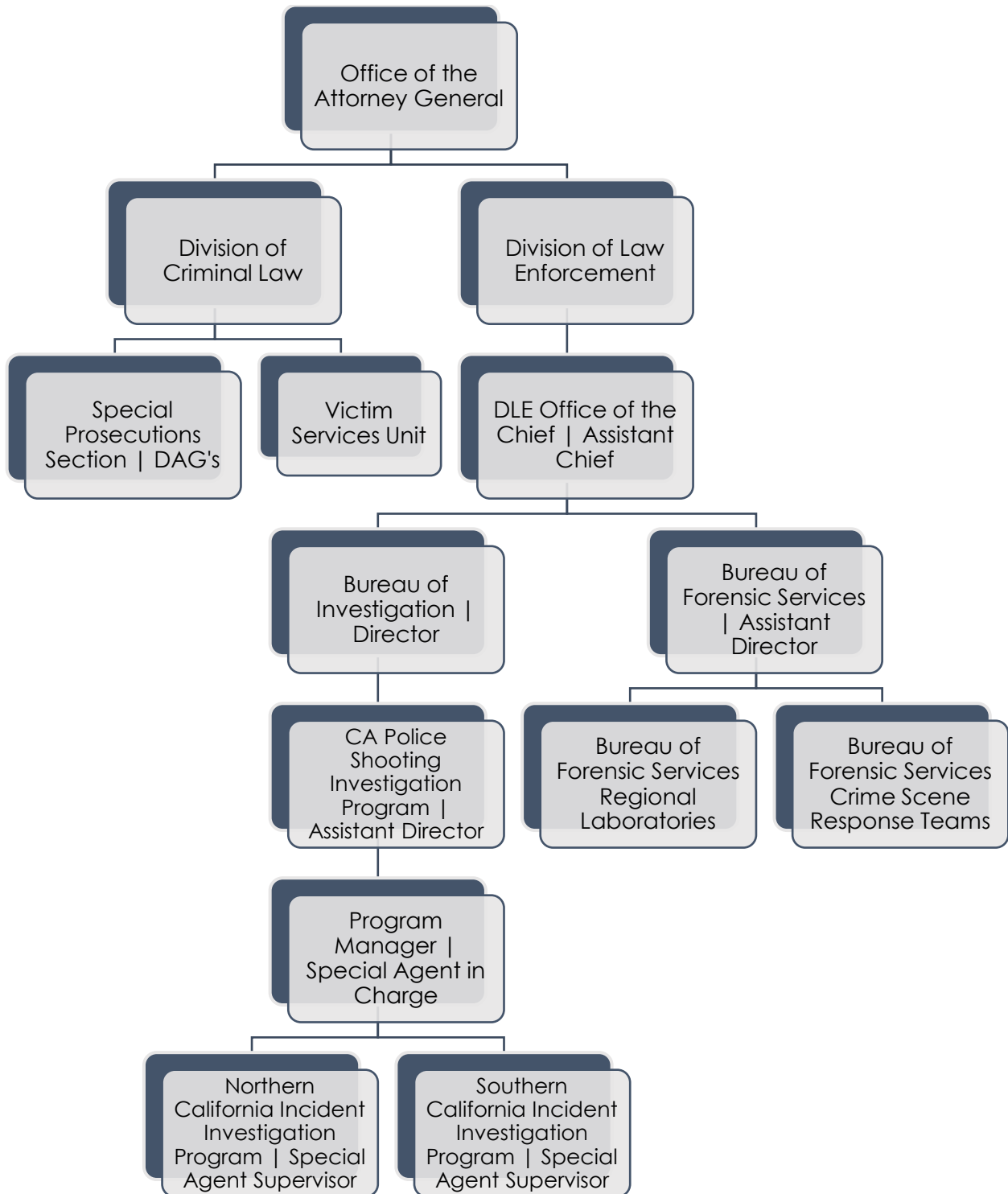
<sup>3</sup> The actual duties will be contingent upon crime scenes that are the responsibility of BFS.

the goals of AB 1506 investigations. Any deviations to the guidelines should be documented accordingly and reviewed for any potential changes to the procedural guidelines. This authority allows for the requisite accountability and adaptability for the Incident Investigative Teams.

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## California Police Shooting Investigation Team

### Program Organization Chart



## CaPSIT Structure

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The AB 1506 OIS Program is a program within the DLE, Bureau of Investigation (BI). The designated BI Assistant Director and one BI Special Agent in Charge lead the CaPSIT. The DLE's Bureau of Forensic Services leads the forensic response involving criminalists and other laboratory personnel for their respective areas of responsibilities.<sup>45</sup> The BFS serves a support role for the CaPSIT by providing crime scene functions while working collaboratively with the respective local LEA that will be responsible for the evidence collection, documentation and preservation as well as forensic evidence analysis. The BFS will be responsible for the crime scene and evidence processing in areas of responsibility that do not have forensic capabilities. The CaPSIT chain of command is as follows:

- DLE Office of the Chief
  - Chief and Assistant Chief
- BI Director (Program Executive Manager)
- BI Assistant Director (Program Director)
- BI Special Agent in Charge (Program Manager)
- Special Agent Supervisor (Team Supervisors)
- Special Agents (Criminal Investigators)
- BFS Assistant Director (Program Director)
- Professional Staff and Support Personnel (Crime Analysts, Senior Criminalists, etc.)

The DLE CaPSIT consists of two investigative/enforcement teams. The teams are geographically and strategically located throughout California in alignment with the highest number of OIS incidents, as reported to the DOJ under Assembly Bill (AB) 71, since the data collection started in 2017. Southern California accounts for the highest frequency of OIS incidents in the state; therefore, a higher number of investigative personnel are located in Southern California. The Headquarters administrative support unit is located in Sacramento and consists of the following:

- BI Director
- BI Assistant Director
- BFS Assistant Director
- Staff Services Manager
- Associate Governmental Program Analyst
- Staff Services Analyst

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<sup>4</sup> The BFS is responsible for 46 counties in the state, however, within the respective 46 counties there are a limited number of police departments that have their respective crime scene processing protocols.

<sup>5</sup> The respective LEA will have the primary responsibility for the crime scene processing, unless it is designated as the area of responsibility for BFS.

The DLE's response to AB 1506 incidents will vary based on the complexity of the investigation. At a minimum, the typical response may include the following:

- Special Agent in Charge
- Special Agent Supervisor (e.g. Case Agent in special circumstances)
- Special Agents (e.g. Case Agent, Co-Case Agent, Crime Scene Agent, etc.)
- Crime Analyst(s)<sup>6</sup>
- Senior Criminalist(s)<sup>7</sup>

## Training Requirements

Due to the complexity of OIS incidents and the specialized training necessary to conduct OIS investigations, the DLE initiated an extensive training program and process. The training includes courses certified by the Commission on Peace Officer Standards and Training (POST). All personnel are required to complete a highly detailed and expansive training curriculum. Not only is there a scholastic requirement, but also significant amounts of on-the-job experience necessary for industry standard competency. The amount of specialized training is anticipated to exceed 270 hours per special agent, and includes, but not limited to the following: POST Homicide Investigation Course (80 Hours), POST Officer Involved Shooting Course (40 Hours), POST Internal Affairs Investigations Course (24 Hours), Human Performance Training Institute - Force Dynamics Course (24 Hours), Crime Scene Investigation Course (24 Hours), Cognitive Bias Training Course (24 Hours), POST Use of Force (AB 392) Training (4 Hours) and POST Cognitive Interviewing Course (24 Hours). The BFS senior criminalists complete 332 hours of crime scene investigative training including but not limited to the following: Introduction to Crime Scene Investigation (24 Hours), Crime Scene Investigation II (38 hours), Forensic Photography (40 Hours), Ethics in Forensic Science (8 Hours), Cognitive and Human factors in Forensic Decision making (16 Hours), Courtroom Presentation of Evidence (16 Hours), Laser Scanner Operation (40 Hours), Pathology of Wounds (24 Hours), Bloodstain Pattern Interpretation (38 Hours), Crime scene Reconstruction (38 Hours), Shooting Incident Reconstruction (38 Hours), Legal Aspects of Officer Involved Shootings/Officer Processing (4 Hours), and Overview of Police Use of Force (8 Hours).

In addition, it is the DLE's responsibility to continue to seek and provide new and updated training to ensure the AB 1506 OIS investigative teams receive the most current invaluable, practical, and necessary training to develop and maintain the required expertise in order to conduct the most comprehensive, thorough, accurate, that minimizes bias and timely investigations in the state.

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<sup>6</sup> The actual duties will be contingent upon crime scenes that are the responsibility of BFS.

<sup>7</sup> The actual duties will be contingent upon crime scenes that are the responsibility of BFS.

## CaPSIT Procedures

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The investigation of OIS incidents is often the most complex and demanding law enforcement responsibility because it involves death, intense public scrutiny and emotional impact. During the course of the investigation, the teams will utilize the administrative, criminal statutes, and case law as well as the numerous respective LEAs' applicable policies and training are complex and subject to interpretation. The collection of evidence and its analysis remains critical for years after the completion of the investigation. OIS incidents attract major consequential attention and scrutiny from family members, segments of the public, the news media, and from various civilian and governmental organizations, institutions and agencies. Such incidents may be the catalyst for civil unrest or other disturbances resulting in significant injuries and deaths to civilians and law enforcement personnel, as well as looting and extensive property damage. The potential social, civil, administrative, and criminal consequences of OIS incidents are profound and affect both the involved parties and the public. These guidelines have been developed to assist the DLE in conducting CaPSIT Incidents. The goal of these guidelines is to properly ensure all investigations are conducted efficiently, thoroughly and impartially, and that proper dispositions of such investigations are based upon all relevant evidence.

### Notifications and Incident Investigative Team Response

When a LEA notifies the DOJ/DLE via the Los Angeles Regional Criminal Information Clearinghouse (LA CLEAR) of a possible AB 1506 qualifying incident and requests DOJ/DLE assistance, the LA CLEAR representative will make the notification to the "on-call" DOJ/DLE Special Agent Supervisor. The Special Agent Supervisor is responsible for notifying the on-call DLE Special Agent in Charge or designee in the appropriate jurisdiction. The Special Agent Supervisor will determine if the incident qualifies for an AB 1506 investigation based on the telephonic discussion with that LEA. If the Special Agent Supervisor is unable to make such a determination, he or she may conduct an in-person assessment or assign a Special Agent to respond to determine if an AB 1506 investigation is required.

If a DLE response is initiated, the Special Agent Supervisor in conjunction with the Special Agent in Charge is then responsible for making the following notifications:

1. Bureau Assistant Director or designee;
2. On-call Special Agents, Crime Analyst;
3. On-call Bureau of Forensic Services designee; and
  - a. Each BFS Laboratory will maintain an "on call" schedule which is sent to the DOJ Command Center.



- b. Additional copies of the "on call" schedule will be maintained by the Special Agent in Charge.

4. On-call Supervisory Deputy Attorney General or designee.

The Special Agent in Charge may also, as needed, request additional DLE special agents and support personnel through the chain of command. The Special Agent Supervisor will notify the team members and coordinate their responses<sup>8</sup> either directly to the main scene, to a secondary scene, medical facility, or other locations as needed to conduct respective investigative functions and ensure the efficient utilization of personnel and time.

If the incident does not meet AB 1506 requirements, the Special Agent in Charge will notify the BI Assistant Director or designee of the determination. Additionally, the Special Agent Supervisor or designee will complete a "Non-Response" Opening/Closing Report for statistical purposes on his or her next regular scheduled workday. Any "Non-Response" reports will be forwarded to Headquarters for review. All notifications from LEAs with regard to the OIS program will be documented for statistical record keeping processes.

### **General Incident Investigative Team Response**

The AB 1506 Incident investigations will be conducted to develop all available relevant information about the incident. All investigations will be conducted in a manner that provides for a thorough and credible investigation that minimizes bias and conflict-of-interest. For designated "AB 1506 Incident" investigations, the goals are to determine the following:

1. The identity of all involved person(s);
2. The identity of all pertinent witnesses;
3. The conduct of the involved officer(s) which may or may not constitute a criminal act.

The investigations will be conducted in a manner consistent with the laws of evidence in a criminal proceeding. Any administrative or civil investigations are the sole responsibility of the Employing Agency and are separate and distinct from the AB 1506 Incident investigation. The AB 1506 Incident investigation will commence as promptly as practicable after the occurrence.

### **Division of Criminal Law**

It is the responsibility of the Division of Criminal Law to coordinate OIS incident matters with the local District Attorney's Office. The DLE Special Agent in Charge may provide guidance

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<sup>8</sup> The number of DLE personnel assigned to respond will be contingent on the investigation and will be determined by the Special Agent Supervisor along the BFS designee.

regarding this matter and may be available to District Attorney personnel for further consultation. The majority of District Attorney's Offices have units that are available as needed to respond to the scene of OIS incidents. They will be responsible for exercising their respective discretion regarding a response. In addition, the Division of Criminal Law will assign a Deputy Attorney General (DAG) to the Incident investigation.

### **Coroner's Office**

The Special Agent Supervisor or designee shall be responsible for ensuring that notification has been provided to the Coroner's Office and for obtaining a Coroner's case number. In most cases, the local LEA will make this notification. The Coroner's Office will require a brief summary of the incident. After the scene has been photographed and any scene "walkthroughs" by the investigators have been conducted, the call requesting the Coroner's response to the scene will be made by the Crime Scene Agent or the respective LEA's designee as is appropriate.

### **Notification of Next of Kin<sup>9</sup>**

Notification of next of kin is commonly the responsibility of the Coroner's Office. However, under certain circumstances, the Coroner's Office may request the assistance of local LEA. For example, if the family members live in another jurisdiction, they may request peace officers from that jurisdiction to make the death notification. In some situations, it may be beneficial to the overall investigation if special agents from the Incident Investigative Team accompany the Coroner's investigators. The special agents may be able to interview the family members to obtain information regarding the decedent that may explain their behavior at or around the time of the incident. In other situations, family members may already be present at the scene when the Incident Investigative Team arrives because other parties called the family or they were witnesses to the incident. Whenever possible, the Incident Investigative Team should interview family members and audio record the interviews. Prior to participating in any next of kin notifications and/or the interviewing of family members, special agents should consult with the Investigation Management Team, specifically the Special Agent in Charge and assigned Deputy Attorney General (DAG).<sup>10</sup>

The Special Agent in Charge should notify the Victim Services Unit and let the assigned DAG know, within 24 hours of notification to family, the following details: (1) decedent's name; (2) decedent's address (if known); and (3) decedent's family members names and contact information (if known).

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<sup>9</sup> Reference California Department of Justice Victim Services Unit Protocol

<sup>10</sup> As circumstances dictate this notification process is flexible and is recommended.

## Medical Examiner's Office - Autopsy

In the interest of independent review and per Government Code § 27522(f)(2), the Medical Examiner's Office does not allow law enforcement personnel directly involved in the death of a subject to be present during the autopsy post-mortem examination. The local LEA protocol will be followed with regard to the law enforcement investigators or crime scene investigators presence at the port-mortem examination. The designated Medical Examiner will generally brief the investigators after the post-mortem examination. In some cases, the Medical Examiner may allow investigators from a non-involved LEA to be present during the examination. In these cases, the assigned Case Agent, Co-Case Agent, and Senior Criminalist of the Incident Investigative Team may attend the autopsy. Regardless, the following should be noted:

1. The Medical Examiner has the responsibility for collection and documentation of physical evidence discovered during the autopsy with the assistance of the respective crime scene responder or senior criminalists who are responsible for the crime scene.
2. The Incident Investigative Team should coordinate with the Medical Examiner for any external examination and/or forensic testing of physical evidence discovered during the autopsy to ensure preservation of the chain-of-custody.
3. The Incident Investigative Team should coordinate with the Medical Examiner to ensure any evidence maintained by the Medical Examiner's Office is properly handled, packaged, and secured.

The Incident Investigative Team should provide the Medical Examiner a full and complete briefing prior to the post-mortem examination. The briefing should include all relevant information available at the time that may aid in determining cause, manner and means of the decedent's death.

As soon as practicable, in compliance with Government Code § 27522(g), the Medical Examiner's Office will be provided with the following available items:

1. Relevant recordings (911 Calls, Body-Worn Video Recording Device, Vehicle Dashboard Cameras, etc.);
2. Crime scene photographs
3. Involved Officer(s)' interview recordings
4. Any video recording of the incident (Surveillance, Civilian Telephone Video, etc.).

## **Incident Investigative Team Responsibilities**

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### **Investigation Management Team**

The DLE command and designees of the Division of Criminal Law, assisted by the respective law enforcement LEA(s), will comprise the Investigation Management Team. Although, the DLE is ultimately responsible for managing the AB 1506 Incident, and for the supervision of the special agents assigned to the Incident Investigative Team, the function of the Investigation Management Team is to co-manage the incident and to ensure the following:

1. The provisions of the Employing Agency's protocols are known to the Incident Investigative Team and are followed by the Incident Investigative Team when appropriate. (Note: The County Interagency OIS protocols will provide guidance. In the event that this interagency protocol does not exist, the DOJ Team will have to review investigative protocols individually at beginning of assessment.)
2. The members of the Investigation Management Team collaborate within their authorities to ensure that the quality of an investigation is beyond reproach.

Generally, the members of the Investigation Management Team should be of the rank of supervisor or above. These members shall be experienced and knowledgeable in OIS investigations; shall have supervisory authority over investigators from their respective associated law enforcement agencies; and shall have sufficient knowledge and authority to make a variety of decisions pertaining to OIS incidents. The Investigation Management Team's primary function is to manage and coordinate efforts for the OIS investigation. If a conflict develops amongst the members that cannot be resolved, and such conflict would have a material and adverse effect on investigation, the associated LEA, the DLE's Chief or designee shall be consulted along with the Division of Criminal Law or designee.

### **Incident Investigative Team**

The responsibility for conducting the AB 1506 Incident investigation rests with the Incident Investigative Team comprised of special agents, investigators from the assigned LEA, and supporting professional personnel. The DLE will assist the investigating LEA that has the responsibility for the preservation and security of the scene(s), collection of evidence at the scene(s) and from the Involved Officer(s), including their equipment and/or vehicle(s).

1. The first special agent(s) on scene will coordinate with the local LEA to stabilize, preserve, and secure the scene, pending the arrival of the complete Incident Investigative Team and support personnel.

2. Upon arrival, the first special agent(s) will contact the respective LEA's officer in charge of the incident and obtain a briefing of the incident and a familiarization of the incident crime scene as soon as practicable. If practical, it is preferable to wait for the arrival of the Special Agent Supervisor and the Incident Investigation Team before the briefing.
3. The Incident Investigative Team will conduct the AB 1506 Incident investigation while working jointly with the respective LEA.
4. If investigative assistance is obtained from another LEA in the area, the Incident Investigative Team will maintain joint control of the investigation, however, the Investigative Team will coordinate all aspects of the investigation with the agencies as deemed appropriate, subject to the respective agencies' concurrence.
5. In AB 1506 Incidents where a vehicular collision or other vehicular movement is involved, the Incident Investigative Team may request investigatory assistance from another LEA for that aspect of the investigation (e.g. California Highway Patrol, Major Accident Investigation Team).

### **Special Agent Supervisor**

Once the Special Agent Supervisor or designee has arrived at the scene, he or she shall conduct an on-scene assessment to determine if the incident is still in a tactical phase or is secure and has moved into an investigative phase. If the incident is still in a tactical phase, the DLE Incident Investigative Team shall not assume responsibility for the incident. As soon as the tactical situation is resolved, and the scene is safe, the Incident Investigative Team will assume the appropriate AB 1506 investigative collaborative responsibilities with the support from the Involved Agencies. When appropriate, the Special Agent Supervisor will:

1. Ensure that both inner and outer perimeters are established and clearly marked and are controlled with crime scene logs monitoring the ingress and egress of all personnel. The outer perimeter should be secured in a way that it is distinguished from the inner perimeter (e.g. using yellow crime scene tape for outer perimeter and red crime scene tape for inner perimeter). The Incident Investigative Team may request assistance from the LEA(s) having jurisdictions. If local LEA assistance is not available, the Special Agent in Charge will request additional special agents from DLE regional offices and/or task forces.
2. Identify involved and percipient officers and recommend their separation in different locations while monitoring the status and ensuring that all respective LEA protocols are being followed according its policy and procedures.
3. Identify the respective LEA's Incident Commander (IC) and the Public Safety Statement (PSS) supervisor who has the safety information related to the incident.

4. Ascertain if Body Worn Video Recording Device (BVRD) and / or Digital In-Car Video System (DICVS) documented the incident. If so, identify the respective LEA's supervisor in possession of all BVRD and who collected the BVRD. If this has not been completed prior to the arrival of the Incident Investigative Team, the Special Agent Supervisor or designee will coordinate with the respective LEA to ensure the upload of the BVRD footage and obtain a copy of the BVRD data. In addition, the Incident Investigative Team will identify any involved vehicles with DICVS and, with the assistance of the respective LEA, obtain a copy of the uploaded DICVS data prior to the Involved Officer(s) interviews.
5. Ascertain if any GPS data of the Involved Officer(s)' vehicle(s) related to the incident exists. If such data exists, arrange with the respective LEA for uploading of such data.
6. Coordinate efforts to identify all critical witnesses and their locations. Ensure all witness names and contact information is collected/documented by the Incident Investigative Team. Civilian witness interviews may be conducted in partnership with the respective LEA. If a witness requests to leave the scene, a recorded interview should be attempted/conducted prior to departure. The Incident Investigative Team shall ascertain whether any canvassing was completed prior to the Incident Investigative Team's arrival and collect all Field Interview information completed by any Involved-Agencies as a result of the initial canvass. If local law enforcement assistance is not available, the Special Agent in Charge will request additional resources from the DLE regional offices and/or task forces.

### **Case Agent, Co-Case Agent, and Crime Scene Agent**

After all of the assigned Incident Investigative Team special agents<sup>11</sup> have arrived at scene, the Special Agent Supervisor shall assign or delegate investigative responsibilities to the special agents and investigators from the respective LEA will usually work in groups of two. This will include a Case Agent, Co-Case Agent, and Crime Scene Agent to work in concert with all investigative support personnel. If a mobile command post vehicle is present, an Assignment Log will be posted listing all Incident Investigative Team personnel and their assignments, along with the Involved Officers' names, ranks, identification numbers, and all other pertinent personnel. When the Assignment Log is completed, a copy or photograph of the log will be placed in the investigation case file for future reference. If a mobile command post vehicle is not present, the Special Agent Supervisor will designate a member of the Incident Investigative Team to maintain an Assignment Log for the team.

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<sup>11</sup> The number of special agents assigned to an incident will be contingent on the investigation and will be determined by the Special Agent Supervisor.

The Case Agent will:

1. Coordinate and assign duties: investigative assignments, crime scene assignments, witness identification/interviewing assignments, area canvassing assignments, and any other assignments deemed appropriate.
2. Assemble the Incident Investigative Team members for a briefing by the respective LEA supervisor who obtained the Public Safety Statement.
3. Identify, protect, and secure all potential evidence.
4. Coordinate with representatives of the Employing Agency and/or law enforcement union attorneys for the scene assessment "walkthroughs" and interviews.  
*Note: Peer support personnel may aid the involved officer, however, the peer support personnel cannot impede the investigation. Conversations between the two are not considered confidential.*

The Co-Case Agent<sup>12</sup> will work in conjunction with the Case Agent to ensure the completion of the investigation. In the absence of the Case Agent, the Co-Case Agent will become the lead investigator.

The Special Agent Supervisor shall designate a Crime Scene Agent, a special agent responsible for the security and integrity of the crime scene. The Crime Scene Agent will liaise with arriving and participating LEA personnel. The Crime Scene Agent will ensure that both inner and outer crime scene logs have been started and are continuously updated and that the local officers responsible for those logs are posted at entry points. The crime scene log local officers will be instructed that no one is allowed inside the inner perimeter without the express permission of the Crime Scene Agent. Assistance from the local law enforcement personnel will be utilized on a limited basis contingent on the needs of the investigation.

In addition, the Crime Scene Agent will:

1. Work with the Special Agent Supervisor to ensure the Incident Investigative Team obtains copies of the BVRD, DICVS, and any other digital evidence from the respective LEA(s).
2. Work with the Special Agent Supervisor to ensure the Coroner's Office was notified, obtain Coroner's case number, and that a notification call was made requesting the Coroner's Office response to the scene, generally after the scene is photographed and before any scene "walkthroughs."

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<sup>12</sup> The determination as to the assignment of the Co-Case Agent will be contingent on the investigation and will be the decision of the Special Agent Supervisor.

3. Coordinate the taking of positional photographs (if needed) based on the placard placements. He or she shall also coordinate photographs of the Involved Officer(s), their uniforms, the equipment they were wearing, any identifying features, magazine ammunition counts, and injuries, if any.
4. Liaison with the Coroner's investigator and document any evidence he or she notes on the body, including taking additional photographs of that evidence at the scene. If significant evidence is discovered (e.g. guns, knives, suicide notes), the Case Agent will be notified by the Crime Scene Agent who will evaluate the evidence and make all the appropriate notifications to the Special Agent Supervisor, the Incident Investigative Team, and the Special Agent in Charge. The Special Agent in Charge will update the chain of command on the progress of the investigation.

**Note:** The Coroner's Office is responsible for taking photographs of the body at autopsies and conducting ballistic trajectories (involving the body), along with the assistance of the criminalists. With regard to the respective Coroner's Office process, the local Coroner's Office protocol will be followed.

### **Canvassing Agent**

The Canvassing Agent is responsible for coordinating the canvass of the area/location. The canvass is a systematic approach to identifying and interviewing potential witnesses who may have relevant information as well as locating any other potential relevant evidence (e.g. security cameras). It is an integral part of the investigation to identify witnesses to the incident. The canvass is not complete until the Incident Investigative Team or supporting law enforcement personnel have contacted all potential witnesses. All interviews should be recorded, collected, and evaluated by the Canvassing Agent for potential follow-up interviews. If any additional witnesses are discovered during the canvas, the Canvassing Agent should immediately notify the Case Agent, Co-Case Agent, and/or Special Agent Supervisor. In addition to the witness contacts and interviews, the Canvassing Agent will coordinate with the Crime Analyst for the identification, location, retrieval, and analysis of all audio and video evidence relevant to the OIS incident.

The Canvassing Agent will:

1. Assist the respective LEA in locating and collecting video evidence from cellular telephones, personal and/or commercial security cameras at or around the scene. In many cases, the Incident Investigative Team will request the assistance of the respective LEA or local law enforcement LEA having jurisdiction to collect and download the data onto an appropriate platform for evidentiary purposes. Once downloaded, the Incident Investigative Team will collect the data for inclusion into the investigation file.



2. Assist in collecting and uploading of all video obtained from the respective LEA's issued BVRD and DICVS.
3. Work with the Crime Analyst to edit and/or convert audio/video recordings to appropriate format for investigative and presentation purposes.
4. Prepare and maintain media equipment for evidentiary purposes and/or presentations to the Office of the Chief and/or the Office of the Attorney General. This especially pertains to social media and news media information. The request will be made of the local media for all unedited and "raw" footage related to the investigation.

## **Incident Briefing**

The Incident Investigative Team shall coordinate with and ensure that the Employing Agency's personnel who has the Public Safety Statement is available to provide the requisite information to the team.<sup>13</sup> After all Incident Investigative Team personnel have arrived, the Public Safety Supervisor shall provide public safety information to representatives from the Incident Investigative Team, the respective LEA(s), and any appropriate personnel authorized to have such information.

**Note:** Based upon the respective LEA policy, officers do not have the right to wait for representation before giving a Public Safety Statement.

## **Scene "Walkthroughs"**

The Incident Investigative Team will coordinate with the respective LEA(s) to conduct the comprehensive scene "walkthroughs" with percipient and Involved Officer(s) placing placards or markers to identify the officer(s)' and suspect(s)' position(s). On occasion, when necessary, the Incident Investigative Team may conduct scene "walkthroughs" with critical civilian witnesses and place markers to document their locations at the times of their observations. The "placard" or "marker" or any standard crime scene equivalent can be used to document positioning and distances of involved personnel and/or witnesses. However, investigators should use caution to ensure the placards remain in place and decontaminate all reusable placards prior to use in the crime scene which is the responsibility of the agent assigned to the scene.

The Incident Investigative Team will write the title of the officer or civilian providing the positional information on the placard, including their first and last names (if officers, include LEA identification numbers), and a directional arrow at the top of the placard indicating the direction the officer and/or civilian was facing at the time of the shooting. In those incidents involving moving multiple shootings, it will be necessary to repeat this process accordingly. The

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<sup>13</sup> As there are situations that arise where the person with the public safety statement is not readily available, all reasonable measures will be made to ensure the Incident Investigative Team will receive the requisite information.

officer and/or civilian may also be requested to indicate the suspect's position and direction he or she was facing at the time of the shooting. If this occurs, the placard should have a note indicating the officer or civilian's name.

Generally, Involved Officer(s) scene "walkthroughs" are conducted prior to audio-recorded interviews. If the officer requests to be compelled to provide a scene walkthrough, the Incident Investigative Team will coordinate the process with the Employing Agency. Compelled scene "walkthroughs" cannot be used against Involved Officers in criminal proceedings. No recordings or notes are made during compelled officer scene "walkthroughs." Every effort should be made to conduct the "walkthrough" with consideration of the environmental (e.g. time of day, lighting, etc.) conditions at the time of the actual event.

**Note:** The primary purpose of conducting scene "walkthroughs" with the involved and percipient officers is to document their approximate positions at the time of the incident. It also aids in memory recall of the incident and scene prior to the officer's interviews. The "walkthroughs" are not interviews; therefore, questions should be kept to a minimum. As such, notes or recordings are an option for utilization to be used during the scene "walkthroughs."

Before any scene "walkthroughs" occur, the Crime Scene Agent shall provide instructions regarding safe ingress and egress into the crime scene to prevent any evidence contamination. When possible, the access routes should be clearly marked. Additionally, the entire scene should be photographed prior to any scene "walkthroughs" to document the evidence prior to adding any additional evidence markers and placards.

If, during the walkthrough process, the Involved Officer(s) makes a statement of evidentiary value, the statement should be referenced during the subsequent formal interview where it will be audio-recorded. If the officer makes an incriminating statement, the scene walkthrough should continue and the Special Agent in Charge and the Employing Agency should be notified as soon as practicable. Only two special agents should ask questions during the scene walkthrough. Although it is important to limit the number of personnel during the scene walkthrough, the Special Agent Supervisor, Special Agent in Charge, Criminalist, Deputy Attorney General (DAG), Employing Agency(s), and authorized Involved Officer's representatives should participate in this process. If the Involved Officer requests to be compelled, the Incident Investigative Team (criminal investigators) cannot participate in the Involved Officer(s)' scene "walkthroughs." The "walkthrough" process will follow the established local LEA protocols.

### **Involved Officer Interviews**

The Incident Investigative Team will conduct interviews with the Involved Officer(s) and any critical witnesses contemporaneous to the incident. The initial interview(s) may be condensed due to fatigue on the part of the Involved Officer(s) or interviewing special agents. If a condensed interview(s) is conducted, the special agents will schedule follow up interviews

within 72 hours. The Office of the Chief and/or the Division of Criminal Law must approve any deviation of the 72-hour time parameter. In some instances, the respective LEA(s) may have policy, procedures, and/or union agreements that the Involved Officer(s) will not be required to give an interview or statement for a 24 to 48 hour period. However, the Involved Officer may willingly provide an initial statement at the scene if he or she chooses to do so upon advice of counsel. In other instances, the respective LEA may have policy, procedures, and/or union agreements that the Involved Officer(s) only provide written statements. The Incident Investigative Team will make all efforts to work within the respective LEA(s)' normal practices. Whenever there is compliance with such LEA practices it must be documented. A copy of the respective LEA's policy and procedures or union agreement, regarding these practices should be obtained, verified, and included in the investigation's Case File book (Note: The relevant County Interagency OIS protocols will provide guidance. In the event that this interagency protocol does not exist, then the DOJ Team will have to review investigative protocols individually at beginning of assessment)

The Incident Investigative team will determine who will participate in the interview(s) of any Involved Officer(s) or witnesses and where the interview(s) will take place, taking into consideration the Employing Agency's policy, procedures, and/or union agreements.

1. Prior to the interview, the Incident Investigative Team's interviewing special agents and local investigators should review all available audio/video recordings from law enforcement vehicle in-car cameras, officer body-worn cameras by the Involved Officer(s), responding officer(s), third parties, and other independent sources.
2. The interview of the Involved Officer should take place in a conference room, office, or other suitable location at a mutually convenient location, date and time. The Incident Investigative Team should consider the respective LEA's policy, procedures, and/or union agreements in this matter. Involved Officer(s) interviews should not take place in an LEA's Suspect Interrogation Room or in the back seat of an LEA's police vehicle.
3. The interviews of Involved Officer(s) and witnesses to the incident shall be audio recorded.
4. Interviews should be video recorded.
5. The assigned Deputy Attorney General (DAG) and the Involved Officer's attorney representative, if not physically present during the interview(s), are permitted to monitor the interview and/or have immediate access to any recordings made of the interview(s).

The Incident Investigative Team shall conduct the initial interview of an Involved Officer(s) which will take place before the Involved Officer(s) has reviewed any audio/video recordings of the incident. The respective LEA's policy and procedures, or union agreements, may determine whether the Involved Officer(s) may view recordings of the incident prior to the initial interview.

The Incident Investigative Team should be mindful that audio/video recordings have limitations and may depict events differently than the events recalled by the Involved Officer(s). If the Incident Investigative Team provides any audio/video recordings to the Involved Officer(s) after the initial interview, it must be documented and the Incident Investigative Team has the discretion to admonish the Involved Officer(s) about the limitations of audio/video recordings. Follow up interviews are a significant opportunity to clarify and refine the details of the information provided during the initial interview.

To ensure the voluntariness of an interview with the Involved Officer(s), that has not reached the level of a custodial interrogation, the Incident Investigative Team should advise him or her as follows:

1. The Involved Officer is not in custody and is free to leave the interview at any time.<sup>14</sup>
2. The Involved Officer is not obligated to answer incriminating questions, and answers that are given may be used against him or her in court.

At any time during the interview, if it is deemed that the Involved Officer(s) may be charged with a criminal offense, and the interview becomes custodial, the Involved Officer(s) shall be immediately informed of his or her constitutional rights pursuant to the Miranda decision.

The Involved Officer(s) may consult with a representative prior to being questioned by the Incident Investigative Team.

1. The representative consultation should not be allowed to materially impede the interview.
2. To ensure the integrity of each interview, it is important that statements about the incident not be relayed through such representatives; rather, the Involved Officer and witnesses should answer the questions directly even if they need to consult with their representative prior to answering the question.
3. The representative may ask questions of their client during the interview.

The Incident Investigative Team will work with the Employing Agency to obtain:

1. A voluntary blood sample for alcohol and/or drug testing, and/or a urine sample for alcohol and/or drug testing, as well as a breath analysis testing application with the Involved Officer's consent or per the applicable Memorandum of Understanding (MOU),  
or

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<sup>14</sup> Beheler Admonition

2. A blood sample for alcohol and/or drug testing and/or urine sample, incidental to the arrest of that person for a crime; or

If objective signs of impairment are observed then an assessment by a drug recognition expert, if available, will be completed to determine if probable cause exists to seek a search warrant for a subsequent blood sample for alcohol and/or drug testing and/or urine sample, by the Incident Investigative team member.

The Involved Officer(s) may volunteer to provide a physiological fluid sample for intoxicant testing even if the Incident Investigative Team has not asked for a sample. Similarly, the Involved Officer may request a second sample or a portion of the original sample for independent testing. Such requests should be accommodated with the understanding that the Involved Officer will bear the expense for any additional testing.

### **Witness Identification and Interviews**

Due to the possibility of the potential witnesses becoming unavailable or the integrity of their statements being compromised with the passage of time, the Special Agent Supervisor should take reasonable steps to promptly coordinate with the respective LEA to utilize available personnel as follows:

1. To identify all persons present at the scene and in the immediate area.
2. When feasible, to obtain a recorded statement from those persons who claim not to have witnessed the incident, but were present at the time of the incident.
3. Any potential witness who is unwilling or unable to remain for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest.
4. Without detaining the person, the interviewing personnel should attempt to identify and document the person prior to the person departing the scene.
5. Witnesses who are willing to provide an immediate formal interview should be asked to meet at a suitable location where the interviewing personnel may obtain a recorded statement. Such witnesses, if willing, may be transported by law enforcement. Witnesses who are willing to provide an interview, but are not able to do so immediately, may be interviewed at a mutually convenient location and date and time.

### **Additional Resources**

Depending on the circumstances, the Incident Investigative Team may require additional resources, including DLE special agents from other regional offices and programs via the

respective Special Agent in Charge, and/or other personnel from the Employing Agency or other agencies. It is the Special Agent in Charge or designees' decision and responsibility to request other resources when necessary.

### **Law Enforcement Union Representatives**

The Involved Officer(s) is responsible for notifying any law enforcement union representative. The local LEA protocol will be followed regarding this notification process. The Incident Investigative Team will work with the Employing Agency to ensure that there is timely communication between all involved parties.

### **Criminal Apprehension Responsibilities**

Any other criminal investigations associated with the OIS will be the responsibility of the appropriate LEA. For example, the unarmed civilian decedent was driving a stolen car and committing a bank robbery prior to the OIS incident, the investigation of the stolen vehicle and bank robbery would be the responsibility of the appropriate LEA that has jurisdiction.

It is the responsibility of the Employing Agency or the respective LEA having jurisdiction to coordinate and apprehend any suspect(s) of peripheral crimes related to the OIS investigation. This includes all aspects of the apprehension process, including surveillance, enforcement, search warrants, arrest reports, booking, filing case, etc. In addition, it is the Employing Agency's responsibility for any preliminary assessment of any possible threats against the LEA related to the incident. If suspect(s) are outstanding, all of the above, as well as apprehension of the suspect(s) are the responsibility of the Employing Agency or any local LEA having jurisdiction.

In the event that suspects who remain outstanding are facing prosecution for related offenses, the Employing Agency may retain the authority to require the Involved Officer(s) to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those suspects per Government Code § 3304(a). While the Involved Officer(s) may write the report, it is recommended that the Employing Agency's assigned detectives should interview the Involved Officer as a victim/witness and complete the reports. Since the purpose of these reports will be to facilitate criminal prosecution, statements of the Involved Officers should focus on evidence to establish the elements of criminal activities by involved suspects. The reports related to the prosecution of the criminal suspect(s) will be processed according to Employing Agency procedures, however, the reports should be included for reference in the AB 1506 Incident investigation of the Involved Officer.

### **Evidence**

The Case Agent, Co-Case Agent and Crime Scene Agent will work with the BFS senior criminalists at the crime scene to ensure that all evidence is properly and thoroughly identified,

documented, processed, and collected by the respective LEA that is jointly conducting the investigation. In those instances when the Incident Investigative Team does not have the capacity or technology to process, collect, and/or store evidentiary items, the Incident Investigative Team will rely on the respective LEA and may utilize the BFS evidence storage vaults or seek the assistance of other agencies upon approval by the Office of the Chief and/or the Office of the Attorney General.

### **Employing Agency Property**

The Involved Officer(s)' firearms and other Involved Officer's department issued or personal property will be examined, documented and collected by the respective LEA that is jointly conducting the investigation. The Incident Investigative Team with the guidance of the senior criminalist will assist in obtaining this equipment in accordance with the Employing Agency(s)' policy and procedures. In cases where the BFS is responsible for the crime scene and evidence, the Incident Investigative Team will work with the BFS laboratory or other crime laboratory to ensure the equipment, particularly firearms, is processed and returned to the Employing Agency(s) as soon as practicable, when applicable and appropriate. The Incident Investigative Team, when BFS is not available, may utilize outside experts for testing and evaluation.

Additionally, as it relates to vehicle collisions, the Incident Investigative Team may request the Employing Agency or other qualified LEA to perform the portion of the investigation related to any vehicle collisions. Prior to such requests, the Investigation Management Team should be consulted and approval obtained from the Office of the Attorney General.

### **Bureau of Forensic Services Responsibilities**

The BFS Crime Scene Unit will provide investigative support as it relates to crime scene processing and analysis of evidence in the areas of responsibility that do not have crime scene processing capabilities. The Incident Investigative Team's Case Agent, Co-Case Agent, and Crime Scene Agent will work with the BFS senior criminalists to ensure the following:

1. Documenting scenes by capturing locational data with 3-D laser mapping technology. The data will be downloaded onto suitable storage media and the Incident Investigative Team will be provided with a 3-D or 2-D digital renderings for use as evidence and in the presentation of the investigation to the Office of the Attorney General;
2. Coordinating with the Incident Investigative Team members and BFS senior criminalists and latent print analysts for the proper identification and documentation of all evidence and other items relevant to the incident;
3. Participating in ammunition counts and conducting firearm(s) exchange with the Involved Officer(s) when appropriate. With the assistance of the Employing Agency, a designated special agent and the Special Agent Supervisor or designee will conduct the

magazine ammunition counts. The Employing Agency, Involved Officer, and his or her attorney or representative, may witness the magazine ammunition counts. The Employing Agency may conduct any firearm or equipment exchange. If, during the magazine ammunition counts, the Involved Officer(s)' primary duty weapon is examined and there is a cartridge in the chamber, it will be removed and documented. The ammunition cartridges inside the primary weapon's magazine are removed and counted separately. In addition, the cartridges in the officer's remaining magazines are counted. The firearm, magazines, and all cartridges are photographed and documented. If the Involved Officer had any "backup" firearm(s) during the OIS incident, a magazine ammunition count of that weapon shall also be conducted with an inspection of the firearm to verify the involvement and/or non-involvement in the incident.

4. In some instances the Involved Officer(s)' duty weapon may have DNA, trace, or other evidence. Additionally, suspected malfunctioning firearms require specialized collection. BFS senior criminalists or other specialists may conduct the magazine ammunition count and collection of those items as evidence while the designated special agent and Special Agent Supervisor or designee, Employing Agency, Involved Officer(s), and the Involved Officer's legal representative observe.
5. During the magazine ammunition count of any firearm, all unloading of the weapon may be conducted by the Involved Officer(s) assigned that weapon, or other firearms expert, in the presence of the Involved Officer's Employing Agency, his or her representative/attorney, and the Incident Investigative Team's designated special agent and Special Agent Supervisor or designee.

**Note:** All personnel must consider special precautions when inspecting firearms as to not transfer blood or other trace evidence from the person to the firearm.

6. An Incident Investigative Team designated special agent will transport the Involved Officer's firearm to the BFS laboratory or other authorized facility for proper testing unless BFS senior criminalists have taken control of the firearm(s) at the crime scene.
7. The Incident Investigative Team designated special agents or senior criminalists, when they have taken direct possession of the firearm(s), are responsible for the return of the Involved Officer's firearm to the Employing Agency, when applicable and appropriate. There is the possibility that firearm(s) may have to be retained for evidentiary purposes.
8. Assist with the positional photographs of the involved and percipient officers. The actual involved and percipient officers participate in the positional photographs. When the involved officers and percipient witnesses refuse to participate, it is permissible to use "stand in" officers of similar size and weight to be in the photographs.



9. Taking full-length and facial photographs of the Involved Officer(s) with their clothing and equipment to depict their appearance at the time of the incident.
10. Taking aerial overview photographs of the scene when appropriate and possible.
11. Observing crime scene "walkthroughs" when appropriate.

**Note:** The BFS criminalists and latent print analysts will respond when available to provide assistance to the investigative team for all OIS investigations. The BFS will respond to their respective areas of responsibility, pursuant to the local LEA protocol. They are present at the scene to assist and are the experts in the field of forensics and all matters related to evidence.

12. Providing crime scene investigation reports and related laboratory analysis results to the Incident Investigative Team in order to create PowerPoint presentations for evidentiary purposes and/or presentations to the Office of the Attorney General. The Incident Investigative Team shall only request BFS assistance with PowerPoint presentations when it involves specialized technology and/or analysis related to evidence.

### **Role of the Deputy Attorneys General<sup>15</sup>**

During the AB 1506 Incident investigation, the Incident Investigative Team will collaborate with the Division of Criminal Law assigned Deputy Attorney General. The Deputy Attorneys General may do the following:

1. Participate in the management of the incident along with the assigned command from the Incident Investigative Team as part of the Investigation Management Team.
2. Assist and advise the Incident Investigative Team regarding the various legal issues that may arise, including, but not limited to, search and seizure, use of force, admonitions, identification procedures, arrest(s), elements of crimes, and voluntariness.
3. Observe and monitor the investigation of the AB 1506 Incident.
4. Determine if there is criminal culpability of the Involved Officer(s).

### **Criminal Investigation versus Administrative Investigations**

These guidelines are to assist the DLE in investigating AB 1506 Incidents which are criminal investigations and not meant to address any administrative or civil investigations that may be related to the incident. Any administrative and/or civil investigations are the responsibility of the

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<sup>15</sup> Reference Criminal Law Division Protocol

Employing Agency. There must be a clearly defined distinction between the AB 1506 Incident investigation and any administrative and/or civil investigation. The Employing Agency will have an interest in the outcome of the AB 1506 Incident investigation and may utilize the results of that investigation for its own non-criminal purposes.

### **News Media Relations and Public Information Requests<sup>16</sup>**

Any media or public requests for information shall be referred to the DOJ Communications Office in compliance with the Officer Involved Shooting Investigation Media Protocol. It is crucial to ensure that information only is released to the media or the public upon the approval of and in coordination with Office of the Chief and/or the DOJ Communications Office. This Media Protocol does not prevent the local LEA from making statements to the media and/or public requests.

### **Completion of Investigation**

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All Incident Investigative Team members must ensure the confidentiality of the investigation. The Case Agent is responsible for starting and compiling all reports into the investigation's Case File and coordinating with the Employing Agency. The Case Agent is responsible for coordinating any follow-up interviews, including canvassing the scene for additional witnesses. The Crime Scene Agent should ensure all BFS crime scene investigation and associated crime laboratory reports, if any, have been completed, collected, and included in the Case File. The Case Agent and Co-Case Agent shall review every report, transcript, or other document related to the investigation. The Case Agent, Co-Case Agent, Crime Scene Agent, and Special Agent Supervisor will ensure the investigation's Case File is complete, accurate, and professional.

### **Investigation Review Process**

The Special Agent in Charge shall review and approve all investigation reports with the exception of the BFS scene investigation reports<sup>17</sup>, after peer review and Special Agent Supervisor approval. All reports should be complete with all addenda attached. The Bureau Assistant Director or designee may also review the reports when necessary. Once the review process is finished, the reports are returned to the Case Agent for edits and/or additional information. All reports are incorporated into the Case File after all edits and/or additions are completed, and given to the Special Agent in Charge for secondary review and signature.

Complete documentation of AB 1506 Incidents is critical to the outcome of the investigation. Readers can interpret minor errors as incompetency or dishonesty. A methodical and detailed review of all reports is essential to ensure utmost confidence in the investigation. Accordingly,

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<sup>16</sup> Reference Officer Involved Shooting Media Protocol

<sup>17</sup> The BFS crime scene investigation reports review and approval process will be handled by the BFS established protocol.

the DLE's AB 1506 Program has implemented a strict review process that includes, but is not limited to:

1. Review AB 1506 Officer Involved Shooting Program's Incident Investigation Team Checklist(s).
2. Review the cover sheet to ensure the investigation number and type of incident are correct.
3. Review the table of contents to verify that the page numbers of the items listed correspond to the correct page numbers in the reports. Ensure the proper headings are included.
4. Ensure the accuracy of the Filing Report summarizing the overall investigation and referencing all attached reports.
5. Review all addenda items and compare them to the table of contents. The title of the addenda documents should be spelled-out completely. The dates should match the reports. Ensure the addenda items are accurate and easily understandable.
6. Review all reports and confirm that all footnotes, notes, and addenda items are relevant to their placement.
7. Review any diagrams to ensure their accuracy.
8. Note in the margin any questions that arise during the review process to discuss with the Co-Case Agent, Crime Scene Agent, and Special Agent Supervisor.
9. Review all transcripts attached to interview reports. Compare the spelling of the name of the interviewee to the table of contents and reconcile any differences. Ensure the number of pages in the table of contents corresponds to the last page of the interview report. Ensure the witnesses were asked if the interview was conducted at a time and place convenient for them and that the identities of everyone in the interview room was documented on the recording.
10. Ensure that all relevant and/or significant discrepancies are noted in the Filing Report summarizing the entire investigation.
11. Utilize footnotes to clarify information and/or further describe anything in the reports. In these footnotes, include a page/line number so the reader can easily refer to the source.
12. Review the entire investigation again to verify the summary is accurate and reflects the chronological sequence of events. Read it mindfully, paying attention to words that may have accidentally been omitted or used incorrectly.

13. Do not use police jargon unless it is relevant to the investigation and properly explained in the reports.
14. Discuss the investigative findings with the Co-Case Agent, Crime Scene Agent, Special Agent Supervisor, and the Special Agent in Charge. After noting any errors and/or making any clarifications, print a clean copy of the investigation.

## **Final Action**

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Within 90 calendar days, a summary of the overview and update of the investigation will be submitted to the Division of Criminal Law, absent any unusual circumstances. The Incident Investigation Team will conduct additional follow up investigation as needed to complete a comprehensive investigation. Upon completion of the investigation and the investigation review process, a package containing all relevant information will be submitted to the Division of Criminal Law for its review. The package will include all reports, photographs, and audio and video recordings. All materials will be provided in a format that allows attorneys to easily access the materials.

**CityofIndioPolice  
FentanylAdmonishmentCard Back F.pdf**



## IPD Fentanyl Admonishment

Officer instructions: Officers shall denote in their report if the Fentanyl Admonishment was given and how it was recorded (BWC, audio, etc.).

- Es bien peligroso para la vida humana proveer, distribuir, vender, regalar, drogas a cualquier manera, sin importar si las drogas son verdaderas o falsificadas.
- Vender, regalar, y distribuir drogas a personas que usan drogas o planean usar drogas que tienen potencial de causar la muerte o daños corporales como son normalmente causas de usar drogas como el fentanilo o químicos asociados con fentanilo es peligroso. Fentanilo es un opiáceo sintético que es 50-100 veces más fuerte y peligroso que morfina y causa la muerte hasta en dosis bien pequeñas.
- Si usted vende, regala, o distribuye drogas a alguien y esa persona se muere por resultado de usar esas drogas, usted puede ser arrestado y juzgado por homicidio en el Estado de California en un tribunal criminal.

Updated: 06/2021

**CityofIndioPolice  
FentanylAdmonishmentCard Front F.pdf**



## IPD Fentanyl Admonishment

Officer instructions: Officers shall denote in their report if the Fentanyl Admonishment was given and how it was recorded (BWC, audio, etc.).

- It is extremely dangerous to human life to provide, distribute, or furnish, drugs in any form, and regardless of whether the drugs are real or counterfeit.
- Selling, furnishing, distributing drugs to those who intend to use them has the potential to cause serious bodily harm or death as they are often mixed with deadly substances such as fentanyl or analogs of fentanyl. Fentanyl is a synthetic opioid that is 50-100 times stronger than morphine and can kill human beings even in very small doses.
- Therefore, if you sell, furnish, or distribute drugs to someone, and that persons dies as a result of using the drugs, you can be charged with murder.

Updated: 06/2021



## CityofIndioPolice DispersalOrderCards Back F.pdf



IPD Dispersal Order - Penal Code 409  
Officers shall use the following dispersal order:

Yo soy (YOUR NAME AND RANK), un oficial del departamento de policia de Indio. Por medio de la presente declaro que esta es una asamblea ilegal y en el nombre del gobierno del estado de California, les ordeno a todos aquellos reunidos (GIVE A SPECIFIC LOCATION) que se retiren inmediatamente. Usted puede moverse (GIVE A SUITABLE LOCATION FOR CROWD DESTINATION). Si no hacen eso, ustedes seran arrestados por una violacion del codigo penal seccion 409 del codigo penal del estado de California. Si usted rehusa moverse se usara gas lacrimojeno y otras armas. (PROVIDE THE CHEMICAL AGENT/ PROJECTILE WARNING ONLY IF THEIR USE IS ANTICIPATED.) Updated: 05/21

**AB-1506-Ch-326.pdf**

## Assembly Bill No. 1506

### CHAPTER 326

An act to add Section 12525.3 to the Government Code, relating to the Department of Justice.

[Approved by Governor September 30, 2020. Filed with  
Secretary of State September 30, 2020.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1506, McCarty. Police use of force.

Existing law requires law enforcement agencies to maintain a policy on the use of force, as specified. Existing law requires the Commission on Peace Officer Standards and Training to implement courses of instruction for the regular and periodic training of law enforcement officers in the use of force.

Existing law requires law enforcement agencies to report to the Department of Justice, as specified, any incident in which a peace officer is involved in a shooting or use of force that results in death or serious bodily injury.

This bill would create a division within the Department of Justice to, upon the request of a law enforcement agency, review the use-of-force policy of the agency and make recommendations, as specified.

This bill would require a state prosecutor to investigate incidents of an officer-involved shooting resulting in the death of an unarmed civilian, as defined. The bill would make the Attorney General the state prosecutor unless otherwise specified or named. The bill would authorize the state prosecutor to prepare a written report, and would require the state prosecutor to post any reports made on a public internet website.

The bill would require, commencing July 1, 2023, the Attorney General to operate a Police Practices Division within the department to review, upon the request of a local law enforcement agency, the use of deadly force policies of that law enforcement agency and make recommendations, as specified.

The bill would require the department to implement these provisions subject to an appropriation for this purpose.

*The people of the State of California do enact as follows:*

SECTION 1. Section 12525.3 is added to the Government Code, to read:  
12525.3. (a) For purposes of this subdivision, the following definitions apply:

(1) “Deadly weapon” includes, but it not limited to, any loaded weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged, or a switchblade knife, pilum ballistic knife, metal knuckle knife, dagger, billy, blackjack, plastic knuckles, or metal knuckles.

(2) “Unarmed civilian” includes anyone who is not in possession of a deadly weapon.

(b) (1) A state prosecutor shall investigate incidents of an officer-involved shooting resulting in the death of an unarmed civilian. The Attorney General is the state prosecutor unless otherwise specified or named.

(2) The state prosecutor is authorized to do all of the following:

(A) Investigate and gather facts in an incident involving a shooting by a peace officer that results in the death of an unarmed civilian.

(B) For all investigations conducted, prepare and submit a written report. The written report shall include, at a minimum, the following information:

(i) A statement of the facts.

(ii) A detailed analysis and conclusion for each investigatory issue.

(iii) Recommendations to modify the policies and practices of the law enforcement agency, as applicable.

(C) If criminal charges against the involved officer are found to be warranted, initiate and prosecute a criminal action against the officer.

(3) The state prosecutor shall post and maintain on a public internet website each written report prepared by the state prosecutor pursuant to this subdivision, appropriately redacting any information in the report that is required by law to be kept confidential.

(c) (1) Commencing on July 1, 2023, the Attorney General shall operate a Police Practices Division within the Department of Justice to, upon request of a local law enforcement agency, review the use of deadly force policies of that law enforcement agency.

(2) The program described in paragraph (1) shall make specific and customized recommendations to any law enforcement agency that requests a review pursuant to paragraph (1), based on those policies identified as recommended best practices.

(d) This section does not limit the Attorney General’s authority under the California Constitution or any applicable state law.

(e) Subject to an appropriation for this purpose by the Legislature, the department shall implement this section.

**3347\_001 Public safety statement - IPD OIS form.pdf**



# PUBLIC SAFETY STATEMENT – OFFICER INVOLVED SHOOTING

### Directions to on-scene supervisor:

- Do not deviate from this form.
- Write down the answers provided verbatim on this form.
- Disseminate public safety information immediately via radio as appropriate.
- Provide the original form to the first arriving Investigations or Professional Standards Unit supervisor.
- Provide a copy of this form to the involved officer.
- Complete a report documenting the Public Safety Statement form was completed with the involved officer, the content of the answers given, and that you did not deviate from the specified questions.
- If more than one officer is involved, a separate form shall be completed for each officer.

### On-scene supervisor will read the following verbatim to the involved officer:

Officer/Corporal/Sergeant \_\_\_\_\_, due to the potential need to take immediate action, I am going to be asking you to answer the following questions related directly to public safety and the preservation of evidence. At this time and to the **best of your knowledge**, I request that you please answer the following:

1. From where and in what direction did you fire rounds? \_\_\_\_\_  
\_\_\_\_\_
2. In what direction did the suspect(s) fire rounds? \_\_\_\_\_
3. If you know of anyone injured, what is their location? \_\_\_\_\_
4. If any suspects are outstanding, what are their descriptions? \_\_\_\_\_  
\_\_\_\_\_

**Supervisors:** If there are no outstanding suspects, proceed directly to question #5, otherwise ask questions #4 (a-d).

- a. What was their direction of travel? \_\_\_\_\_
  - b. How long have they been gone? \_\_\_\_\_
  - c. With what weapons were they armed? \_\_\_\_\_
  - d. Are there any other safety risks known about the outstanding suspect(s)? \_\_\_\_\_
5. Does any evidence need protection? \_\_\_\_\_  
\_\_\_\_\_
  6. Are there any known witnesses? \_\_\_\_\_
  7. Where are they located? \_\_\_\_\_

Officer \_\_\_\_\_, in order to prevent the contamination of your statement, I order you not to discuss this incident with anyone, including other supervisors, prior to the arrival of the assigned investigators, with the exception of your union or legal representative.

Supervisor: \_\_\_\_\_ W#: \_\_\_\_\_

Date/Time: \_\_\_\_\_ Case number: \_\_\_\_\_

**Narcan Administration Report Template for Officer  
to complete following use of NARCAN PDF DOC.pdf**





**Narcan Administration Report**

IPD File/Case #  
EMS Incident #  
Date  
Time  
Location

---

**Observations / Indications for Administration**

Semi-conscious \_\_\_\_\_  
Depressedd respiration rate \_\_\_\_\_  
Unconscious \_\_\_\_\_  
Pale/Clammy skin \_\_\_\_\_  
Shallow Respiration \_\_\_\_\_  
Constricted pupils \_\_\_\_\_  
Injuries (explain in narrative) \_\_\_\_\_  
Unresponsive to verbal / physical stimulus \_\_\_\_\_  
Estimated respiratory rate **prior** to administration: \_\_\_\_\_  
Time Narcan was administered: \_\_\_\_\_ Amount administered by Officer(s): \_\_\_\_\_

---

**After Narcan Administration**

Observations after administration (check all that apply):

Patient regained consciousness prior to arrival of fire / paramedics \_\_\_\_\_  
Patient remained unconscious upon arrival of fire / paramedics \_\_\_\_\_  
Respiration improved (rate or depth of breathing) \_\_\_\_\_  
Breathing did not improve \_\_\_\_\_  
Skin color returned to normal \_\_\_\_\_  
Patient became agitated/combative \_\_\_\_\_  
Time onset of recovery observed \_\_\_\_\_ Estimated respiratory rate after administration \_\_\_\_\_  
Was the full 4 mg dose of naloxone (Narcan) delivered intranasally (check one)? Yes or No  
If no, explain \_\_\_\_\_

Note: If the patient had an adverse reaction to the Narcan, describe in the narrative section below:

---

**Patient Disposition**

**Patient outcome:**

Regained consciousness \_\_\_\_\_

Transported to Hospital \_\_\_\_\_

Pronounced Dead \_\_\_\_\_

---

**EMS RESPONSE**

Paramedic unit # \_\_\_\_\_

Paramedic ID / Supervisor name \_\_\_\_\_

Hospital destination \_\_\_\_\_

**Copies to: Training Unit**

Reporting Officer / ID \_\_\_\_\_ Date / Time \_\_\_\_\_ Approved by \_\_\_\_\_

**Gen2-Instructions-For-Use - NARCAN  
072021 Student Handout.pdf**

**Instructions for Use  
NARCAN (nar' kan)  
(naloxone hydrochloride)  
Nasal Spray**

You and your family members or caregivers should read the Instructions for Use that comes with NARCAN Nasal Spray before using it. Talk to your healthcare provider if you and your family members or caregivers have any questions about the use of NARCAN Nasal Spray.

**Use NARCAN Nasal Spray for known or suspected opioid overdose in adults and children.**

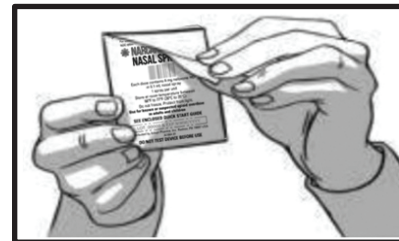
**Important: For use in the nose only.**

- **Do not remove or test the NARCAN Nasal Spray until ready to use.**
- **Each NARCAN Nasal Spray has 1 dose and cannot be reused.**
- **You do not need to prime NARCAN Nasal Spray.**

**How to use NARCAN Nasal Spray:**

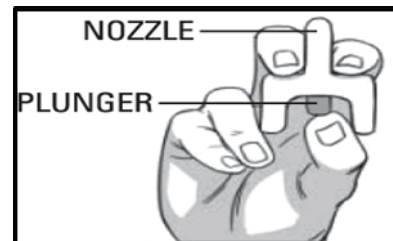
**Step 1.** Lay the person on their back to receive a dose of NARCAN Nasal Spray.

**Step 2.** Remove NARCAN Nasal Spray from the box.  
Peel back the tab with the circle to open the NARCAN Nasal Spray.



**Note:** NARCAN Nasal Spray freezes at temperatures below 5°F (-15°C). If this happens, the device will not spray. Get emergency medical help right away if this happens. Do not wait for NARCAN Nasal Spray to thaw. NARCAN Nasal Spray may still be used if it has been thawed after being previously frozen.

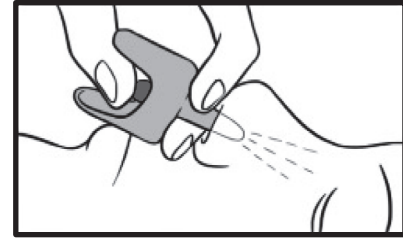
**Step 3.** Hold the NARCAN Nasal Spray with your thumb on the bottom of the red plunger and your first and middle fingers on either side of the nozzle.



**Step 4.** Tilt the person's head back and provide support under the neck with your hand. Gently insert the tip of the nozzle into **one nostril** until your fingers on either side of the nozzle are against the bottom of the person's nose.



**Step 5.** Press the red plunger firmly to give the dose of NARCAN Nasal Spray.

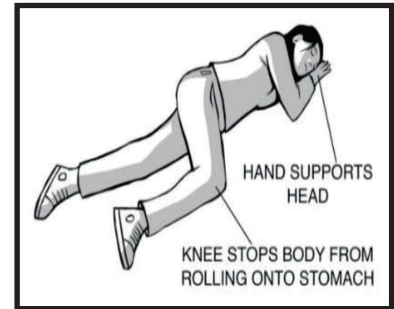


**Step 6.** Remove the NARCAN Nasal Spray from the nostril after giving the dose.

**What to do after NARCAN Nasal Spray has been used:**

**Step 7. Get emergency medical help right away.**

- Move the person on their side (recovery position) after giving NARCAN Nasal Spray.
- Watch the person closely.
- If the person does not respond by waking up, to voice or touch, or breathing normally another dose may be given. NARCAN Nasal Spray may be dosed every 2 to 3 minutes, if available.
- Repeat **Steps 2 through 6** using a new NARCAN Nasal Spray to give another dose in the other nostril. If additional NARCAN Nasal Sprays are available, Steps 2 through 6 may be repeated every 2 to 3 minutes until the person responds or emergency medical help is received.



**Step 8.** Put the used NARCAN Nasal Spray back into its box.

**Step 9.** Throw away (dispose of) the used NARCAN Nasal Spray in a place that is away from children.

**How should I store NARCAN Nasal Spray?**

- Store below 77°F (25°C).
- Excursions permitted up to 104°F (40°C).
- Do not freeze or expose to excessive heat above 104°F (40°C).
- Keep NARCAN Nasal Spray in the box until ready to use. Protect from light.
- Replace NARCAN Nasal Spray before the expiration date on the box.

**Keep NARCAN Nasal Spray and all medicines out of the reach of children.**

This Instructions for Use has been approved by the U.S. Food and Drug Administration.

Distributed by Adapt Pharma, Inc. Plymouth Meeting, PA 19462 USA.

For more information, go to [www.narcannasalspray.com](http://www.narcannasalspray.com) or call 1-844-4NARCAN (1-844-462-7226).

Issued: 08/2020

A1135

## **Workshop\_Reference\_Material SB2.pdf**

# Session A

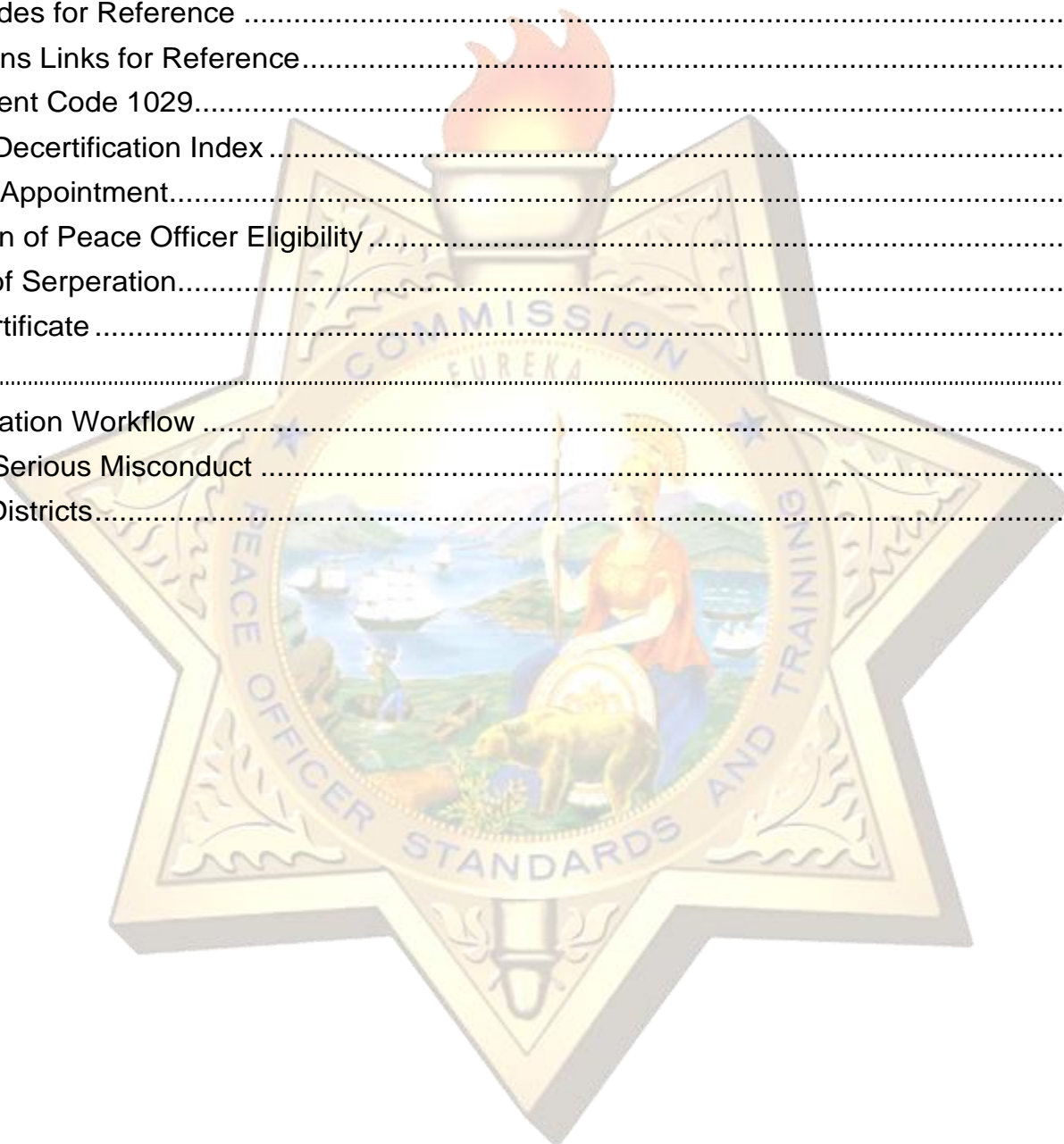
The seal of the Peace Officer Standards and Training Commission is a large, faint watermark in the background. It features a central figure holding a torch, surrounded by a circular border with the text "COMMISSION OF PEACE OFFICER STANDARDS AND TRAINING".

## Peace Officer Certification Workshop Selection Standards and Certification

Questions: [SB2@post.ca.gov](mailto:SB2@post.ca.gov)

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# Contact Information:

General inquiries: [SB2@post.ca.gov](mailto:SB2@post.ca.gov)

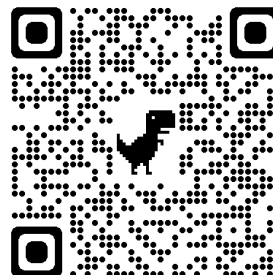
Bureau	Bureau Chief	Contact Email:
Professional Conduct Bureau #1	Jackie Nelson	Jackie.nelson@post.ca.gov
Professional Conduct Bureau #2	Scott Campbell	Scott.campbell@post.ca.gov
Professional Conduct Bureau #3	Christine Ford	Christine.ford@post.ca.gov
Professional Conduct Bureau #4	Mike Radford	Mike.radford@post.ca.gov
Intake and Disposition Bureau	Sarah Wallace	Sarah.wallace@post.ca.gov
Certification Bureau	Dr. Michelle Weiler	Michelle.weiler@post.ca.gov



# SB2 Bill Text

[SB-2 Peace officers: certification: civil rights.](#)

[www.post.ca.gov](http://www.post.ca.gov)



A screenshot of the POST website's navigation bar and quick resources section. The navigation bar includes links for Home, Quick Resources (circled in red), Hiring, Training, Publications, Forms, and About Us. The quick resources section contains several tiles: POST Professional Certificates, POST Regulations, Regulatory Actions, Law Enforcement Job Opportunities, Find Training, Senate Bill No. 2 (circled in red), Law Enforcement Resources, Frequently Asked Questions, and Email Alerts. The text for Senate Bill No. 2 reads: "This bill eliminates certain immunity provisions for peace officers, custodial officers, and certain public entities."

disqualifies a person from being employed as a peace officer if that person has been convicted of, or has been adjudicated in an administrative, military, or civil judicial process as having committed, a violation of certain specified crimes against public justice, including the falsification of records, bribery, or perjury. The bill disqualifies any person who has been certified as a peace officer by the Commission on Peace Officer Standards and Training and has surrendered that certification or had that certification revoked by the commission, or has been denied certification. The bill disqualifies any person previously employed in law enforcement in any state or United States territory or by the federal government, whose name is listed in the national decertification index, or any other database designated by the federal government, or who engaged in serious misconduct that would have resulted in their certification being revoked in this state. The bill requires a law enforcement agency employing certain peace officers to employ only individuals with a current, valid certification or pending certification.

The bill requires the Department of Justice to provide the commission with necessary disqualifying felony

## Peace Officer Certification Training Series



POST is presenting a series of training courses focused on providing participants with the necessary and relevant information to comply with the legislative requirements pursuant to SB 2.

[Register for one of our courses](#)

# Penal Codes for Reference

[Bill Text - SB-2 Peace officers: certification: civil rights.](#)

Penal Code PART 2. OF CRIMINAL PROCEDURE [681 - 1620]

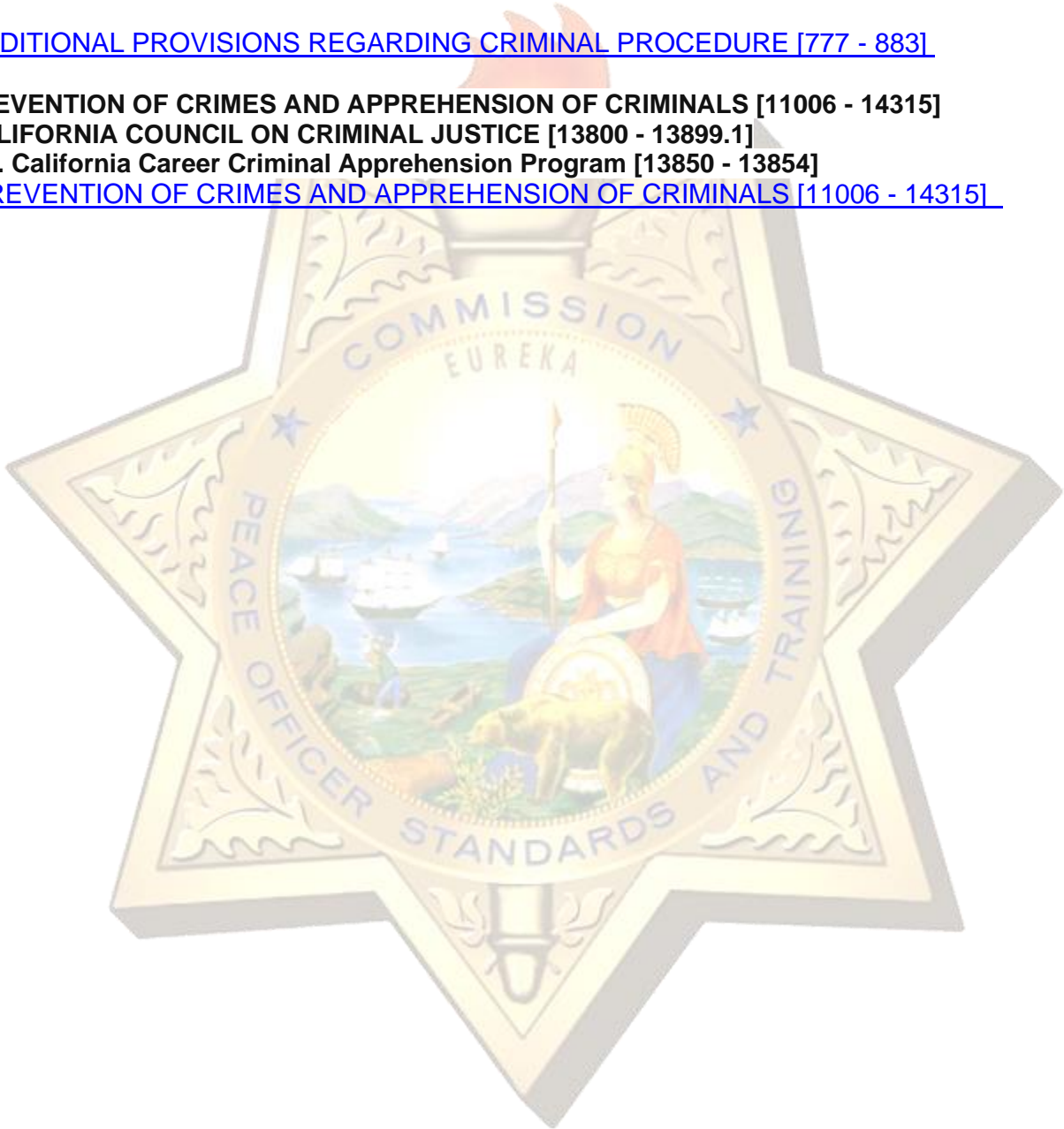
[TITLE 3. ADDITIONAL PROVISIONS REGARDING CRIMINAL PROCEDURE \[777 - 883\]](#)

**PART 4. PREVENTION OF CRIMES AND APPREHENSION OF CRIMINALS [11006 - 14315]**

**TITLE 6. CALIFORNIA COUNCIL ON CRIMINAL JUSTICE [13800 - 13899.1]**

**CHAPTER 6. California Career Criminal Apprehension Program [13850 - 13854]**

[PART 4. PREVENTION OF CRIMES AND APPREHENSION OF CRIMINALS \[11006 - 14315\]](#)



# Regulations Links for Reference

Current: [Commission Regulations https://post.ca.gov/Commission-Regulations](https://post.ca.gov/Commission-Regulations)

[Pending Approval of Regulations https://post.ca.gov/Regulatory-Actions](https://post.ca.gov/Regulatory-Actions)

To find current regulations, and pending regulations on our website please visit [www.post.ca.gov](http://www.post.ca.gov) and select the Quick Resources Tab:

The screenshot shows the POST website header with the 'Quick Resources' tab highlighted. Below the header is a grid of content boxes:

- POST Professional Certificates**: Peace Officer, Dispatcher/Supervisor, and Records Supervisor
- POST Regulations**: The POST program exists under the authority of, and in compliance with, California Penal Code Sections 13503, 13506, and 13510
- Regulatory Actions**: Amendments and updates to training and selection requirements
- Law Enforcement Job Opportunities**: California law enforcement job opportunities available
- Find Training**: Find training near you using the Course Catalog and Learning Portal
- Senate Bill No. 2**: This bill eliminates certain immunity provisions for peace officers, custodial officers, and certain public entities.
- Law Enforcement Resources**: Law enforcement statistics, agencies, associations, and campaigns
- Frequently Asked Questions**: General and program-specific FAQs
- Email Alerts**: Subscribe to receive email alerts for POST news, reports, bulletins, and job opportunities

disqualifies a person from being employed as a peace officer if that person has been convicted of, or has been adjudicated in an administrative, military, or civil judicial process as having committed, a violation of certain specified crimes against public justice, including the falsification of records, bribery, or perjury. The bill disqualifies any person who has been certified as a peace officer by the Commission on Peace Officer Standards and Training and has surrendered that certification or had that certification revoked by the commission, or has been denied certification. The bill disqualifies any person previously employed in law enforcement in any state or United States territory or by the federal government, whose name is listed in the



POST is presenting a series of training courses

# Government Code 1029

## [Government Code 1029](#)

**SEC. 4.** Section 1029 of the Government Code is amended to read:

1029. (a) Except as provided in subdivision (b), (c), (d), or (e), each of the following persons is disqualified from holding office as a peace officer or being employed as a peace officer of the state, county, city, city and county or other political subdivision, whether with or without compensation, and is disqualified from any office or employment by the state, county, city, city and county or other political subdivision, whether with or without compensation, which confers upon the holder or employee the powers and duties of a peace officer:

(1) Any person who has been convicted of a felony.

(2) Any person who has been convicted of any offense in any other jurisdiction which would have been a felony if committed in this state.

(3) Any person who has been discharged from the military for committing an offense, as adjudicated by a military tribunal, which would have been a felony if committed in this state.

(4) (A) Any person who, after January 1, 2004, has been convicted of a crime based upon a verdict or finding of guilt of a felony by the trier of fact, or upon the entry of a plea of guilty or nolo contendere to a felony. This paragraph applies regardless of whether, pursuant to subdivision (b) of Section 17 of the Penal Code, the court declares the offense to be a misdemeanor or the offense becomes a misdemeanor by operation of law.

(B) For purposes of this paragraph, a person has been "convicted of a crime" immediately upon entry of a plea of guilty or nolo contendere to, or upon being found guilty by a trier of fact of, a felony offense, including an offense that may be charged as a misdemeanor or felony and that was charged as a felony at the time of the conviction.

(C) Effective January 1, 2022, any person who has been convicted of a crime in accordance with this paragraph shall not regain eligibility for peace officer employment based upon the nature of any sentence ordered or imposed. In addition, no such person shall regain eligibility for peace officer employment based upon any later order of the court setting aside, vacating, withdrawing, expunging or otherwise dismissing or reversing the conviction, unless the court finds the person to be factually innocent of the crime for which they were convicted at the time of entry of the order.

(5) Any person who has been charged with a felony and adjudged by a superior court to be mentally incompetent under Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code.

(6) Any person who has been found not guilty by reason of insanity of any felony.

(7) Any person who has been determined to be a mentally disordered sex offender pursuant to Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(8) Any person adjudged addicted or in danger of becoming addicted to narcotics, convicted, and committed to a state institution as provided in Section 3051 of the Welfare and Institutions Code.

(9) Any person who, following exhaustion of all available appeals, has been convicted of, or adjudicated through an administrative, military, or civil judicial process requiring not less than clear and convincing evidence, including a hearing that meets the requirements of the administrative adjudication provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2), as having committed, any act that is a violation of Section 115, 115.3, 116, 116.5, or 117 of, or of any offense described in Chapter 1 (commencing with Section 92), Chapter 5 (commencing with Section 118), Chapter 6 (commencing with Section 132), or Chapter 7 (commencing with Section 142) of Title 7 of Part 1 of the Penal Code, including any act committed in another jurisdiction that would have been a violation of any of those sections if committed in this state.

(10) Any person who has been issued the certification described in Section 13510.1 of the Penal Code, and has had that certification revoked by the Commission on Peace Officer Standards and Training, has voluntarily surrendered that certification pursuant to subdivision (f) of Section 13510.8, or having met the minimum requirement for issuance of certification, has been denied issuance of certification.

(11) Any person previously employed in law enforcement in any state or United States territory or by the federal government, whose name is listed in the National Decertification Index of the International Association of Directors of Law Enforcement Standards and Training or any other database designated by the federal government whose certification as a law enforcement officer in that jurisdiction was revoked for misconduct, or who, while employed as a law enforcement officer, engaged in serious misconduct that would have resulted in their certification being revoked by the commission if employed as a peace officer in this state.

(b) (1) A plea of guilty to a felony pursuant to a deferred entry of judgment program as set forth in Sections 1000 to 1000.4, inclusive, of the Penal Code shall not alone disqualify a person from being a peace officer unless a judgment of guilty is entered pursuant to Section 1000.3 of the Penal Code.

(2) A person who pleads guilty or nolo contendere to, or who is found guilty by a trier of fact of, an alternate felony-misdemeanor drug possession offense and successfully completes a program of probation pursuant to Section 1210.1 of the Penal Code shall not be disqualified from being a peace officer solely on the basis of the plea or finding if the court deems the offense to be a misdemeanor or reduces the offense to a misdemeanor.

(c) Any person who has been convicted of a felony, other than a felony punishable by death, in this state or any other state, or who has been convicted of any offense in any other state which would have been a felony, other than a felony punishable by death, if committed in this state, and who demonstrates the ability to assist persons in programs of rehabilitation may hold office and be employed as a parole officer of the Department of

Corrections and Rehabilitation or the Division of Juvenile Justice, or as a probation officer in a county probation department, if the person has been granted a full and unconditional pardon for the felony or offense of which they were convicted. Notwithstanding any other provision of law, the Department of Corrections and Rehabilitation or the Division of Juvenile Justice, or a county probation department, may refuse to employ that person regardless of their qualifications.

(d) This section does not limit or curtail the power or authority of any board of police commissioners, chief of police, sheriff, mayor, or other appointing authority to appoint, employ, or deputize any person as a peace officer in time of disaster caused by flood, fire, pestilence or similar public calamity, or to exercise any power conferred by law to summon assistance in making arrests or preventing the commission of any criminal offense.

(e) This section does not prohibit any person from holding office or being employed as a superintendent, supervisor, or employee having custodial responsibilities in an institution operated by a probation department if at the time of the person's hire a prior conviction of a felony was known to the person's employer, and the class of office for which the person was hired was not declared by law to be a class prohibited to persons convicted of a felony, but as a result of a change in classification, as provided by law, the new classification would prohibit employment of a person convicted of a felony.

(f) The Department of Justice shall supply the commission with necessary disqualifying felony and misdemeanor conviction data for all persons known by the department to be current or former peace officers. The commission shall be permitted to use the information for decertification purposes. The data, once received by the commission, shall be made available for public inspection pursuant to the California Public Records Act (Chapter

3.5 (commencing with Section 6250) of Division 7 of Title 1), including documentation of the person's appointment, promotion, and demotion dates, as well as certification or licensing status and the reason or disposition for the person leaving service.

Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2), as having committed, any act that is a violation of Section 115, 115.3, 116, 116.5, or 117 of, or of any offense described in Chapter 1 (commencing with Section 92), Chapter 5 (commencing with Section 118), Chapter 6 (commencing with Section 132), or Chapter 7 (commencing with Section 142) of Title 7 of Part 1 of the Penal Code, including any act committed in another jurisdiction that would have been a violation of any of those sections if committed in this state.

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(h) Any person who has been convicted of a felony, other than a felony punishable by death, in this state or any other state, or who has been convicted of any offense in any other state which would have been a felony, other than a felony punishable by death, if committed in this state, and who demonstrates the ability to assist persons in programs of rehabilitation may hold office and be employed as a parole officer of the Department of Corrections and Rehabilitation or the Division of Juvenile Justice, or as a probation officer in a county probation department, if the person has been granted a full and unconditional pardon for the felony or offense of which they were convicted. Notwithstanding any other provision of law, the Department of Corrections and Rehabilitation or the Division of Juvenile Justice, or a county probation department, may refuse to employ that person regardless of their qualifications.

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3.5 (commencing with Section 6250) of Division 7 of Title 1), including documentation of the person's appointment, promotion, and demotion dates, as well as certification or licensing status and the reason or disposition for the person leaving service.



# National Decertification Index


<https://www.iadlest.org/our-services/ndi/about-ndi>



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of Law Enforcement Standards and Training

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[Conference](#)

## About NDI



<ul style="list-style-type: none"> <li><a href="#">About</a></li> <li><a href="#">NLEARN</a> <span style="float: right;">+</span></li> <li><a href="#">NDI</a> <span style="float: right;">-</span></li> <li style="padding-left: 20px;"><a href="#">About NDI</a></li> <li style="padding-left: 20px;"><a href="#">Request NDI Access</a></li> <li><a href="#">NCP</a></li> <li><a href="#">Curriculum Development &amp; JTA</a></li> <li><a href="#">Academy Innovations</a></li> <li><a href="#">Accreditation</a> <span style="float: right;">+</span></li> <li><a href="#">ForcePolicyCertification</a></li> <li><a href="#">POST Agency Audit</a></li> <li><a href="#">Model Standards</a></li> <li><a href="#">IADLEST Store</a> <span style="float: right;">+</span></li> <li><a href="#">IADLEST Gear</a></li> <li><a href="#">CRI-TAC</a></li> </ul>	<p>The purpose of the National Decertification Index (NDI) is to serve as a national registry of certificate or license revocation actions relating to officer misconduct. The records contained in the NDI are provided by participating state government agencies and should be verified with the contributing authority. Inclusion in the database does not necessarily preclude any individual from appointment as an officer.</p> <p>For additional information, contact <a href="#">Mike Becar</a>, Executive Director.</p> <p><a href="#">NDI Brochure</a>      <a href="#">Frequently Asked Questions (FAQ)</a></p> <p><b>NDI Podcast</b></p> <p>The Executive Director of IADLEST shares information on the NDI. He discusses what information is included, who is entering records, who has access and how the system works. (14 minutes)</p> <p><a href="#">How the NDI Works</a></p> <p>The NDI currently contains <b>32677</b> actions reported by <b>46</b> certifying agencies.</p> <div style="text-align: center; margin: 10px 0;"> <div style="border: 1px solid #ccc; background-color: #f0f0f0; padding: 5px; display: inline-block;">Request Access To The NDI</div> </div> <p><b>CALIFORNIA</b> applicants begin here:</p> <div style="text-align: center; margin: 10px 0;"> <div style="border: 1px solid #ccc; background-color: #f0f0f0; padding: 5px; display: inline-block;">CALIFORNIA Applicants</div> </div> <div style="text-align: center; margin: 10px 0;"> <div style="border: 1px solid #ccc; background-color: #e67e22; color: white; padding: 5px; display: inline-block;">Log Into NDI</div> </div>
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## NDI Expansion Project

The International Association of Directors of Law Enforcement Standards and Training (IADLEST) is seeking information as outlined in this Request for Information, regarding a project to expand the National Decertification Index (NDI).

The purpose of this project is to modify and expand the functionality of the NDI pursuant to the requirements of a Presidential Executive Order.



# Notice of Appointment

[ Certificate Comments (6) ]

tester AGENCY  
TEST AGENCY


- Home
- Personnel
- Certificates
- Reimbursement
- Reports
- SBSLI
- CPRA
- Contact Us

## Notice of Appointment


Please review your Notice of Appointment:

Social Security:	***_**_****11
POST ID:	Z99-Z99
Name:	NORTH, SOUTH
Date of Birth:	10/01/1974
Gender:	Non-Binary
Race/Ethnicity:	Filipino
Appointment Date:	07/01/2022
Rank:	PO
Time Base:	Full Time
Seasonal:	No
Pay Status:	Paid
Appointment Status:	Peace Officer
Agency:	TEST AGENCY


Add an Attestation

Browse... POE\_attestation\_doc1.pdf  (.pdf)

Are you sure this Notice of Appointment is correct?



POST Website | Learning Portal | Course Catalog | EDI Application



# Attestation of Peace Officer Eligibility

State of California – Department of Justice  
**ATTESTATION OF PEACE OFFICER ELIGIBILITY**  
 POST 2-356 (03/2022)  
 Page 1 of 3

Commission on  
 Peace Officer Standards and Training (POST)  
 860 Stillwater Road, Suite 100  
 West Sacramento, CA 95605-1630 • 916 227-3909

SECTION 1: IDENTIFICATION	
1. POST ID (If known)	5. RACE/ETHNICITY
2. NAME (Last, First, Middle)	6. APPOINTMENT DATE
3. BIRTHDATE	7. RANK
4. GENDER <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Non-binary	8. AGENCY
SECTION 2: ATTESTATION	
9. For all applicants (Initials required by employing agency hiring authority): <input type="checkbox"/> The individual being appointed has been evaluated in accordance with and met all minimum peace officer background and hiring requirements as described in Government Code §1029, 1031, 1031.4, and Commission Regulations §1950-1955.	
10. For applicants with previous employment as a peace officer (Initials required by employing agency hiring authority): <input type="checkbox"/> I attest the appointing agency has requested and reviewed records of any investigations of misconduct involving the applicant and maintained in the officer's designated file as described in Penal Code §832.12. <input type="checkbox"/> Beginning January 1, 2023, I attest the agency has contacted POST to inquire as to the facts and reasons a peace officer became separated from any previous employing agency as described in Penal Code §13510.9(d)(3).	
<b>I hereby attest the individual being appointed is eligible to be employed and hold office as a peace officer in California.</b>	
SECTION 3: HIRING AUTHORITY SIGNATURE OR AUTHORIZED DESIGNEE	
PRINT NAME OF HIRING AUTHORITY	CONTACT NUMBER
SIGNATURE OF HIRING AUTHORITY	EMAIL
TITLE	DATE
POST USE ONLY	

# Affidavit of Serperation

State of California – Department of Justice

**AFFIDAVIT OF SEPARATION**

POST 2-357 (03/2022)

Page 1 of 2

RESET

PRINT

Commission on  
Peace Officer Standards and Training (POST)  
860 Stillwater Road, Suite 100  
West Sacramento, CA 95605-1630 • 916 227-3909

**INFORMATION PRIVACY ACT:** Pursuant to the Federal Privacy Act (Public Law 93-579) and the Information Practices Act (IPA) of 1977 (Civil Code Sections 1798, et seq.), notice is hereby given for the request of personal information. Failure to provide any part of the requested information may delay processing of this application or result in an incomplete record. No disclosure of personal information will be made unless permissible under Article 6, Section 1798.24 of the IPA of 1977. Each individual for whom personal information is collected has the right to inspect that information in any record maintained by POST. Inquiries may be directed to the POST Information Practices Act Coordinator at the address listed above. Contact the POST Administrative Services Bureau for instructions on requesting records.

**INSTRUCTIONS**

- Complete Section 1—Identification, Section 2—(POST Reg 1003), Section 3—Notice to Officer and Section 4—Attestation.
- Please type or legibly print (in ink) all required information. Use the TAB key (or Shift-tab) to navigate between boxes.
- Upload a printout of this Notice to the Electronic Data Interchange (EDI) within 10 days of separation.

**SECTION 1: IDENTIFICATION**

1. POST ID NUMBER (OR SSN)	2. NAME (Last, First, Middle)	3. BIRTHDATE (MM/DD/YYYY)
4. GENDER <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Non-binary	5. ALSO KNOWN AS (Last, First, Middle)	FOR POST USE ONLY
6. ADDRESS		
7. RACE/ETHNICITY (Check box that best describes race/ethnicity — See <i>INSTRUCTIONS for Definitions</i> ) <input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Filipino <input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Native Hawaiian or Pacific Islander <input type="checkbox"/> White <input type="checkbox"/> Other		
8. RANK / CLASSIFICATION (Select and enter the POST Code from the list — See <i>INSTRUCTIONS for Rank/Class</i> )	9. AGENCY NAME	

**SECTION 2: TERMINATION / SEPARATION**

10. DATE OF FINAL SEPARATION (MM/DD/YYYY)	11. REASON FOR SEPARATION <input type="checkbox"/> Retired <input type="checkbox"/> Resigned <input type="checkbox"/> Deceased <input type="checkbox"/> Involuntary Separation <input type="checkbox"/> Resigned/Retired Pending Complaint, Administrative Charge, or Investigation for misconduct
12. RESOLUTION OR SETTLEMENT Was the reason for separation part of a resolution or settlement for misconduct? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please check the appropriate box: <input type="checkbox"/> Criminal Charge or Investigation <input type="checkbox"/> Civil Charge or Investigation <input type="checkbox"/> Administrative Charge or Investigation	13. REASON FOR SEPARATION DUE TO MISCONDUCT PER COMMISSION REGULATION 1205 Indicate Reason(s) For Discharge Related to Misconduct (Choose all that apply) <input type="checkbox"/> Dishonesty <input type="checkbox"/> Abuse of Power <input type="checkbox"/> Physical Abuse <input type="checkbox"/> Sexual Assault <input type="checkbox"/> Demonstrating Bias <input type="checkbox"/> Egregious Repeated Acts <input type="checkbox"/> Law Enforcement Gang <input type="checkbox"/> Failure to Cooperate with Investigation <input type="checkbox"/> Failure to Intercede <input type="checkbox"/> Other _____

**SECTION 3: NOTICE TO SEPARATING OFFICER**

14. NOTICE TO OFFICER

The peace officer has been advised of their right to respond in writing to this Affidavit of Separation to the commission if the facts and reasons as they understand them are different than those provided by the agency.

Name of the person providing notice \_\_\_\_\_

Was the peace officer provided a copy of this completed form?  Yes  No

If yes, what manner was the form provided to the peace officer?  In Person  Mail  Certified Mail  
 Other (Specify) \_\_\_\_\_

**SECTION 4: AGENCY HEAD OR THEIR DESIGNEE**

15. ATTESTATION OF REPORTING OFFICIAL

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this affidavit (declaration) was executed on the date listed below.

Print Full Name: \_\_\_\_\_ Title: \_\_\_\_\_ Contact Number ( ) \_\_\_\_\_

Signature ► \_\_\_\_\_ Date: \_\_\_\_\_

# Basic Certificate

Any peace officer employed by a POST-participating agency who successfully completes the appropriate basic course for their classification and successfully completes their agency's probationary period

Any peace officer employed by a non-POST-participating agency whose classification requires a Basic Certificate pursuant to Penal Code Section 832.4



# Session B

## Reporting Requirements and Decertification Investigation Process

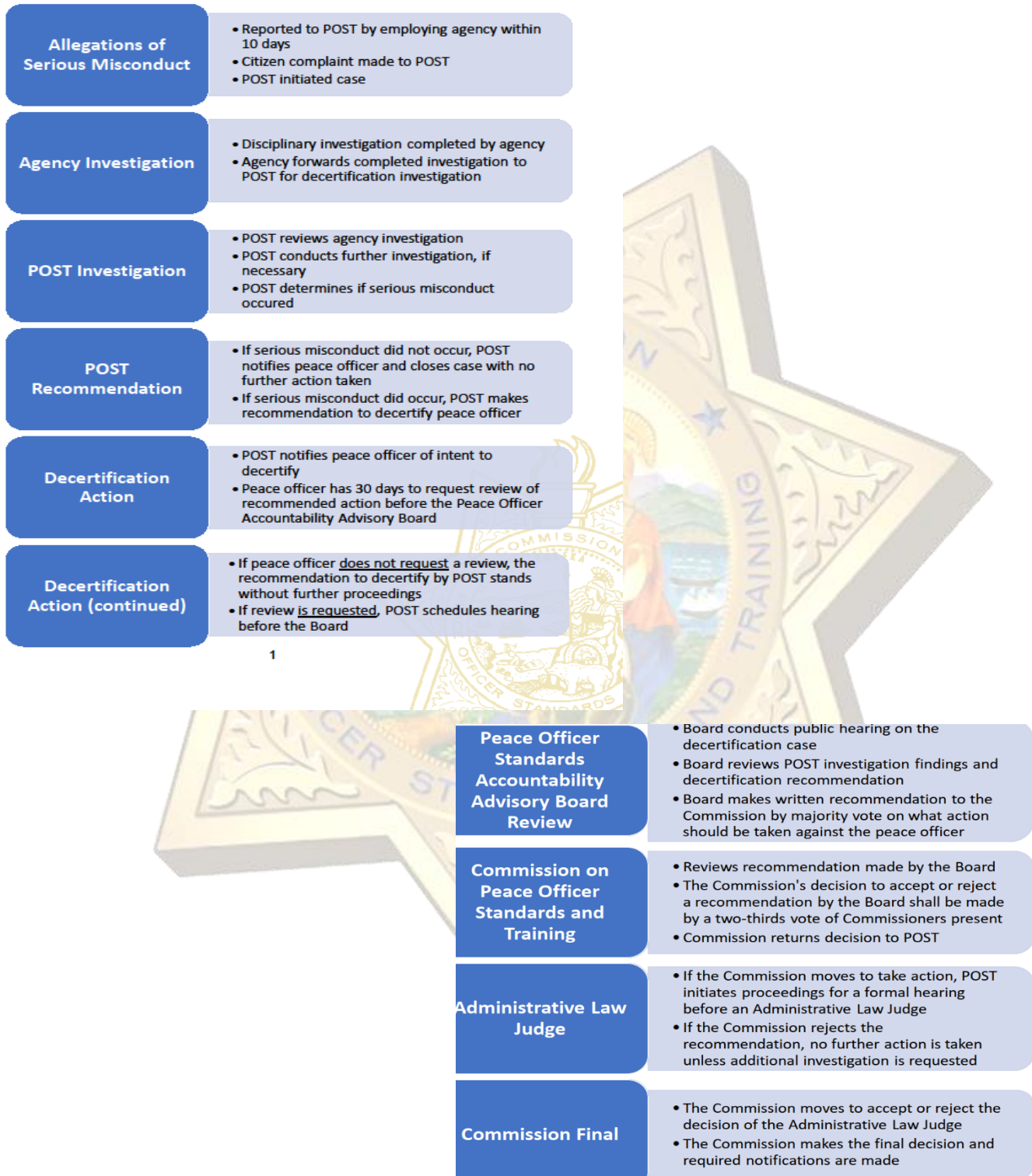


Questions: [SB2@post.ca.gov](mailto:SB2@post.ca.gov)

# Decertification Workflow



## Peace Officer Decertification Workflow



# 13510.8 Serious Misconduct

(a)(1) A certified peace officer shall have their certification revoked if the person is or has become ineligible to hold office as a peace officer pursuant to section 1029 of the Government Code.

2) A peace officer may have their certification suspended or revoked if the person has been terminated for cause from employment as a peace officer for, or has, while employed as a peace officer, otherwise engaged in, any serious misconduct as described in subdivision (b).

b) By January 1, 2023, the commission shall adopt by regulation a definition of “serious misconduct” that shall serve as the criteria to be considered for ineligibility for, or revocation of, certification. This definition shall include all of the following:

(1) **Dishonesty** relating to the reporting, investigation, or prosecution of a crime, or relating to the reporting of, or investigation of misconduct by, a peace officer or custodial officer, including, but not limited to, false statements, intentionally filing false reports, tampering with, falsifying, destroying, or concealing evidence, perjury, and tampering with data recorded by a body-worn camera or other recording device for purposes of concealing misconduct.

(2) **Abuse of power**, including, but not limited to, intimidating witnesses, knowingly obtaining a false confession, and knowingly making a false arrest.

(3) **Physical abuse**, including, but not limited to, the excessive or unreasonable use of force.

(4) **Sexual assault**, as described in subdivision (b) of Section 832.7.

(5) **Demonstrating bias** on the basis of race, national origin, religion, gender identity or expression, housing status, sexual orientation, mental or physical disability, or other protected status in violation of law or department policy or inconsistent with a peace officer’s obligation to carry out their duties in a fair and unbiased manner. This paragraph does not limit an employee’s rights under the First Amendment to the United States Constitution.

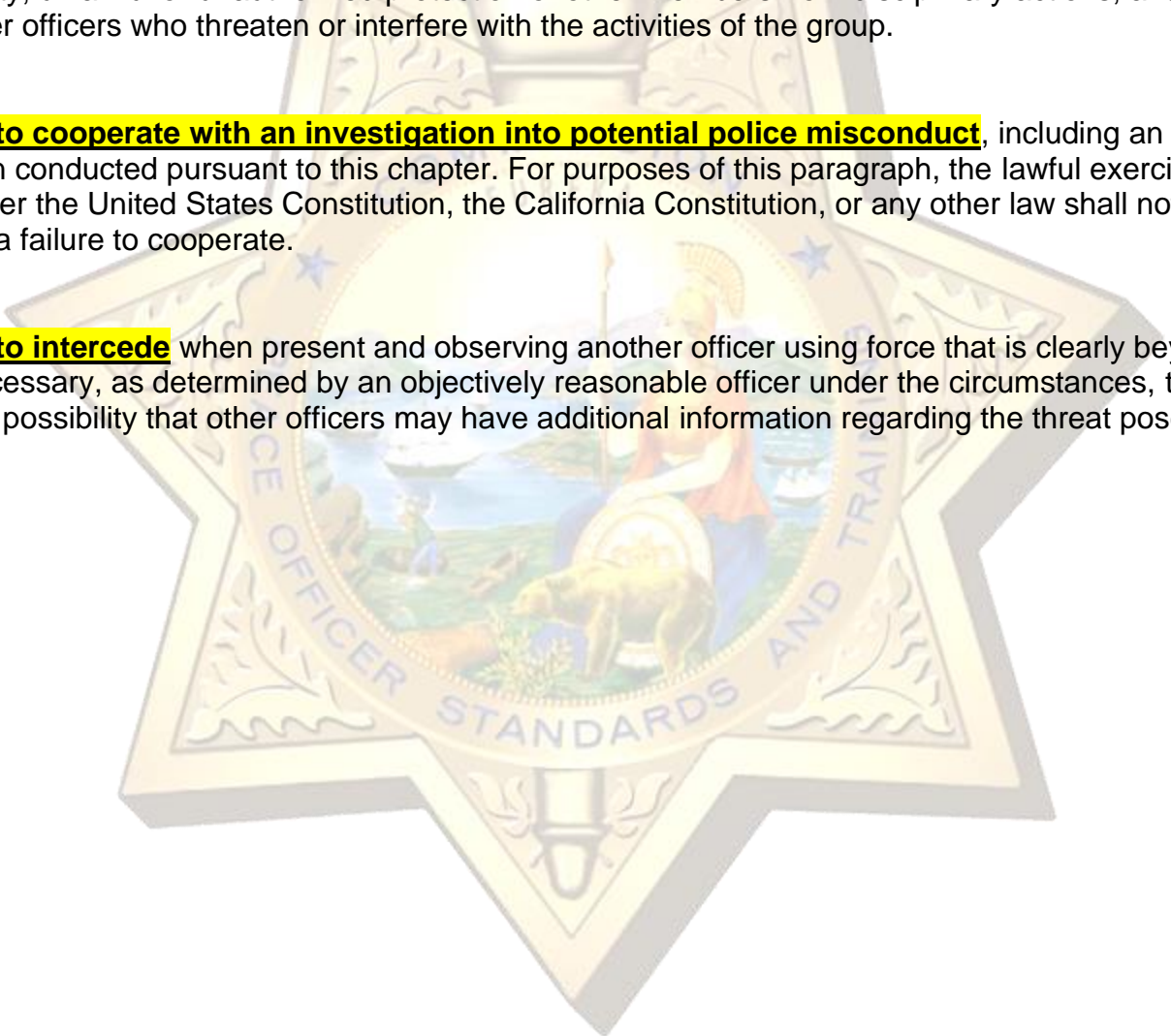
(6) **Acts that violate the law** and are sufficiently egregious or repeated as to be inconsistent with a peace officer’s obligation to uphold the law or respect the rights of members of the public, as determined by the commission. Whether a particular factual or legal determination in a prior appeal proceeding shall have preclusive effect in proceedings under this chapter shall be governed by the existing law of collateral estoppel.



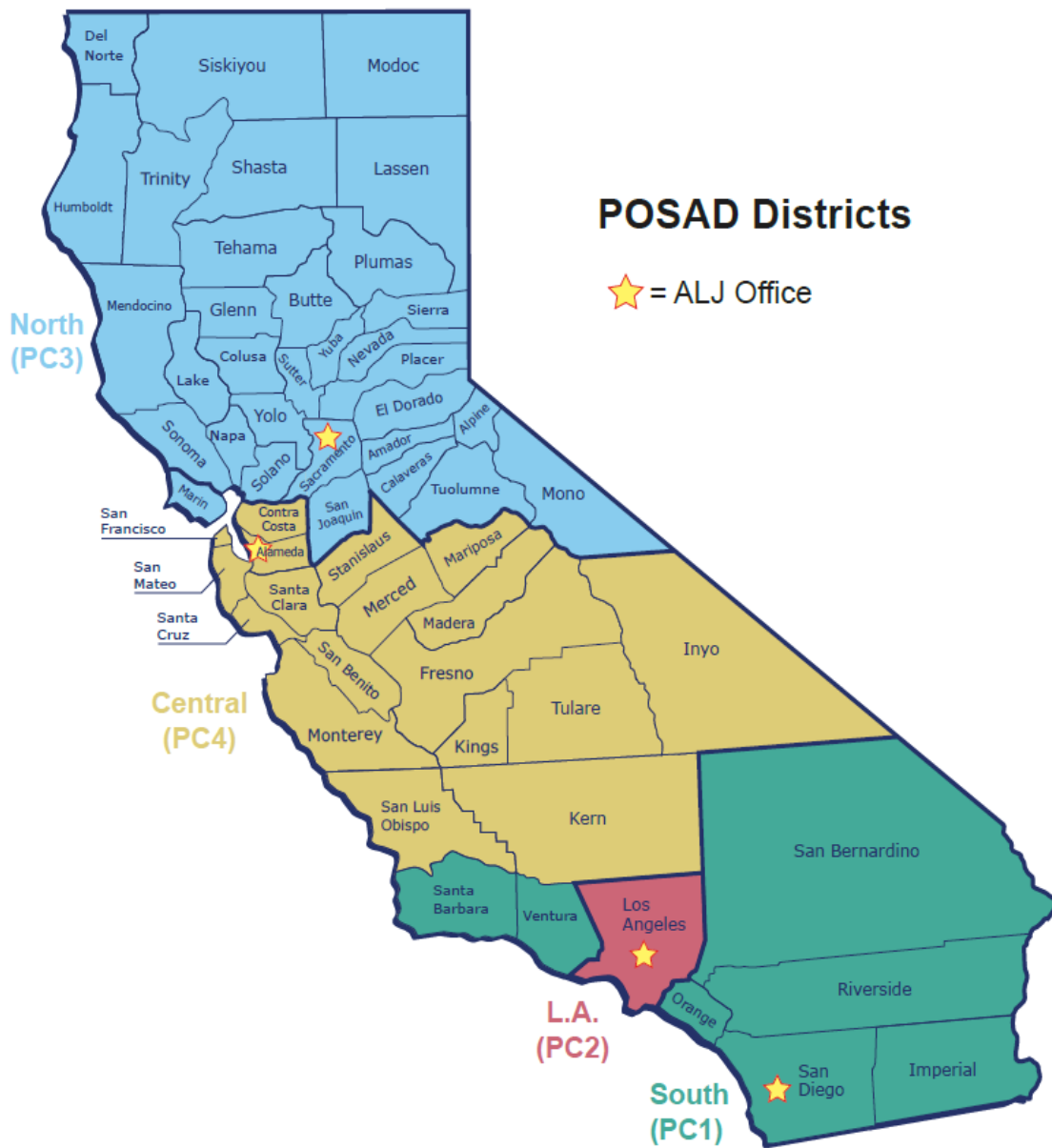
**(7) Participation in a law enforcement gang.** For the purpose of this paragraph, a “law enforcement gang” means a group of peace officers within a law enforcement agency who may identify themselves by a name and may be associated with an identifying symbol, including, but not limited to, matching tattoos, and who engage in a pattern of on-duty behavior that intentionally violates the law or fundamental principles of professional policing, including, but not limited to, excluding, harassing, or discriminating against any individual based on a protected category under federal or state antidiscrimination laws, engaging in or promoting conduct that violates the rights of other employees or members of the public, violating agency policy, the persistent practice of unlawful detention or use of excessive force in circumstances where it is known to be unjustified, falsifying police reports, fabricating or destroying evidence, targeting persons for enforcement based solely on protected characteristics of those persons, theft, unauthorized use of alcohol or drugs on duty, unlawful or unauthorized protection of other members from disciplinary actions, and retaliation against other officers who threaten or interfere with the activities of the group.

**(8) Failure to cooperate with an investigation into potential police misconduct,** including an investigation conducted pursuant to this chapter. For purposes of this paragraph, the lawful exercise of rights granted under the United States Constitution, the California Constitution, or any other law shall not be considered a failure to cooperate.

**(9) Failure to intercede** when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject.



# POSAD Districts



## **Supplemental Hate Crime Report.pdf**

**Hate incident (No Crime Committed)**

**Hate Crime (422.6 PC, 51.7 CC, 52.1 CC)**

**VICTIM**

**VICTIM TYPE**

**Individual**

Legal name (Last, First): \_\_\_\_\_

Date of Birth	Age	Sex	Race

**School, business or organization**

Name: \_\_\_\_\_

Type: \_\_\_\_\_  
 (e.g., non-profit, private, public school)

**Faith-based organization**

Name: \_\_\_\_\_

Faith: \_\_\_\_\_

**Other**

Name: \_\_\_\_\_

Type: \_\_\_\_\_

Address: \_\_\_\_\_

Date and time of incident: \_\_\_\_\_

Location of incident: \_\_\_\_\_

Date and time of report: \_\_\_\_\_

Location of report: \_\_\_\_\_

Agency Case #: \_\_\_\_\_

**NATURE OF CALL FOR SERVICE (check all that apply)**

Crime against persons

Crime against property

Gang activity

Other \_\_\_\_\_

**BIAS**

**TYPE OF BIAS**

*(Check all characteristics that apply)*

Disability

Gender

Gender identity/expression

Sexual orientation

Race

Ethnicity

Nationality

Religion

Significant day of offense

*(e.g., 9/11, holy days)*

Association with a person or group with one or more of these characteristics (actual or perceived)

Other: \_\_\_\_\_

**ACTUAL OR PERCEIVED BIAS – VICTIM’S STATEMENT**

Actual bias [Victim has the indicated characteristic(s)].

Perceived bias [Suspect believed victim had the indicated characteristic(s)].

**REASON FOR BIAS:**

Do you feel you were targeted based on one of these characteristics?

Yes     No

Do you know what motivated the suspect to commit this crime?

Yes     No

Do you feel you were targeted because you associated yourself with an individual or a group?

Yes     No

Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)?

Yes     No

Are there Indicators the suspect is affiliated with a criminal street gang?

Yes     No

**BIAS INDICATORS (CHECK ALL THAT APPLY):**

Hate speech

Acts/gestures

Property damage

Symbol used

Written/electronic communication

Graffiti/spray paint

Other: \_\_\_\_\_

**HISTORY**

<b>SUSPECT INFORMATION</b>				<b>RELATIONSHIP BETWEEN SUSPECT &amp; VICTIM</b>			
Legal name (Last, First): _____				Suspect known to victim: <input type="checkbox"/> Yes <input type="checkbox"/> No			
Other Names used (AKA): _____				Nature of relationship: _____			
Date of Birth	Age	Sex	Race	Length of relationship: _____			
				<input type="checkbox"/> Prior reported incidents with suspect: <i>Total #</i> _____			
Relationship to Victim: _____				Prior unreported incidents with suspect: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown			

**WEAPONS/FORCE**

Weapon(s) used during incident?  Yes  No      Type: \_\_\_\_\_

Force used during incident?  Yes  No      Type: \_\_\_\_\_

**EVIDENCE**

Witnesses present during incident?  Yes  No      Statements taken?  Yes  No

Evidence collected? <input type="checkbox"/> Yes <input type="checkbox"/> No	Recordings: <input type="checkbox"/> Video <input type="checkbox"/> Audio <input type="checkbox"/> Booked	
Photos taken? <input type="checkbox"/> Yes <input type="checkbox"/> No	Suspect identified: <input type="checkbox"/> Field ID <input type="checkbox"/> By photo/video <input type="checkbox"/> Known	

**RESOURCES**

Resources offered at scene:  Yes  No

Marsy's Law Handout       Hate Crimes Brochure       Other: \_\_\_\_\_

**MEDICAL**

Victim	Suspect	
<input type="checkbox"/>	<input type="checkbox"/>	Declined medical treatment
<input type="checkbox"/>	<input type="checkbox"/>	Will seek own medical treatment
<input type="checkbox"/>	<input type="checkbox"/>	Received medical treatment
<input type="checkbox"/>	<input type="checkbox"/>	Injuries observed

Completed by	Date
Name/Title/ID number	

**Traffic\_Motor Officer Belt Buckle 011724.pdf**



## INDIO POLICE DEPARTMENT

### -Memorandum-

*LCWESG 2-13-24*

*NO OBJECTION  
MRL 2-21-2024*

*OS  
2.14.2024*

**TO: Christopher Shaefer, Assistant Chief of Police**

**FROM: Viktor Custic, Police Officer**

**DATE: January 17, 2024**

**RE: Traffic/Motor Officer Belt Buckle**

---

The purpose of this memorandum is to respectfully request an amendment to the Indio Police Department Police 1045 Uniform Regulations.

The Indio Police Department Traffic Unit is requesting an amendment to the uniform regulation policy to allow motor officers to wear a "Motor" belt buckle as part of their uniform. The Indio Police Department Traffic Unit actively participates in the Valley Motor Enforcement Team (VMET) with the Cathedral City Police Department, Palm Springs Police Department, and Riverside County Sheriff's Office.

In recent participation of VMET, Indio Police Department motor officers learned the Palm Springs Police Department and Riverside County Sheriff's Office have been authorized to wear a "Motor" belt buckle. As a result, the Indio Police Department Traffic Unit would request the same authorization to show a more unified uniform when participating in VMET.

In addition, the Indio Police Department Traffic Unit believes that the "Motor" belt buckle would bring better public relations to the community at such events as National Night Out, etc. The "Motor" belt buckle could later transition into a challenge coin for fundraising and be a great keepsake for a retirement gift or shadow box.

The Indio Police Department Traffic Unit thanks you for your time and consideration in this matter.

Respectfully Submitted,

*W332*  
Officer Viktor Custic

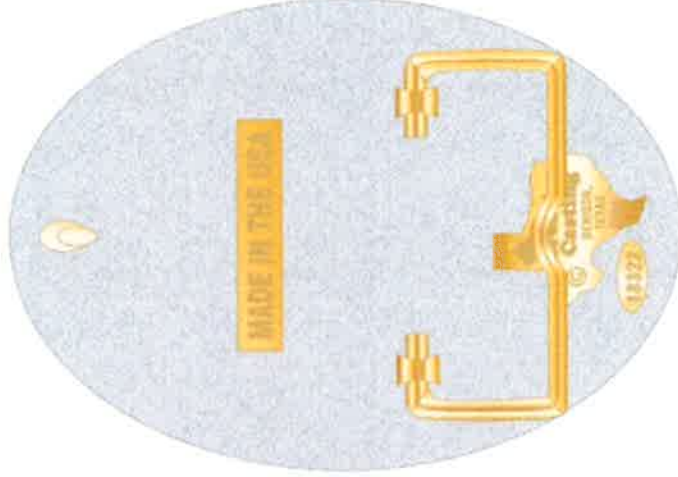
**PRODUCT NAME:** Indio PD Motors

**PRODUCT** 18322

**MASKING/PLATING**

**COLOR INLAY:**

**SPC. INSTRUCTIONS:** STATE MASTER: CA



**APPROX. SIZE:**  
2 5/8" X 3 5/8"

*Creative Casting*

**PROPOSED DESIGN BY**

**ORIGINAL - DATE** 1-11-24

**REVISED - DATE**

**WORDING SUBJECT TO YOUR CHANGE**

**1827 S. ARMSTRONG  
DENISON, TX. 75020  
903-463-6160 • 800-338-2252  
FAX: 903-465-6220  
sales@creativecastinginc.com**

*Thank You!*

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**3060\_001 Uniform Reference Sample PDF.pdf**

**Flying Cross 100% Wool**



**Blauer Wool Blend**



**Elbeco 100% Wool**





**United Uniforms Wool Blend**

**Flying Cross 100% Wool**



**Blauer Side Pocket Class B**



**Elbeco Class B**





**Blauer 6 pocket Class B**



**United Uniform 6 pocket Class B**



### 5.11 Class A Polo (Summer Uniform)



## 5.11 EMS 11 Shorts (Summer Uniform)



**5.11 9" Shorts (Women's Summer Uniform)**



**BPS Exterior Vest (Patrol)**



**BPS Exterior Vest (Detective)**



**BPS Exterior Vest (Detective)**





**Cadet/CHIP Flying Cross Shirt**



SWAT 5.11 Polo



**SWAT 5.11 Rapid Assault shirt**





**SWAT 5.11 Ripstop shirt**

**SWAT 5.11 Ripstop Pants**



**SWAT 5.11 Fleece Jacket**





**Sergeant Cheverons**

**20210SB2\_91 (1) SB2 text.pdf**



## Senate Bill No. 2

### CHAPTER 409

An act to amend Section 52.1 of the Civil Code, to amend Section 1029 of the Government Code, and to amend Sections 832.7, 13503, 13506, 13510, 13510.1, and 13512 of, to amend the heading of Article 2 (commencing with Section 13510) of Chapter 1 of Title 4 of Part 4 of, and to add Sections 13509.5, 13509.6, 13510.8, 13510.85, and 13510.9 to, the Penal Code, relating to public employment.

[Approved by Governor September 30, 2021. Filed with  
Secretary of State September 30, 2021.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 2, Bradford. Peace officers: certification: civil rights.

(1) Under existing law, the Tom Bane Civil Rights Act, if a person or persons, whether or not acting under color of law, interferes or attempts to interfere, by threats, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state, the Attorney General, or any district attorney or city attorney, is authorized to bring a civil action for injunctive and other appropriate equitable relief in the name of the people of the State of California, in order to protect the exercise or enjoyment of the right or rights secured. Existing law also authorizes an action brought by the Attorney General, or any district attorney or city attorney, to seek a civil penalty of \$25,000. Existing law also allows an individual whose exercise or enjoyment of rights has been interfered with to prosecute a civil action for damages on their own behalf.

The bill would eliminate certain immunity provisions for peace officers and custodial officers, or public entities employing peace officers or custodial officers sued under the act.

(2) Existing law defines persons who are peace officers and the entities authorized to appoint them. Existing law requires certain minimum training requirements for peace officers including the completion of a basic training course, as specified. Existing law prescribes certain minimum standards for a person to be appointed as a peace officer, including moral character and physical and mental condition, and certain disqualifying factors for a person to be employed as a peace officer, including a felony conviction.

This bill would prohibit a person who has been convicted of a felony, as specified, from regaining eligibility for peace officer employment based upon any later order of the court setting aside, vacating, withdrawing, expunging or otherwise dismissing or reversing the conviction, unless the court finds the person to be factually innocent of the crime for which they

were convicted at the time of entry of the order. The bill would disqualify a person from being employed as a peace officer if that person has been convicted of, or has been adjudicated in an administrative, military, or civil judicial process as having committed, a violation of certain specified crimes against public justice, including the falsification of records, bribery, or perjury. The bill would also disqualify any person who has been certified as a peace officer by the Commission on Peace Officer Standards and Training and has surrendered that certification or had that certification revoked by the commission, or has been denied certification. The bill would disqualify any person previously employed in law enforcement in any state or United States territory or by the federal government, whose name is listed in the national decertification index, or any other database designated by the federal government, or who engaged in serious misconduct that would have resulted in their certification being revoked in this state. The bill would require a law enforcement agency employing certain peace officers to employ only individuals with a current, valid certification or pending certification.

(3) Existing law establishes the Commission on Peace Officer Standards and Training to set minimum standards for the recruitment and training of peace officers and to develop training courses and curriculum. Existing law authorizes the commission to establish a professional certificate program that awards basic, intermediate, advanced, supervisory, management, and executive certificates on the basis of a combination of training, education, experience, and other prerequisites, for the purpose of fostering the professionalization, education, and experience necessary to adequately accomplish the general police service duties performed by peace officers. Existing law authorizes the commission to cancel a certificate that was awarded in error or obtained through misrepresentation or fraud, but otherwise prohibits the commission from canceling a certificate that has properly been issued.

This bill would require the Department of Justice to provide the commission with necessary disqualifying felony and misdemeanor conviction data for all persons known by the department to be current or former peace officers, as specified. The bill would grant the commission the power to investigate and determine the fitness of any person to serve as a peace officer in the state. The bill would direct the commission to issue or deny certification, which includes a basic certificate or proof of eligibility, to a peace officer in accordance with specified criteria. The bill would require the commission to issue a proof of eligibility or basic certificate, as specified, to certain persons employed as a peace officer on January 1, 2022, who do not otherwise possess a certificate. The bill would declare certificates or proof of eligibility awarded by the commission to be property of the commission and would authorize the commission to suspend or revoke a proof of eligibility or certificate on specified grounds, including the use of excessive force, sexual assault, making a false arrest, or participating in a law enforcement gang, as defined.

The bill would create the Peace Officer Standards Accountability Division within the commission to review investigations conducted by law

enforcement agencies and to conduct additional investigations into serious misconduct that may provide grounds for suspension or revocation of a peace officer's certification, as specified. The bill would require the division to review grounds for decertification and make findings as to whether grounds for action against an officer's certification exist. The bill would require the division to notify the officer subject to decertification of their findings and allow the officer to request review. The bill would also create the Peace Officer Standards Accountability Advisory Board with 9 members to be appointed as specified. The bill would require the board to hold public meetings to review the findings after an investigation made by the division and to make a recommendation to the commission. The bill would require the commission to review the recommendation made by the board based on whether there is evidence that reasonably supports the board's conclusion that misconduct has been established and, if action is to be taken against an officer's certification, return the determination to the division to commence formal proceedings consistent with the Administrative Procedure Act. The bill would require the commission to notify the employing agency and the district attorney of the county in which the officer is employed of this determination, as specified.

The bill would make all records related to the revocation of a peace officer's certification public and would require that records of an investigation be retained for 30 years.

The bill would require an agency employing peace officers to report to the commission the employment, appointment, or separation from employment of a peace officer, any complaint, charge, allegation, or investigation into the conduct of a peace officer that could render the officer subject to suspension or revocation, findings by civil oversight entities, and civil judgements that could affect the officer's certification.

In case of a separation from employment or appointment, the bill would require each agency to execute an affidavit-of-separation form adopted by the commission describing the reason for separation. The bill would require the affidavit to be signed under penalty of perjury. By creating a new crime, this bill would impose a state-mandated local program.

The bill would require the board to report annually on the activities of the division, board, and commission, relating to the certification program, including the number of applications for certification, the events reported, the number of investigations conducted, and the number of certificates surrendered or revoked.

By imposing new requirements on local agencies, this bill would impose a state-mandated local program.

This bill would incorporate additional changes to Section 832.7 of the Penal Code proposed by SB 16 to be operative only if this bill and SB 16 are enacted and this bill is enacted last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

*The people of the State of California do enact as follows:*

SECTION 1. This act shall be known as the Kenneth Ross Jr. Police Decertification Act of 2021.

SEC. 2. The Legislature finds and declares all of the following:

(a) As the Legislature and courts of this state have repeatedly recognized, police officers, sheriffs' deputies, and other peace officers hold extraordinary powers to detain, to search, to arrest, and to use force, including deadly force. The state has a correspondingly strong interest in ensuring that peace officers do not abuse their authority, including by ensuring that individual peace officers who abuse their authority are held accountable.

(b) California is one of the last few states that does not have a process for revoking peace officer certificates as a result of misconduct. Nationwide, 46 states have the authority to decertify peace officers. Four states do not have decertification authority: California, Hawaii, New Jersey, and Rhode Island.

(c) In 2017, 172 Californians were killed by the police, and our state's police departments have some of the highest rates of killings in the nation. Of the unarmed people California police killed, three out of four were people of color. Black and Latino families and communities of color are disproportionately vulnerable to police violence, creating generations of individual and community trauma.

(d) More than 200 professions and trades, including doctors, lawyers, and contractors are licensed or certified by the State of California, in order to maintain professional standards and to protect the public. Law enforcement officers are entrusted with extraordinary powers including the power to carry a firearm, to stop and search, to arrest, and to use force. They must be held to the highest standards of accountability, and the state should ensure that officers who abuse their authority by committing serious or repeated misconduct, or otherwise demonstrate a lack of fitness to serve as peace officers, are removed from the streets.

(e) To ensure public trust that the system for decertification will hold peace officers accountable for misconduct and that California's standards for law enforcement reflect community values, it is the intent of the Legislature that the entities charged with investigating and rendering decisions on decertification shall be under independent civilian control and maintain independence from law enforcement.

(f) Civil courts provide a vital avenue for individuals harmed by violations of the law by peace officers to find redress and accountability. But the

judicially created doctrine of qualified immunity in federal courts, and broad interpretations of California law immunities and restrictive views on the cause of action under the Tom Bane Civil Rights Act, too often lead to officers escaping accountability in civil courts, even when they have broken the law or violated the rights of members of the public. The civil court process should ensure that peace officers are treated fairly, but that they can be held accountable for violations of the law that harm others, especially the use of excessive force.

SEC. 3. Section 52.1 of the Civil Code is amended to read:

52.1. (a) This section shall be known, and may be cited, as the Tom Bane Civil Rights Act.

(b) If a person or persons, whether or not acting under color of law, interferes by threat, intimidation, or coercion, or attempts to interfere by threat, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state, the Attorney General, or any district attorney or city attorney may bring a civil action for injunctive and other appropriate equitable relief in the name of the people of the State of California, in order to protect the peaceable exercise or enjoyment of the right or rights secured. An action brought by the Attorney General, any district attorney, or any city attorney may also seek a civil penalty of twenty-five thousand dollars (\$25,000). If this civil penalty is requested, it shall be assessed individually against each person who is determined to have violated this section and the penalty shall be awarded to each individual whose rights under this section are determined to have been violated.

(c) Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, as described in subdivision (b), may institute and prosecute in their own name and on their own behalf a civil action for damages, including, but not limited to, damages under Section 52, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured, including appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct as described in subdivision (b).

(d) An action brought pursuant to subdivision (b) or (c) may be filed either in the superior court for the county in which the conduct complained of occurred or in the superior court for the county in which a person whose conduct complained of resides or has their place of business. An action brought by the Attorney General pursuant to subdivision (b) also may be filed in the superior court for any county wherein the Attorney General has an office, and in that case, the jurisdiction of the court shall extend throughout the state.

(e) If a court issues a temporary restraining order or a preliminary or permanent injunction in an action brought pursuant to subdivision (b) or (c), ordering a defendant to refrain from conduct or activities, the order

issued shall include the following statement: VIOLATION OF THIS ORDER IS A CRIME PUNISHABLE UNDER SECTION 422.77 OF THE PENAL CODE.

(f) The court shall order the plaintiff or the attorney for the plaintiff to deliver, or the clerk of the court to mail, two copies of any order, extension, modification, or termination thereof granted pursuant to this section, by the close of the business day on which the order, extension, modification, or termination was granted, to each local law enforcement agency having jurisdiction over the residence of the plaintiff and any other locations where the court determines that acts of violence against the plaintiff are likely to occur. Those local law enforcement agencies shall be designated by the plaintiff or the attorney for the plaintiff. Each appropriate law enforcement agency receiving any order, extension, or modification of any order issued pursuant to this section shall serve forthwith one copy thereof upon the defendant. Each appropriate law enforcement agency shall provide to any law enforcement officer responding to the scene of reported violence, information as to the existence of, terms, and current status of, any order issued pursuant to this section.

(g) A court shall not have jurisdiction to issue an order or injunction under this section, if that order or injunction would be prohibited under Section 527.3 of the Code of Civil Procedure.

(h) An action brought pursuant to this section is independent of any other action, remedy, or procedure that may be available to an aggrieved individual under any other provision of law, including, but not limited to, an action, remedy, or procedure brought pursuant to Section 51.7.

(i) In addition to any damages, injunction, or other equitable relief awarded in an action brought pursuant to subdivision (c), the court may award the petitioner or plaintiff reasonable attorney's fees.

(j) A violation of an order described in subdivision (e) may be punished either by prosecution under Section 422.77 of the Penal Code, or by a proceeding for contempt brought pursuant to Title 5 (commencing with Section 1209) of Part 3 of the Code of Civil Procedure. However, in any proceeding pursuant to the Code of Civil Procedure, if it is determined that the person proceeded against is guilty of the contempt charged, in addition to any other relief, a fine may be imposed not exceeding one thousand dollars (\$1,000), or the person may be ordered imprisoned in a county jail not exceeding six months, or the court may order both the imprisonment and fine.

(k) Speech alone is not sufficient to support an action brought pursuant to subdivision (b) or (c), except upon a showing that the speech itself threatens violence against a specific person or group of persons; and the person or group of persons against whom the threat is directed reasonably fears that, because of the speech, violence will be committed against them or their property and that the person threatening violence had the apparent ability to carry out the threat.

(l) No order issued in any proceeding brought pursuant to subdivision (b) or (c) shall restrict the content of any person's speech. An order

restricting the time, place, or manner of any person's speech shall do so only to the extent reasonably necessary to protect the peaceable exercise or enjoyment of constitutional or statutory rights, consistent with the constitutional rights of the person sought to be enjoined.

(m) The rights, penalties, remedies, forums, and procedures of this section shall not be waived by contract except as provided in Section 51.7.

(n) The state immunity provisions provided in Sections 821.6, 844.6, and 845.6 of the Government Code shall not apply to any cause of action brought against any peace officer or custodial officer, as those terms are defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or directly against a public entity that employs a peace officer or custodial officer, under this section.

(o) Sections 825, 825.2, 825.4, and 825.6 of the Government Code, providing for indemnification of an employee or former employee of a public entity, shall apply to any cause of action brought under this section against an employee or former employee of a public entity.

SEC. 4. Section 1029 of the Government Code is amended to read:

1029. (a) Except as provided in subdivision (b), (c), (d), or (e), each of the following persons is disqualified from holding office as a peace officer or being employed as a peace officer of the state, county, city, city and county or other political subdivision, whether with or without compensation, and is disqualified from any office or employment by the state, county, city, city and county or other political subdivision, whether with or without compensation, which confers upon the holder or employee the powers and duties of a peace officer:

(1) Any person who has been convicted of a felony.

(2) Any person who has been convicted of any offense in any other jurisdiction which would have been a felony if committed in this state.

(3) Any person who has been discharged from the military for committing an offense, as adjudicated by a military tribunal, which would have been a felony if committed in this state.

(4) (A) Any person who, after January 1, 2004, has been convicted of a crime based upon a verdict or finding of guilt of a felony by the trier of fact, or upon the entry of a plea of guilty or nolo contendere to a felony. This paragraph applies regardless of whether, pursuant to subdivision (b) of Section 17 of the Penal Code, the court declares the offense to be a misdemeanor or the offense becomes a misdemeanor by operation of law.

(B) For purposes of this paragraph, a person has been "convicted of a crime" immediately upon entry of a plea of guilty or nolo contendere to, or upon being found guilty by a trier of fact of, a felony offense, including an offense that may be charged as a misdemeanor or felony and that was charged as a felony at the time of the conviction.

(C) Effective January 1, 2022, any person who has been convicted of a crime in accordance with this paragraph shall not regain eligibility for peace officer employment based upon the nature of any sentence ordered or imposed. In addition, no such person shall regain eligibility for peace officer employment based upon any later order of the court setting aside, vacating,

withdrawing, expunging or otherwise dismissing or reversing the conviction, unless the court finds the person to be factually innocent of the crime for which they were convicted at the time of entry of the order.

(5) Any person who has been charged with a felony and adjudged by a superior court to be mentally incompetent under Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code.

(6) Any person who has been found not guilty by reason of insanity of any felony.

(7) Any person who has been determined to be a mentally disordered sex offender pursuant to Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(8) Any person adjudged addicted or in danger of becoming addicted to narcotics, convicted, and committed to a state institution as provided in Section 3051 of the Welfare and Institutions Code.

(9) Any person who, following exhaustion of all available appeals, has been convicted of, or adjudicated through an administrative, military, or civil judicial process requiring not less than clear and convincing evidence, including a hearing that meets the requirements of the administrative adjudication provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2), as having committed, any act that is a violation of Section 115, 115.3, 116, 116.5, or 117 of, or of any offense described in Chapter 1 (commencing with Section 92), Chapter 5 (commencing with Section 118), Chapter 6 (commencing with Section 132), or Chapter 7 (commencing with Section 142) of Title 7 of Part 1 of the Penal Code, including any act committed in another jurisdiction that would have been a violation of any of those sections if committed in this state.

(10) Any person who has been issued the certification described in Section 13510.1 of the Penal Code, and has had that certification revoked by the Commission on Peace Officer Standards and Training, has voluntarily surrendered that certification pursuant to subdivision (f) of Section 13510.8, or having met the minimum requirement for issuance of certification, has been denied issuance of certification.

(11) Any person previously employed in law enforcement in any state or United States territory or by the federal government, whose name is listed in the National Decertification Index of the International Association of Directors of Law Enforcement Standards and Training or any other database designated by the federal government whose certification as a law enforcement officer in that jurisdiction was revoked for misconduct, or who, while employed as a law enforcement officer, engaged in serious misconduct that would have resulted in their certification being revoked by the commission if employed as a peace officer in this state.

(b) (1) A plea of guilty to a felony pursuant to a deferred entry of judgment program as set forth in Sections 1000 to 1000.4, inclusive, of the Penal Code shall not alone disqualify a person from being a peace officer unless a judgment of guilty is entered pursuant to Section 1000.3 of the Penal Code.



(2) A person who pleads guilty or nolo contendere to, or who is found guilty by a trier of fact of, an alternate felony-misdemeanor drug possession offense and successfully completes a program of probation pursuant to Section 1210.1 of the Penal Code shall not be disqualified from being a peace officer solely on the basis of the plea or finding if the court deems the offense to be a misdemeanor or reduces the offense to a misdemeanor.

(c) Any person who has been convicted of a felony, other than a felony punishable by death, in this state or any other state, or who has been convicted of any offense in any other state which would have been a felony, other than a felony punishable by death, if committed in this state, and who demonstrates the ability to assist persons in programs of rehabilitation may hold office and be employed as a parole officer of the Department of Corrections and Rehabilitation or the Division of Juvenile Justice, or as a probation officer in a county probation department, if the person has been granted a full and unconditional pardon for the felony or offense of which they were convicted. Notwithstanding any other provision of law, the Department of Corrections and Rehabilitation or the Division of Juvenile Justice, or a county probation department, may refuse to employ that person regardless of their qualifications.

(d) This section does not limit or curtail the power or authority of any board of police commissioners, chief of police, sheriff, mayor, or other appointing authority to appoint, employ, or deputize any person as a peace officer in time of disaster caused by flood, fire, pestilence or similar public calamity, or to exercise any power conferred by law to summon assistance in making arrests or preventing the commission of any criminal offense.

(e) This section does not prohibit any person from holding office or being employed as a superintendent, supervisor, or employee having custodial responsibilities in an institution operated by a probation department, if at the time of the person's hire a prior conviction of a felony was known to the person's employer, and the class of office for which the person was hired was not declared by law to be a class prohibited to persons convicted of a felony, but as a result of a change in classification, as provided by law, the new classification would prohibit employment of a person convicted of a felony.

(f) The Department of Justice shall supply the commission with necessary disqualifying felony and misdemeanor conviction data for all persons known by the department to be current or former peace officers. The commission shall be permitted to use the information for decertification purposes. The data, once received by the commission, shall be made available for public inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), including documentation of the person's appointment, promotion, and demotion dates, as well as certification or licensing status and the reason or disposition for the person leaving service.

SEC. 5. Section 832.7 of the Penal Code is amended to read:

832.7. (a) Except as provided in subdivision (b), the personnel records of peace officers and custodial officers and records maintained by any state

or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This section shall not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, the Attorney General's office, or the Commission on Peace Officer Standards and Training.

(b) (1) Notwithstanding subdivision (a), subdivision (f) of Section 6254 of the Government Code, or any other law, the following peace officer or custodial officer personnel records and records maintained by any state or local agency shall not be confidential and shall be made available for public inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code):

(A) A record relating to the report, investigation, or findings of any of the following:

(i) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer.

(ii) An incident in which the use of force by a peace officer or custodial officer against a person resulted in death, or in great bodily injury.

(B) (i) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public.

(ii) As used in this subparagraph, "sexual assault" means the commission or attempted initiation of a sexual act with a member of the public by means of force, threat, coercion, extortion, offer of leniency or other official favor, or under the color of authority. For purposes of this subparagraph, the propositioning for or commission of any sexual act while on duty is considered a sexual assault.

(iii) As used in this subparagraph, "member of the public" means any person not employed by the officer's employing agency and includes any participant in a cadet, explorer, or other youth program affiliated with the agency.

(C) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency of dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

(2) Records that shall be released pursuant to this subdivision include all investigative reports; photographic, audio, and video evidence; transcripts or recordings of interviews; autopsy reports; all materials compiled and presented for review to the district attorney or to any person or body charged

with determining whether to file criminal charges against an officer in connection with an incident, or whether the officer's action was consistent with law and agency policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take; documents setting forth findings or recommended findings; and copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the Skelly or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action.

(3) A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure pursuant to this subdivision.

(4) If an investigation or incident involves multiple officers, information about allegations of misconduct by, or the analysis or disposition of an investigation of, an officer shall not be released pursuant to subparagraph (B) or (C) of paragraph (1), unless it relates to a sustained finding against that officer. However, factual information about that action of an officer during an incident, or the statements of an officer about an incident, shall be released if they are relevant to a sustained finding against another officer that is subject to release pursuant to subparagraph (B) or (C) of paragraph (1).

(5) An agency shall redact a record disclosed pursuant to this section only for any of the following purposes:

(A) To remove personal data or information, such as a home address, telephone number, or identities of family members, other than the names and work-related information of peace and custodial officers.

(B) To preserve the anonymity of complainants and witnesses.

(C) To protect confidential medical, financial, or other information of which disclosure is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct and serious use of force by peace officers and custodial officers.

(D) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the peace officer, custodial officer, or another person.

(6) Notwithstanding paragraph (5), an agency may redact a record disclosed pursuant to this section, including personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosure of the information.

(7) An agency may withhold a record of an incident described in subparagraph (A) of paragraph (1) that is the subject of an active criminal or administrative investigation, in accordance with any of the following:

(A) (i) During an active criminal investigation, disclosure may be delayed for up to 60 days from the date the use of force occurred or until the district attorney determines whether to file criminal charges related to the use of

force, whichever occurs sooner. If an agency delays disclosure pursuant to this clause, the agency shall provide, in writing, the specific basis for the agency's determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. This writing shall include the estimated date for disclosure of the withheld information.

(ii) After 60 days from the use of force, the agency may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an officer who used the force. If an agency delays disclosure pursuant to this clause, the agency shall, at 180-day intervals as necessary, provide, in writing, the specific basis for the agency's determination that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding. The writing shall include the estimated date for the disclosure of the withheld information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner.

(iii) After 60 days from the use of force, the agency may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against someone other than the officer who used the force. If an agency delays disclosure under this clause, the agency shall, at 180-day intervals, provide, in writing, the specific basis why disclosure could reasonably be expected to interfere with a criminal enforcement proceeding, and shall provide an estimated date for the disclosure of the withheld information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner, unless extraordinary circumstances warrant continued delay due to the ongoing criminal investigation or proceeding. In that case, the agency must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest in prompt disclosure of records about use of serious force by peace officers and custodial officers. The agency shall release all information subject to disclosure that does not cause substantial prejudice, including any documents that have otherwise become available.

(iv) In an action to compel disclosure brought pursuant to Section 6258 of the Government Code, an agency may justify delay by filing an application to seal the basis for withholding, in accordance with Rule 2.550 of the California Rules of Court, or any successor rule thereto, if disclosure of the written basis itself would impact a privilege or compromise a pending investigation.

(B) If criminal charges are filed related to the incident in which force was used, the agency may delay the disclosure of records or information until a verdict on those charges is returned at trial or, if a plea of guilty or

no contest is entered, the time to withdraw the plea pursuant to Section 1018.

(C) During an administrative investigation into an incident described in subparagraph (A) of paragraph (1), the agency may delay the disclosure of records or information until the investigating agency determines whether the use of force violated a law or agency policy, but no longer than 180 days after the date of the employing agency's discovery of the use of force, or allegation of use of force, by a person authorized to initiate an investigation, or 30 days after the close of any criminal investigation related to the peace officer or custodial officer's use of force, whichever is later.

(8) A record of a civilian complaint, or the investigations, findings, or dispositions of that complaint, shall not be released pursuant to this section if the complaint is frivolous, as defined in Section 128.5 of the Code of Civil Procedure, or if the complaint is unfounded.

(c) Notwithstanding subdivisions (a) and (b), a department or agency shall release to the complaining party a copy of the party's own statements at the time the complaint is filed.

(d) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may disseminate data regarding the number, type, or disposition of complaints (sustained, not sustained, exonerated, or unfounded) made against its officers if that information is in a form which does not identify the individuals involved.

(e) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may release factual information concerning a disciplinary investigation if the officer who is the subject of the disciplinary investigation, or the officer's agent or representative, publicly makes a statement that they know to be false concerning the investigation or the imposition of disciplinary action. Information may not be disclosed by the peace or custodial officer's employer unless the false statement was published by an established medium of communication, such as television, radio, or a newspaper. Disclosure of factual information by the employing agency pursuant to this subdivision is limited to facts contained in the officer's personnel file concerning the disciplinary investigation or imposition of disciplinary action that specifically refute the false statements made public by the peace or custodial officer or their agent or representative.

(f) (1) The department or agency shall provide written notification to the complaining party of the disposition of the complaint within 30 days of the disposition.

(2) The notification described in this subdivision shall not be conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding brought before an arbitrator, court, or judge of this state or the United States.

(g) This section does not affect the discovery or disclosure of information contained in a peace or custodial officer's personnel file pursuant to Section 1043 of the Evidence Code.

(h) This section does not supersede or affect the criminal discovery process outlined in Chapter 10 (commencing with Section 1054) of Title 6

of Part 2, or the admissibility of personnel records pursuant to subdivision (a), which codifies the court decision in *Pitchess v. Superior Court* (1974) 11 Cal.3d 531.

(i) Nothing in this chapter is intended to limit the public's right of access as provided for in *Long Beach Police Officers Association v. City of Long Beach* (2014) 59 Cal.4th 59.

SEC. 5.5. Section 832.7 of the Penal Code is amended to read:

832.7. (a) Except as provided in subdivision (b), the personnel records of peace officers and custodial officers and records maintained by a state or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This section does not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, or the Attorney General's office, or the Commission on Peace Officer Standards and Training.

(b) (1) Notwithstanding subdivision (a), subdivision (f) of Section 6254 of the Government Code, or any other law, the following peace officer or custodial officer personnel records and records maintained by a state or local agency shall not be confidential and shall be made available for public inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code):

(A) A record relating to the report, investigation, or findings of any of the following:

(i) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer.

(ii) An incident involving the use of force against a person by a peace officer or custodial officer that resulted in death or in great bodily injury.

(iii) A sustained finding involving a complaint that alleges unreasonable or excessive force.

(iv) A sustained finding that an officer failed to intervene against another officer using force that is clearly unreasonable or excessive.

(B) (i) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public.

(ii) As used in this subparagraph, "sexual assault" means the commission or attempted initiation of a sexual act with a member of the public by means of force, threat, coercion, extortion, offer of leniency or other official favor, or under the color of authority. For purposes of this subparagraph, the propositioning for or commission of any sexual act while on duty is considered a sexual assault.

(iii) As used in this subparagraph, "member of the public" means any person not employed by the officer's employing agency and includes any

participant in a cadet, explorer, or other youth program affiliated with the agency.

(C) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency involving dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, false statements, filing false reports, destruction, falsifying, or concealing of evidence, or perjury.

(D) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in conduct including, but not limited to, verbal statements, writings, online posts, recordings, and gestures, involving prejudice or discrimination against a person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.

(E) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that the peace officer made an unlawful arrest or conducted an unlawful search.

(2) Records that are subject to disclosure under clause (iii) or (iv) of subparagraph (A) of paragraph (1), or under subparagraph (D) or (E) of paragraph (1), relating to an incident that occurred before January 1, 2022, shall not be subject to the time limitations in paragraph (8) until January 1, 2023.

(3) Records that shall be released pursuant to this subdivision include all investigative reports; photographic, audio, and video evidence; transcripts or recordings of interviews; autopsy reports; all materials compiled and presented for review to the district attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, or whether the officer's action was consistent with law and agency policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take; documents setting forth findings or recommended findings; and copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the Skelly or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action. Records that shall be released pursuant to this subdivision also include records relating to an incident specified in paragraph (1) in which the peace officer or custodial officer resigned before the law enforcement agency or oversight agency concluded its investigation into the alleged incident.

(4) A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure pursuant to this subdivision.

(5) If an investigation or incident involves multiple officers, information about allegations of misconduct by, or the analysis or disposition of an investigation of, an officer shall not be released pursuant to subparagraph (B), (C), (D), or (E) of paragraph (1), unless it relates to a sustained finding regarding that officer that is itself subject to disclosure pursuant to this section. However, factual information about that action of an officer during an incident, or the statements of an officer about an incident, shall be released if they are relevant to a finding against another officer that is subject to release pursuant to subparagraph (B), (C), (D), or (E) of paragraph (1).

(6) An agency shall redact a record disclosed pursuant to this section only for any of the following purposes:

(A) To remove personal data or information, such as a home address, telephone number, or identities of family members, other than the names and work-related information of peace and custodial officers.

(B) To preserve the anonymity of whistleblowers, complainants, victims, and witnesses.

(C) To protect confidential medical, financial, or other information of which disclosure is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about possible misconduct and use of force by peace officers and custodial officers.

(D) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the peace officer, custodial officer, or another person.

(7) Notwithstanding paragraph (6), an agency may redact a record disclosed pursuant to this section, including personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosure of the information.

(8) An agency may withhold a record of an incident described in paragraph (1) that is the subject of an active criminal or administrative investigation, in accordance with any of the following:

(A) (i) During an active criminal investigation, disclosure may be delayed for up to 60 days from the date the misconduct or use of force occurred or until the district attorney determines whether to file criminal charges related to the misconduct or use of force, whichever occurs sooner. If an agency delays disclosure pursuant to this clause, the agency shall provide, in writing, the specific basis for the agency's determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. This writing shall include the estimated date for disclosure of the withheld information.

(ii) After 60 days from the misconduct or use of force, the agency may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an officer who engaged in misconduct or used the force. If an agency delays disclosure pursuant to this clause, the agency shall, at 180-day intervals as necessary, provide, in writing, the specific basis for the agency's determination that disclosure could reasonably be expected to



interfere with a criminal enforcement proceeding. The writing shall include the estimated date for the disclosure of the withheld information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner.

(iii) After 60 days from the misconduct or use of force, the agency may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against someone other than the officer who engaged in misconduct or used the force. If an agency delays disclosure under this clause, the agency shall, at 180-day intervals, provide, in writing, the specific basis why disclosure could reasonably be expected to interfere with a criminal enforcement proceeding, and shall provide an estimated date for the disclosure of the withheld information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner, unless extraordinary circumstances warrant continued delay due to the ongoing criminal investigation or proceeding. In that case, the agency must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest in prompt disclosure of records about misconduct or use of force by peace officers and custodial officers. The agency shall release all information subject to disclosure that does not cause substantial prejudice, including any documents that have otherwise become available.

(iv) In an action to compel disclosure brought pursuant to Section 6258 of the Government Code, an agency may justify delay by filing an application to seal the basis for withholding, in accordance with Rule 2.550 of the California Rules of Court, or any successor rule, if disclosure of the written basis itself would impact a privilege or compromise a pending investigation.

(B) If criminal charges are filed related to the incident in which misconduct occurred or force was used, the agency may delay the disclosure of records or information until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to withdraw the plea pursuant to Section 1018.

(C) During an administrative investigation into an incident described in of paragraph (1), the agency may delay the disclosure of records or information until the investigating agency determines whether misconduct or the use of force violated a law or agency policy, but no longer than 180 days after the date of the employing agency's discovery of the misconduct or use of force, or allegation of misconduct or use of force, by a person authorized to initiate an investigation.

(9) A record of a complaint, or the investigations, findings, or dispositions of that complaint, shall not be released pursuant to this section if the complaint is frivolous, as defined in Section 128.5 of the Code of Civil Procedure, or if the complaint is unfounded.

(10) The cost of copies of records subject to disclosure pursuant to this subdivision that are made available upon the payment of fees covering direct costs of duplication pursuant to subdivision (b) of Section 6253 of the Government Code shall not include the costs of searching for, editing, or redacting the records.

(11) Except to the extent temporary withholding for a longer period is permitted pursuant to paragraph (8), records subject to disclosure under this subdivision shall be provided at the earliest possible time and no later than 45 days from the date of a request for their disclosure.

(12) (A) For purposes of releasing records pursuant to this subdivision, the lawyer-client privilege does not prohibit the disclosure of either of the following:

(i) Factual information provided by the public entity to its attorney or factual information discovered in any investigation conducted by, or on behalf of, the public entity's attorney.

(ii) Billing records related to the work done by the attorney so long as the records do not relate to active and ongoing litigation and do not disclose information for the purpose of legal consultation between the public entity and its attorney.

(B) This paragraph does not prohibit the public entity from asserting that a record or information within the record is exempted or prohibited from disclosure pursuant to any other federal or state law.

(c) Notwithstanding subdivisions (a) and (b), a department or agency shall release to the complaining party a copy of the complaining party's own statements at the time the complaint is filed.

(d) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may disseminate data regarding the number, type, or disposition of complaints (sustained, not sustained, exonerated, or unfounded) made against its officers if that information is in a form that does not identify the individuals involved.

(e) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may release factual information concerning a disciplinary investigation if the officer who is the subject of the disciplinary investigation, or the officer's agent or representative, publicly makes a statement that they know to be false concerning the investigation or the imposition of disciplinary action. Information may not be disclosed by the peace or custodial officer's employer unless the false statement was published by an established medium of communication, such as television, radio, or a newspaper. Disclosure of factual information by the employing agency pursuant to this subdivision is limited to facts contained in the officer's personnel file concerning the disciplinary investigation or imposition of disciplinary action that specifically refute the false statements made public by the peace or custodial officer or their agent or representative.

(f) (1) The department or agency shall provide written notification to the complaining party of the disposition of the complaint within 30 days of the disposition.

(2) The notification described in this subdivision is not conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding brought before an arbitrator, court, or judge of this state or the United States.

(g) This section does not affect the discovery or disclosure of information contained in a peace or custodial officer's personnel file pursuant to Section 1043 of the Evidence Code.

(h) This section does not supersede or affect the criminal discovery process outlined in Chapter 10 (commencing with Section 1054) of Title 6 of Part 2, or the admissibility of personnel records pursuant to subdivision (a), which codifies the court decision in *Pitchess v. Superior Court* (1974) 11 Cal.3d 531.

(i) Nothing in this chapter is intended to limit the public's right of access as provided for in *Long Beach Police Officers Association v. City of Long Beach* (2014) 59 Cal.4th 59.

SEC. 6. Section 13503 of the Penal Code is amended to read:

13503. In carrying out its duties and responsibilities, the commission shall have all of the following powers:

(a) To meet at those times and places as it may deem proper.

(b) To employ an executive secretary and, pursuant to civil service, those clerical and technical assistants as may be necessary.

(c) To contract with other agencies, public or private, or persons as it deems necessary, for the rendition and affording of those services, facilities, studies, and reports to the commission as will best assist it to carry out its duties and responsibilities.

(d) To cooperate with and to secure the cooperation of county, city, city and county, and other local law enforcement agencies in investigating any matter within the scope of its duties and responsibilities, and in performing its other functions.

(e) To develop and implement programs to increase the effectiveness of law enforcement and when those programs involve training and education courses to cooperate with and secure the cooperation of state-level peace officers, agencies, and bodies having jurisdiction over systems of public higher education in continuing the development of college-level training and education programs.

(f) To investigate and determine the fitness of any person to serve as a peace officer within the Peace Officer Standards and Training program or as defined in Section 13510.1 in the State of California.

(g) To cooperate with and secure the cooperation of every department, agency, or instrumentality in the state government.

(h) To audit any law enforcement agency that employs peace officers described in subdivision (a) of Section 13510.1, without cause and at any time.

(i) To do any and all things necessary or convenient to enable it fully and adequately to perform its duties and to exercise the power granted to it.

SEC. 7. Section 13506 of the Penal Code is amended to read:

13506. The commission may adopt those regulations as are necessary to carry out the purposes of this chapter.

SEC. 8. Section 13509.5 is added to the Penal Code, to read:

13509.5. (a) There is within the commission a Peace Officer Standards Accountability Division, hereafter referred to in this chapter as the division.

(b) The primary responsibilities of the division shall be to review investigations conducted by law enforcement agencies or any other investigative authority and to conduct additional investigations, as necessary, into serious misconduct that may provide grounds for suspension or revocation of a peace officer's certification, present findings and recommendations to the board and commission, and bring proceedings seeking the suspension or revocation of certification of peace officers as directed by the board and commission pursuant to this chapter.

(c) The division shall be staffed with a sufficient number of experienced and able employees that are capable of handling the most complex and varied types of decertification investigations, prosecutions, and administrative proceedings against peace officers.

(d) The commission shall establish procedures for accepting complaints from members of the public regarding peace officers or law enforcement agencies that may be investigated by the division or referred to the peace officers' employing agency or the Department of Justice.

SEC. 9. Section 13509.6 is added to the Penal Code, to read:

13509.6. (a) No later than January 1, 2023, the Governor shall establish the Peace Officer Standards Accountability Advisory Board, hereafter referred to in this chapter as the board.

(b) The purpose of the board shall be to make recommendations on the decertification of peace officers to the commission.

(c) The protection of the public and all constitutional and statutory rights shall be the highest priority for the board as it upholds the standards for peace officers in California.

(d) The board shall consist of nine members, as follows:

(1) One member shall be a peace officer or former peace officer with substantial experience at a command rank, appointed by the Governor.

(2) One member shall be a peace officer or former peace officer with substantial experience at a management rank in internal investigations or disciplinary proceedings of peace officers, appointed by the Governor.

(3) Two members shall be members of the public, who shall not be former peace officers, who have substantial experience working at nonprofit or academic institutions on issues related to police accountability. One of these members shall be appointed by the Governor and one by the Speaker of the Assembly.

(4) Two members shall be members of the public, who shall not be former peace officers, who have substantial experience working at community-based organizations on issues related to police accountability. One of these members shall be appointed by the Governor and one by the Senate Rules Committee.

(5) Two members shall be members of the public, who shall not be former peace officers, with strong consideration given to individuals who have been subject to wrongful use of force likely to cause death or serious bodily injury by a peace officer, or who are surviving family members of a person killed by the wrongful use of deadly force by a peace officer, appointed by the Governor.

(6) One member shall be an attorney, who shall not be a former peace officer, with substantial professional experience involving oversight of peace officers, appointed by the Governor.

(e) Except as otherwise provided in subdivision (f), each member shall be appointed for a term of three years and shall hold office until the appointment of the member's successor or until one year has elapsed since the expiration of the term for which the member was appointed, whichever occurs first. Vacancies occurring shall be filled by appointment for the unexpired term of a person with the same qualification for appointment as the person being replaced. No person shall serve more than two terms consecutively. The Governor shall remove from the board any peace officer member whose certification as a peace officer has been revoked. The Governor may, after hearing, remove any member of the board for neglect of duty or other just cause.

(f) Of the members initially appointed to the board, three shall be appointed for a term of one year, three for a term of two years, and three for a term of three years. Successor appointments shall be made pursuant to subdivision (e).

(g) The Governor shall designate the chair of the board from among the members of the board. The person designated as the chair shall serve as chair of the board at the pleasure of the Governor. The board shall annually select a vice chair from among its members. A majority of the members of the board shall constitute a quorum.

(h) Each member of the board shall receive a per diem of three hundred fifty dollars (\$350) for each day actually spent in the discharge of official duties, including any required training and reasonable time spent in preparation for public hearings, and shall be reimbursed for travel and other expenses necessarily incurred in the performance of official duties. Upon request of a member based on financial necessity, the commission shall arrange and make direct payment for travel or other necessities rather than providing reimbursement.

(i) All members of the board shall complete a 40-hour decertification training course, as developed by the commission, which shall include, but not be limited to, subjects regarding the decertification process, internal investigations, evidentiary standards, use of force standards and training, and local disciplinary processes.

SEC. 10. The heading of Article 2 (commencing with Section 13510) of Chapter 1 of Title 4 of Part 4 of the Penal Code is amended to read:

Article 2. Field Services, Standards, and Certification

SEC. 11. Section 13510 of the Penal Code is amended to read:

13510. (a) (1) For the purpose of raising the level of competence of local law enforcement officers, the commission shall adopt, and may from time to time amend, rules establishing and upholding minimum standards relating to physical, mental, and moral fitness that shall govern the recruitment of any city police officers, peace officer members of a county sheriff's office, marshals or deputy marshals, peace officer members of a county coroner's office notwithstanding Section 13526, reserve officers, as defined in subdivision (a) of Section 830.6, police officers of a district authorized by statute to maintain a police department, peace officer members of a police department operated by a joint powers agency established by Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, regularly employed and paid inspectors and investigators of a district attorney's office, as defined in Section 830.1, who conduct criminal investigations, peace officer members of a district, safety police officers and park rangers of the County of Los Angeles, as defined in subdivisions (a) and (b) of Section 830.31, or housing authority police departments.

(2) The commission also shall adopt, and may from time to time amend, rules establishing minimum standards for training of city police officers, peace officer members of county sheriff's offices, marshals or deputy marshals, peace officer members of a county coroner's office notwithstanding Section 13526, reserve officers, as defined in subdivision (a) of Section 830.6, police officers of a district authorized by statute to maintain a police department, peace officer members of a police department operated by a joint powers agency established by Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, regularly employed and paid inspectors and investigators of a district attorney's office, as defined in Section 830.1, who conduct criminal investigations, peace officer members of a district, safety police officers and park rangers of the County of Los Angeles, as defined in subdivisions (a) and (b) of Section 830.31, and housing authority police departments.

(3) These rules shall apply to those cities, counties, cities and counties, and districts receiving state aid pursuant to this chapter and shall be adopted and amended pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The commission shall conduct research concerning job-related educational standards and job-related selection standards to include vision, hearing, physical ability, and emotional stability. Job-related standards that are supported by this research shall be adopted by the commission prior to January 1, 1985, and shall apply to those peace officer classes identified in subdivision (a). The commission shall consult with local entities during the conducting of related research into job-related selection standards.

(c) For the purpose of raising the level of competence of local public safety dispatchers, the commission shall adopt, and may from time to time amend, rules establishing minimum standards relating to the recruitment and training of local public safety dispatchers having a primary responsibility

for providing dispatching services for local law enforcement agencies described in subdivision (a), which standards shall apply to those cities, counties, cities and counties, and districts receiving state aid pursuant to this chapter. These standards also shall apply to consolidated dispatch centers operated by an independent public joint powers agency established pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code when providing dispatch services to the law enforcement personnel listed in subdivision (a). Those rules shall be adopted and amended pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. As used in this section, “primary responsibility” refers to the performance of law enforcement dispatching duties for a minimum of 50 percent of the time worked within a pay period.

(d) This section does not prohibit a local agency from establishing selection and training standards that exceed the minimum standards established by the commission.

SEC. 12. Section 13510.1 of the Penal Code is amended to read:

13510.1. (a) The commission shall establish a certification program for peace officers described in Section 830.1, 830.2 with the exception of those described in subdivision (d) of that section, 830.3, 830.32, or 830.33, or any other peace officer employed by an agency that participates in the Peace Officer Standards and Training (POST) program. A certificate or proof of eligibility issued pursuant to this section shall be considered the property of the commission.

(b) Basic, intermediate, advanced, supervisory, management, and executive certificates shall be established for the purpose of fostering professionalization, education, and experience necessary to adequately accomplish the general police service duties performed by peace officer members of city police departments, county sheriffs’ departments, districts, university and state university and college departments, or by the California Highway Patrol.

(c) (1) Certificates shall be awarded on the basis of a combination of training, education, experience, and other prerequisites, as determined by the commission.

(2) In determining whether an applicant for certification has the requisite education, the commission shall recognize as acceptable college education only the following:

(A) Education provided by a community college, college, or university which has been accredited by the department of education of the state in which the community college, college, or university is located or by a recognized national or regional accrediting body.

(B) Until January 1, 1998, educational courses or degrees provided by a nonaccredited but state-approved college that offers programs exclusively in criminal justice.

(d) Persons who are determined by the commission to be eligible peace officers may make application for the certificates, provided they are employed by an agency which participates in the POST program. Any

agency appointing an individual who does not already have a basic certificate as described in subdivision (a) and who is not eligible for a certificate shall make application for proof of eligibility within 10 days of appointment.

(e) The commission shall assign each person who applies for or receives certification a unique identifier that shall be used to track certification status from application for certification through that person's career as a peace officer.

(f) The commission shall have the authority to suspend, revoke, or cancel any certification pursuant to this chapter.

(g) (1) An agency that employs peace officers described in subdivision (a) shall employ as a peace officer only individuals with current, valid certification pursuant to this section, except that an agency may provisionally employ a person for up to 24 months, pending certification by the commission, provided that the person has received certification and has not previously been certified or denied certification.

(2) In accordance with subdivision (b) of Section 832.4, deputy sheriffs described in subdivision (c) of Section 830.1 shall obtain valid certification pursuant to this section upon reassignment from custodial duties to general law enforcement duties.

(h) (1) Notwithstanding subdivision (d), the commission shall issue a basic certificate or proof of eligibility to any peace officer described in subdivision (a) who, on January 1, 2022, is eligible for a basic certificate or proof of eligibility but has not applied for a certification.

(2) Commencing on January 1, 2023, any peace officer described in subdivision (a) who does not possess a basic certificate and who is not yet or will not be eligible for a basic certificate, shall apply to the commission for proof of eligibility.

(i) As used in this chapter, "certification" means a valid and unexpired basic certificate or proof of eligibility issued by the commission pursuant to this section.

SEC. 13. Section 13510.8 is added to the Penal Code, to read:

13510.8. (a) (1) A certified peace officer shall have their certification revoked if the person is or has become ineligible to hold office as a peace officer pursuant to Section 1029 of the Government Code.

(2) A peace officer may have their certification suspended or revoked if the person has been terminated for cause from employment as a peace officer for, or has, while employed as a peace officer, otherwise engaged in, any serious misconduct as described in subdivision (b).

(b) By January 1, 2023, the commission shall adopt by regulation a definition of "serious misconduct" that shall serve as the criteria to be considered for ineligibility for, or revocation of, certification. This definition shall include all of the following:

(1) Dishonesty relating to the reporting, investigation, or prosecution of a crime, or relating to the reporting of, or investigation of misconduct by, a peace officer or custodial officer, including, but not limited to, false statements, intentionally filing false reports, tampering with, falsifying, destroying, or concealing evidence, perjury, and tampering with data



recorded by a body-worn camera or other recording device for purposes of concealing misconduct.

(2) Abuse of power, including, but not limited to, intimidating witnesses, knowingly obtaining a false confession, and knowingly making a false arrest.

(3) Physical abuse, including, but not limited to, the excessive or unreasonable use of force.

(4) Sexual assault, as described in subdivision (b) of Section 832.7.

(5) Demonstrating bias on the basis of race, national origin, religion, gender identity or expression, housing status, sexual orientation, mental or physical disability, or other protected status in violation of law or department policy or inconsistent with a peace officer's obligation to carry out their duties in a fair and unbiased manner. This paragraph does not limit an employee's rights under the First Amendment to the United States Constitution.

(6) Acts that violate the law and are sufficiently egregious or repeated as to be inconsistent with a peace officer's obligation to uphold the law or respect the rights of members of the public, as determined by the commission. Whether a particular factual or legal determination in a prior appeal proceeding shall have preclusive effect in proceedings under this chapter shall be governed by the existing law of collateral estoppel.

(7) Participation in a law enforcement gang. For the purpose of this paragraph, a "law enforcement gang" means a group of peace officers within a law enforcement agency who may identify themselves by a name and may be associated with an identifying symbol, including, but not limited to, matching tattoos, and who engage in a pattern of on-duty behavior that intentionally violates the law or fundamental principles of professional policing, including, but not limited to, excluding, harassing, or discriminating against any individual based on a protected category under federal or state antidiscrimination laws, engaging in or promoting conduct that violates the rights of other employees or members of the public, violating agency policy, the persistent practice of unlawful detention or use of excessive force in circumstances where it is known to be unjustified, falsifying police reports, fabricating or destroying evidence, targeting persons for enforcement based solely on protected characteristics of those persons, theft, unauthorized use of alcohol or drugs on duty, unlawful or unauthorized protection of other members from disciplinary actions, and retaliation against other officers who threaten or interfere with the activities of the group.

(8) Failure to cooperate with an investigation into potential police misconduct, including an investigation conducted pursuant to this chapter. For purposes of this paragraph, the lawful exercise of rights granted under the United States Constitution, the California Constitution, or any other law shall not be considered a failure to cooperate.

(9) Failure to intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject.

(c) (1) Beginning no later than January 1, 2023, each law enforcement agency shall be responsible for the completion of investigations of allegations of serious misconduct by a peace officer, regardless of their employment status.

(2) The division shall promptly review any grounds for decertification described in subdivision (a) received from an agency. The division shall have the authority to review any agency or other investigative authority file, as well as to conduct additional investigation, if necessary. The division shall only have authority to review and investigate allegations for purposes of decertification.

(3) (A) The board, in their discretion, may request that the division review an investigative file or recommend that the commission direct the division to investigate any potential grounds for decertification of a peace officer. Those requests and recommendations from the board to the division or commission must be based upon a decision by a majority vote.

(B) The commission, in its discretion, may direct the division to review an investigative file. The commission, either upon its own motion or in response to a recommendation from the board, may direct the division to investigate any potential grounds for decertification of a peace officer.

(C) The division, in its discretion, may investigate without the request of the commission or board any potential grounds for revocation of certification of a peace officer.

(4) The division, in carrying out any investigation initiated pursuant to this section or any other duty shall have all of the powers of investigation granted pursuant to Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(5) Notwithstanding any other law, the investigation shall be completed within three years after the receipt of the completed report of the disciplinary or internal affairs investigation from the employing agency pursuant to Section 13510.9, however, no time limit shall apply if a report of the conduct was not made to the commission. An investigation shall be considered completed upon a notice of intent to deny, suspend, or revoke certification issued pursuant to subdivision (e). The time limit shall be tolled during the appeal of a termination or other disciplinary action through an administrative or judicial proceeding or during any criminal prosecution of the peace officer. The commission shall consider the peace officer's prior conduct and service record, and any instances of misconduct, including any incidents occurring beyond the time limitation for investigation in evaluating whether to revoke certification for the incident under investigation.

(6) An action by an agency or decision resulting from an appeal of an agency's action does not preclude action by the commission to investigate, suspend, or revoke a peace officer's certification pursuant to this section.

(d) Upon arrest or indictment of a peace officer for any crime described in Section 1029 of the Government Code, or discharge from any law enforcement agency for grounds set forth in subdivision (a), or separation from employment of a peace officer during a pending investigation into allegations of serious misconduct, the executive director shall order the

immediate temporary suspension of any certificate held by that peace officer upon the determination by the executive director that the temporary suspension is in the best interest of the health, safety, or welfare of the public. The order of temporary suspension shall be made in writing and shall specify the basis for the executive director's determination. Following the issuance of a temporary suspension order, proceedings of the commission in the exercise of its authority to discipline any peace officer shall be promptly scheduled as provided for in this section. The temporary suspension shall continue in effect until issuance of the final decision on revocation pursuant to this section or until the order is withdrawn by the executive director.

(e) Records of an investigation of any person by the commission shall be retained for 30 years following the date that the investigation is deemed concluded by the commission. The commission may destroy records prior to the expiration of the 30-year retention period if the subject is deceased and no action upon the complaint was taken by the commission beyond the commission's initial intake of such complaint.

(f) Any peace officer may voluntarily surrender their certification permanently. Voluntary permanent surrender of certification pursuant to this subdivision shall have the same effect as revocation. Voluntary permanent surrender is not the same as placement of a valid certification into inactive status during a period in which a person is not actively employed as a peace officer. A permanently surrendered certification cannot be reactivated.

(g) (1) The commission may initiate proceedings to revoke or suspend a peace officer's certification for conduct which occurred before January 1, 2022, only for either of the following:

(A) Serious misconduct pursuant to paragraphs (1) or (4) of subdivision (b), or pursuant to paragraph (3) of subdivision (b) for the use of deadly force that results in death or serious bodily injury.

(B) If the employing agency makes a final determination regarding its investigation of the misconduct after January 1, 2022.

(2) Nothing in this subdivision prevents the commission from considering the peace officer's prior conduct and service record in determining whether revocation is appropriate for serious misconduct.

SEC. 14. Section 13510.85 is added to the Penal Code, immediately following Section 13510.8, to read:

13510.85. (a) (1) When, upon the completion of an investigation conducted pursuant to subdivision (c) of Section 13510.8, the division finds reasonable grounds for revocation or suspension of a peace officer's certification, it shall take the appropriate steps to promptly notify the peace officer involved, in writing, of its determination and reasons therefore, and shall provide the peace officer with a detailed explanation of the decertification procedure and the peace officer's rights to contest and appeal.

(2) Upon notification, the peace officer may, within 30 days, file a request for a review of the determination by the board and commission. If the peace officer does not file a request for review within 30 days, the peace officer's

certification shall be suspended or revoked, consistent with the division's determination, without further proceedings. If the peace officer files a timely review, the board shall schedule the case for hearing.

(3) The board shall meet as required to conduct public hearings, but no fewer than four times per year.

(4) At each public hearing, the board shall review the findings of investigations presented by the division pursuant to paragraph (1) and shall make a recommendation on what action should be taken on the certification of the peace officer involved. The board shall only recommend revocation if the factual basis for revocation is established by clear and convincing evidence. If the board determines that the facts and circumstances revealed by the investigation warrant a sanction other than revocation, it may recommend that a peace officer's certification be suspended for a period of time. The board shall issue a written decision explaining its reasons for decertification or suspension.

(5) The commission shall review all recommendations made by the board. The commission's decision to adopt a recommendation by the board to seek revocation shall require a two-thirds vote of commissioners present and shall be based on whether the record, in its entirety, supports the board's conclusion that serious misconduct has been established by clear and convincing evidence. In any case in which the commission reaches a different determination than the board's recommendation, it shall set forth its analysis and reasons for reaching a different determination in writing.

(6) The commission shall return any determination requiring action to be taken against an individual's certification to the division, which shall initiate proceedings for a formal hearing before an administrative law judge in accordance with the Administrative Procedure Act (Chapter 5 commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), which shall be subject to judicial review as set forth in that Act.

(b) Notwithstanding Section 832.7, the hearings of the board and the review by the commission under this section, administrative adjudications held pursuant to paragraph (6) of subdivision (a), and any records introduced during those proceedings, shall be public.

(c) The commission shall publish the names of any peace officer whose certification is suspended or revoked and the basis for the suspension or revocation and shall notify the National Decertification Index of the International Association of Directors of Law Enforcement Standards and Training of the suspension or revocation.

SEC. 15. Section 13510.9 is added to the Penal Code, to read:

13510.9. (a) Beginning January 1, 2023, any agency employing peace officers shall report to the commission within 10 days, in a form specified by the commission, any of the following events:

(1) The employment, appointment, or termination or separation from employment or appointment, by that agency, of any peace officer. Separation from employment or appointment includes any involuntary termination, resignation, or retirement.

(2) Any complaint, charge, or allegation of conduct against a peace officer employed by that agency that could render a peace officer subject to suspension or revocation of certification by the commission pursuant to Section 13510.8.

(3) Any finding or recommendation by a civilian oversight entity, including a civilian review board, civilian police commission, police chief, or civilian inspector general, that a peace officer employed by that agency engaged in conduct that could render a peace officer subject to suspension or revocation of certification by the commission pursuant to Section 13510.8.

(4) The final disposition of any investigation that determines a peace officer engaged in conduct that could render a peace officer subject to suspension or revocation of certification by the commission pursuant to Section 13510.8, regardless of the discipline imposed.

(5) Any civil judgment or court finding against a peace officer based on conduct, or settlement of a civil claim against a peace officer or an agency based on allegations of officer conduct that could render a peace officer subject to suspension or revocation of certification by the commission pursuant to Section 13510.8.

(b) By July 1, 2023, any agency employing peace officers shall report to the commission any events described in subdivision (a) that occurred between January 1, 2020, and January 1, 2023.

(c) An agency employing peace officers shall make available for inspection or duplication by the commission any investigation into any matter reported pursuant to paragraph (2) of subdivision (a), including any physical or documentary evidence, witness statements, analysis, and conclusions, for up to two years after reporting of the disposition of the investigation pursuant to paragraph (3) of subdivision (a).

(d) (1) In a case of separation from employment or appointment, the employing agency shall execute and maintain an affidavit-of-separation form adopted by the commission describing the reason for separation and shall include whether the separation is part of the resolution or settlement of any criminal, civil, or administrative charge or investigation. The affidavit shall be signed under penalty of perjury and submitted to the commission.

(2) A peace officer who has separated from employment or appointment shall be permitted to respond to the affidavit-of-separation, in writing, to the commission, setting forth their understanding of the facts and reasons for the separation, if different from those provided by the agency.

(3) Before employing or appointing any peace officer who has previously been employed or appointed as a peace officer by another agency, the agency shall contact the commission to inquire as to the facts and reasons a peace officer became separated from any previous employing agency. The commission shall, upon request and without prejudice, provide to the subsequent employing agency any information regarding the separation in its possession.

(4) Civil liability shall not be imposed on either a law enforcement agency or the commission, or any of the agency's or commission's agents, for

providing information pursuant to this section in a good faith belief that the information is accurate.

(e) The commission shall maintain the information reported pursuant to this section, in a form determined by the commission, and in a manner that may be accessed by the subject peace officer, any employing law enforcement agency of that peace officer, any law enforcement agency that is performing a preemployment background investigation of that peace officer, or the commission when necessary for the purposes of decertification.

(f) (1) The commission shall notify the head of the agency that employs the peace officer of all of the following:

(A) The initiation of any investigation of that peace officer by the division, unless such notification would interfere with the investigation.

(B) A finding by the division, following an investigation or review of the investigation, of grounds to take action against the peace officer's certification or application.

(C) A final determination by the commission as to whether action should be taken against a peace officer's certification or application.

(D) An adjudication, after hearing, resulting in action against an officer's certification or application.

(2) If the certificate of a peace officer is temporarily suspended pursuant to subdivision (d) of Section 13510.8, or revoked, the commission shall also notify the district attorney of the county in which the peace officer is or was employed of this fact.

(3) Each notification required by this subdivision shall include the name of the peace officer and a summary of the basis for the action requiring notification.

SEC. 16. Section 13512 of the Penal Code is amended to read:

13512. (a) The commission shall make such inquiries as may be necessary to determine whether every city, county, city and county, and district receiving state aid pursuant to this chapter is adhering to the standards for recruitment, training, certification, and reporting established pursuant to this chapter.

(b) The board shall prepare an annual report on the activities of the commission, board, division, and subject agencies regarding peace officer certification under this chapter. The report shall include, without limitation, all of the following:

(1) The number of applications for certification and the number of certifications granted or denied.

(2) The number of events reported pursuant to paragraphs (1) to (5), inclusive, of subdivision (a) of Section 13510.9.

(3) The criteria and process for review and investigation by the division, the number of reviews, and the number of investigations conducted by the division.

(4) The number of notices sent by the division pursuant to paragraph (1) of subdivision (a) of Section 13510.85, the number of requests for review received, and the number of suspensions or revocations or denials made pursuant to paragraph (2) of subdivision (a) of Section 13510.85.

(5) The number of review hearings held by the board and commission and the outcomes of those review hearings.

(6) The number of administrative hearings held on suspensions or revocations and the number of suspensions or revocations resulting from those hearings.

(7) Any cases of judicial review of commission actions on suspension or revocation and the result of those cases.

(8) The number of certifications voluntarily surrendered and the number placed on inactive status.

(9) Any compliance audits or reviews conducted pursuant to this chapter and the results of those audits.

(10) Any other information the board deems relevant to evaluating the functioning of the certification program, the decertification process, and the staffing levels of the division.

SEC. 17. Section 5.5 of this bill incorporates amendments to Section 832.7 of the Penal Code proposed by both this bill and Senate Bill 16. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, (2) each bill amends Section 832.7 of the Penal Code, and (3) this bill is enacted after Senate Bill 16, in which case Section 5 of this bill shall not become operative.

SEC. 18. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

## **Peace\_Officer\_Decertification\_Workflow.pdf**





# Peace Officer Decertification Workflow

## Allegations of Serious Misconduct

- Reported to POST by employing agency within 10 days
- Citizen complaint made to POST
- POST initiated case

## Agency Investigation

- Disciplinary investigation completed by agency
- Agency forwards completed investigation to POST for decertification investigation

## POST Investigation

- POST reviews agency investigation
- POST conducts further investigation, if necessary
- POST determines if serious misconduct occurred

## POST Recommendation

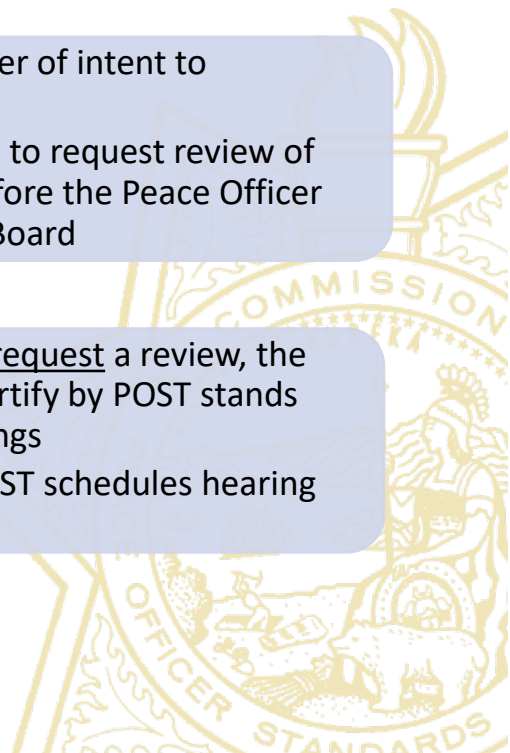
- If serious misconduct did not occur, POST notifies peace officer and closes case with no further action taken
- If serious misconduct did occur, POST makes recommendation to decertify peace officer

## Decertification Action

- POST notifies peace officer of intent to decertify
- Peace officer has 30 days to request review of recommended action before the Peace Officer Accountability Advisory Board

## Decertification Action (continued)

- If peace officer does not request a review, the recommendation to decertify by POST stands without further proceedings
- If review is requested, POST schedules hearing before the Board





# Peace Officer Decertification Workflow

## Peace Officer Standards Accountability Advisory Board Review

- Board conducts public hearing on the decertification case
- Board reviews POST investigation findings and decertification recommendation
- Board makes written recommendation to the Commission by majority vote on what action should be taken against the peace officer

## Commission on Peace Officer Standards and Training

- Reviews recommendation made by the Board
- The Commission's decision to adopt a recommendation by the Board to seek revocation shall be made by a two-thirds vote of the Commissioners present
- Commission returns decision to POST

## Administrative Law Judge

- If the Commission moves to take action, POST initiates proceedings for a formal hearing before an Administrative Law Judge
- If the Commission rejects the recommendation, no further action is taken unless additional investigation is requested

## Commission Final

- The Commission moves to accept or reject the decision of the Administrative Law Judge
- The Commission makes the final decision and required notifications are made



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## Senate Bill No. 960

### CHAPTER 825

An act to amend Section 1031 of, and to repeal Section 1031.5 of, the Government Code, and to repeal Section 2267 of the Vehicle Code, relating to public employment.

[Approved by Governor September 29, 2022. Filed with Secretary of State September 29, 2022.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 960, Skinner. Public employment: peace officers: citizenship.

(1) Existing law establishes the Commission on Peace Officer Standards and Training within the Department of Justice to perform various functions involving the training of peace officers. Existing law requires peace officers in this state to meet specified minimum standards, including, among other requirements, being at least 18 years of age, being of good moral character, as determined by a thorough background investigation, and being either a citizen of the United States or a permanent resident who is eligible for and has applied for citizenship, except as prescribed.

This bill would provide that those standards shall be interpreted and applied consistent with federal law and regulations, as specified. The bill would remove the provision that requires peace officers to either be a citizen of the United States or be a permanent resident who is eligible for and has applied for citizenship, and would instead require peace officers be legally authorized to work in the United States, and make conforming changes.

Under existing law, the minimum education requirement for peace officers is high school graduation from a public school or other accredited high school, passing an equivalency test or high school proficiency examination, or attaining a 2-year, 4-year, or advanced degree from an accredited institution. Existing law requires accreditation to be from a state or local government educational agency, a regional accrediting association, an accrediting association recognized by the United States Department of Education, or an organization holding full membership in specified organizations, including AdvancED.

This bill would revise the accreditation standards to include an organization holding full membership in Cognia.

(2) Existing law establishes, within the Transportation Agency, the Department of the California Highway Patrol, under the control of the Commissioner of the California Highway Patrol.

Existing law, with certain exceptions, prohibits a person who is not a citizen of the United States from being appointed as a member of the California Highway Patrol.

This bill would remove that prohibition, and would make conforming changes.

(3) This bill would incorporate additional changes to Section 1031 of the Government Code proposed by AB 2229 to be operative only if this bill and AB 2229 are enacted and this bill is enacted last.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1031 of the Government Code is amended to read:

1031. Each class of public officers or employees declared by law to be peace officers shall meet all of the following minimum standards:

(a) Be legally authorized to work in the United States under federal law.  
(b) Be 18 years of age or older.  
(c) Be fingerprinted for purposes of search of local, state, and national fingerprint files to disclose a criminal record.

(d) Be of good moral character, as determined by a thorough background investigation.

(e) Be a high school graduate, pass the General Education Development Test or other high school equivalency test approved by the State Department of Education that indicates high school graduation level, pass the California High School Proficiency Examination, or have attained a two-year, four-year, or advanced degree from an accredited college or university. The high school shall be either a United States public school, an accredited United States Department of Defense high school, or an accredited or approved public or nonpublic high school. Any accreditation or approval required by this subdivision shall be from a state or local government educational agency using local or state government approved accreditation, licensing, registration, or other approval standards, a regional accrediting association, an accrediting association recognized by the Secretary of the United States Department of Education, an accrediting association holding full membership in the National Council for Private School Accreditation (NCPSA), an organization holding full membership in AdvancED or Cognia, an organization holding full membership in the Council for American Private Education (CAPE), or an accrediting association recognized by the National Federation of Nonpublic School State Accrediting Associations (NFNSSAA).

(f) Be found to be free from any physical, emotional, or mental condition that might adversely affect the exercise of the powers of a peace officer.

(1) Physical condition shall be evaluated by a licensed physician and surgeon.

(2) Emotional and mental condition shall be evaluated by either of the following:

(A) A physician and surgeon who holds a valid California license to practice medicine, has successfully completed a postgraduate medical residency education program in psychiatry accredited by the Accreditation Council for Graduate Medical Education, and has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional

and mental disorders, including the equivalent of three full-time years accrued after completion of the psychiatric residency program.

(B) A psychologist licensed by the California Board of Psychology who has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued postdoctorate.

The physician and surgeon or psychologist shall also have met any applicable education and training procedures set forth by the California Commission on Peace Officer Standards and Training designed for the conduct of preemployment psychological screening of peace officers.

(g) This section shall not be construed to preclude the adoption of additional or higher standards, including age.

(h) This section shall be interpreted and applied consistent with federal law and regulations. This section shall not be construed to permit an employer to override or bypass work authorization requirements stated in Section 274a.2 of Title 8 of the Code of Federal Regulations.

SEC. 1.1. Section 1031 of the Government Code is amended to read:

1031. Each class of public officers or employees declared by law to be peace officers shall meet all of the following minimum standards:

(a) Be legally authorized to work in the United States under federal law.  
(b) Be 18 years of age or older.  
(c) Be fingerprinted for purposes of search of local, state, and national fingerprint files to disclose a criminal record.

(d) Be of good moral character, as determined by a thorough background investigation.

(e) Be a high school graduate, pass the General Education Development Test or other high school equivalency test approved by the State Department of Education that indicates high school graduation level, pass the California High School Proficiency Examination, or have attained a two-year, four-year, or advanced degree from an accredited college or university. The high school shall be either a United States public school, an accredited United States Department of Defense high school, or an accredited or approved public or nonpublic high school. Any accreditation or approval required by this subdivision shall be from a state or local government educational agency using state or local government approved accreditation, licensing, registration, or other approval standards, a regional accrediting association, an accrediting association recognized by the Secretary of the United States Department of Education, an accrediting association holding full membership in the National Council for Private School Accreditation (NCPSA), an organization holding full membership in AdvanceED or Cognia, an organization holding full membership in the Council for American Private Education (CAPE), or an accrediting association recognized by the National Federation of Nonpublic School State Accrediting Associations (NFNSSAA).

(f) Be found to be free from any physical, emotional, or mental condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation, that might adversely affect the exercise of the powers of a peace officer.

(1) Physical condition shall be evaluated by a licensed physician and surgeon.

(2) Emotional and mental condition shall be evaluated by either of the following:

(A) A physician and surgeon who holds a valid California license to practice medicine, has successfully completed a postgraduate medical residency education program in psychiatry accredited by the Accreditation Council for Graduate Medical Education, and has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued after completion of the psychiatric residency program.

(B) A psychologist licensed by the California Board of Psychology who has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued postdoctorate.

The physician and surgeon or psychologist shall also have met any applicable education and training procedures set forth by the California Commission on Peace Officer Standards and Training designed for the conduct of preemployment psychological screening of peace officers.

(g) This section shall not be construed to preclude the adoption of additional or higher standards, including age.

(h) This section shall be interpreted and applied consistent with federal law and regulations. This section shall not be construed to permit an employer to override or bypass work authorization requirements stated in Section 274a.2 of Title 8 of the Code of Federal Regulations.

SEC. 2. Section 1031.5 of the Government Code is repealed.

SEC. 3. Section 2267 of the Vehicle Code is repealed.

SEC. 4. Section 1.1 of this bill incorporates amendments to Section 1031 of the Government Code proposed by this bill and Assembly Bill 2229. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2021, (2) each bill amends Section 1031 of the Government Code, and (3) this bill is enacted after Assembly Bill 2229, in which case Section 1031 of the Government Code, as amended by Assembly Bill 2229, shall remain operative only until the operative date of this bill, at which time Section 1.1 of this bill shall become operative, and Section 1 of this bill shall not become operative.

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## Assembly Bill No. 635

### CHAPTER 707

An act to amend Section 1714.22 of the Civil Code, relating to drug overdose treatment.

[Approved by Governor October 10, 2013. Filed with  
Secretary of State October 10, 2013.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 635, Ammiano. Drug overdose treatment: liability.

Existing law authorizes a physician and surgeon to prescribe, dispense, or administer prescription drugs, including prescription-controlled substances, to an addict under his or her treatment, as specified. Existing law prohibits, except in the regular practice of his or her profession, any person from knowingly prescribing, administering, dispensing, or furnishing a controlled substance to or for any person who is not under his or her treatment for a pathology or condition other than an addiction to a controlled substance, except as specified.

Existing law authorizes, until January 1, 2016, and only in specified counties, a licensed health care provider, who is already permitted pursuant to existing law to prescribe an opioid antagonist, as defined, and who is acting with reasonable care, to prescribe and subsequently dispense or distribute an opioid antagonist in conjunction with an opioid overdose prevention and treatment training program, as defined, without being subject to civil liability or criminal prosecution. Existing law requires a local health jurisdiction that operates or registers an opioid overdose prevention and treatment training program to collect prescribed data and report it to the Senate and Assembly Committees on Judiciary by January 1, 2015.

Existing law authorizes, until January 1, 2016, and only in specified counties, a person who is not licensed to administer an opioid antagonist to do so in an emergency without fee if the person has received specified training information and believes in good faith that the other person is experiencing a drug overdose. Existing law prohibits that person, as a result of his or her acts or omissions, from being liable for any violation of any professional licensing statute, or subject to any criminal prosecution arising from or related to the unauthorized practice of medicine or the possession of an opioid antagonist.

This bill would revise and recast these provisions to instead authorize a licensed health care provider who is permitted by law to prescribe an opioid antagonist and is acting with reasonable care to prescribe and subsequently dispense or distribute an opioid antagonist for the treatment of an opioid overdose to a person at risk of an opioid-related overdose or a family member, friend, or other person in a position to assist a person at risk of an

opioid-related overdose. The bill would authorize these licensed health care providers to issue standing orders for the distribution of an opioid antagonist to a person at risk of an opioid-related overdose or to a family member, friend, or other person in a position to assist the person at risk. The bill would authorize these licensed health care providers to issue standing orders for the administration of an opioid antagonist by a family member, friend, or other person in a position to assist a person experiencing or suspected of experiencing an opioid overdose.

The bill would provide that a licensed health care provider who acts with reasonable care and issues a prescription for, or an order for the administration of, an opioid antagonist to a person experiencing or suspected of experiencing an opioid overdose is not subject to professional review, liable in a civil action, or subject to criminal prosecution for issuing the prescription or order. The bill would provide that a person who is not otherwise licensed to administer an opioid antagonist, but who meets other specified conditions, is not subject to professional review, liable in a civil action, or subject to criminal prosecution for administering an opioid antagonist.

The bill would also delete the repeal date and reporting requirements and expand the applicability of these provisions statewide.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1714.22 of the Civil Code is amended to read:

1714.22. (a) For purposes of this section, the following definitions shall apply:

(1) “Opioid antagonist” means naloxone hydrochloride that is approved by the federal Food and Drug Administration for the treatment of an opioid overdose.

(2) “Opioid overdose prevention and treatment training program” means any program operated by a local health jurisdiction or that is registered by a local health jurisdiction to train individuals to prevent, recognize, and respond to an opiate overdose, and that provides, at a minimum, training in all of the following:

- (A) The causes of an opiate overdose.
- (B) Mouth to mouth resuscitation.
- (C) How to contact appropriate emergency medical services.
- (D) How to administer an opioid antagonist.

(b) A licensed health care provider who is authorized by law to prescribe an opioid antagonist may, if acting with reasonable care, prescribe and subsequently dispense or distribute an opioid antagonist to a person at risk of an opioid-related overdose or to a family member, friend, or other person in a position to assist a person at risk of an opioid-related overdose.

(c) (1) A licensed health care provider who is authorized by law to prescribe an opioid antagonist may issue standing orders for the distribution of an opioid antagonist to a person at risk of an opioid-related overdose or

to a family member, friend, or other person in a position to assist a person at risk of an opioid-related overdose.

(2) A licensed health care provider who is authorized by law to prescribe an opioid antagonist may issue standing orders for the administration of an opioid antagonist to a person at risk of an opioid-related overdose by a family member, friend, or other person in a position to assist a person experiencing or reasonably suspected of experiencing an opioid overdose.

(d) (1) A person who is prescribed or possesses an opioid antagonist pursuant to a standing order shall receive the training provided by an opioid overdose prevention and treatment training program.

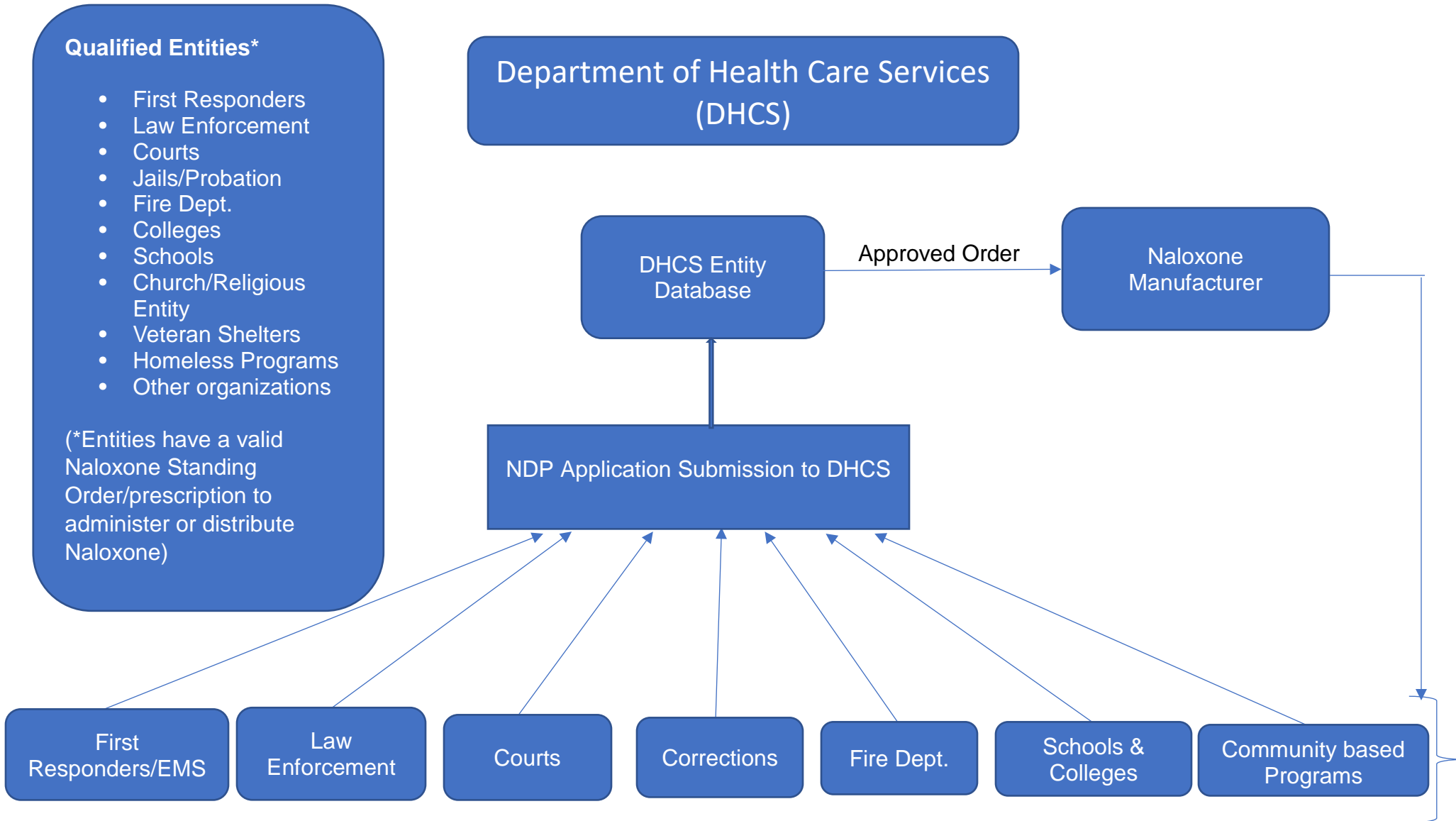
(2) A person who is prescribed an opioid antagonist directly from a licensed prescriber shall not be required to receive training from an opioid prevention and treatment training program.

(e) A licensed health care provider who acts with reasonable care shall not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for issuing a prescription or order pursuant to subdivision (b) or (c).

(f) Notwithstanding any other law, a person who possesses or distributes an opioid antagonist pursuant to a prescription or standing order shall not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for this possession or distribution. Notwithstanding any other law, a person not otherwise licensed to administer an opioid antagonist, but trained as required under paragraph (1) of subdivision (d), who acts with reasonable care in administering an opioid antagonist, in good faith and not for compensation, to a person who is experiencing or is suspected of experiencing an overdose shall not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for this administration.

## NDP\_Overview.pdf

# STATE NALOXONE DISTRIBUTION PROJECT OVERVIEW



**Naloxone-Distribution-Project-  
FAQs-December-2020 FACTS.pdf**



**Naloxone Distribution Project**  
*Frequently Asked Questions*  
*December 2020*

**1. What is the Naloxone Distribution Project (NDP)?**

The Naloxone Distribution Project (NDP) is funded by the Substance Abuse and Mental Health Services Administration (SAMHSA) and administered by the Department of Health Care Services (DHCS) to combat opioid overdose-related deaths throughout California. The NDP aims to reduce opioid overdose deaths through the provision of free naloxone, in its nasal spray formulation.

Through the NDP, qualified organizations and entities are able to request free naloxone from DHCS and have it directly shipped to their address.

**2. What is Naloxone?**

Naloxone is a life-saving medication that reverses an opioid overdose while having little to no effect on an individual if opioids are not present in their system. Naloxone works by blocking the opioid receptor sites, reversing the toxic effects of the overdose. Naloxone requires a prescription but is not a controlled substance. It has few known adverse effects, and no potential for abuse.

Naloxone is administered when a patient is showing signs of opioid overdose. The medication can be given by intranasal spray, intramuscular (into the muscle), subcutaneous (under the skin), or by intravenous injection.

**3. What is NARCAN (naloxone HCl) Nasal Spray?**

NARCAN<sup>®</sup> Nasal Spray is a prescription medicine used for the treatment of an opioid emergency such as an overdose or a possible opioid overdose, indicated by signs of breathing problems and severe sleepiness or not being able to respond. NARCAN<sup>®</sup> Nasal Spray is to be given right away and does not take the place of emergency medical care. You can get additional information at the [Narcan manufacturer's website](#).

#### **4. Can naloxone be used for a fentanyl overdose?**

Yes. Fentanyl is an opioid therefore naloxone can be used to reverse a fentanyl overdose.

#### **5. What types of organizations are eligible to apply for the NDP?**

DHCS will provide free naloxone to organizations and entities eligible to administer or distribute naloxone through a California Public Health standing order. Examples include:

- **First responders**
- Emergency medical services
- Fire authorities
- Law enforcement, courts, & criminal justice partners
- Veteran organizations
- Homeless programs
- Schools & universities
- Libraries
- Religious entities
- Community organizations

The program is not intended to distribute directly to individuals. Some community organizations and other entities listed above may offer naloxone at low or no cost to individuals.

#### **6. Can county public health and behavioral health agencies apply to NDP to receive naloxone?**

Yes, county public health and behavioral health agencies may apply to NDP to receive naloxone.

However, counties are recommended to request only for their specific agency needs. The distribution plan should justify the volume requested and provide details of the recipients. If the distribution plan includes eligible sub-recipients (e.g. law enforcement, homeless shelters or community clinics) the volume of naloxone requested may be reduced or denied. DHCS strongly recommends sub-recipients to directly apply to NDP for their naloxone needs. This is so that DHCS can collect accurate data regarding naloxone distribution, use and reversals to report to the State Opioid Response grantor, the Substance Abuse and Mental Health Services Administration (SAMHSA).



## 7. How can entities in California apply to the NDP?

If you would like to request free naloxone, complete the online NDP application on the DHCS website.

The application includes instructions, as well as terms and conditions of participating in the NDP. In addition to filling out the application form and agreeing to the terms and conditions, organizations must also send:

- A copy of a valid and active business license, FEIN number or tax-exempt letter.
- A copy of a naloxone standing order or physician's prescription.
- If the naloxone request is for more than 48 units, the organization/entity must provide a brief and comprehensive summary explaining why the quantity was requested and the plan for distribution.

Send the application and supporting documents to [Naloxone@dhcs.ca.gov](mailto:Naloxone@dhcs.ca.gov).

Applications that fail to submit all required documentation will be deemed incomplete and will result in application denial.

## 8. Can hospital emergency departments apply for the program?

Yes. Hospital emergency departments are eligible entities for the NDP and may provide take-home doses of naloxone to patients. Emergency departments should provide the following supplemental documentation with the application:

- Copy of a standing order for naloxone or pharmacy license for the facility
- Signed Naloxone Terms & Conditions Form for Emergency Departments ([Terms and Conditions form](#)) is available on the website.
- Policies and procedures for naloxone distribution

Dr. Kelly Pfeifer, Deputy Director, and James Gasper, Psychiatric and Substance Use Disorder Pharmacist, at DHCS and Anne Sodergren, Interim Executive Officer of the California Board of Pharmacy have clarified regulations pertinent to the distribution of naloxone in hospitals. Essential requirements of compliance are:

- The naloxone must be acquired and stored separately from the hospital's pharmacy inventory
- The emergency department is required to keep a log and track the distribution of the naloxone doses distributed through this program
- The hospital emergency room are required to have policies and procedures, which will dictate how the hospital emergency will distribute the naloxone, including whether the naloxone will be labeled or not labeled. The Board of Pharmacy has clarified that naloxone obtained through the NDP and stored separately from the hospital's pharmacy inventory does not need to be labeled as stated in Business and Professions Code 4068.

## **9. Can substance use disorder treatment programs apply for the NDP?**

Yes. Substance use disorder treatment programs are eligible entities for the NDP and may have naloxone onsite in case of overdoses or provide take-home naloxone to clients leaving the facility. SUD treatment programs should provide the following supplemental documentation with the application:

- Copy of a naloxone standing order or physician's prescription
- Copy of the program's DHCS license (if applicable)
- Policies and procedures for naloxone distribution, including:
  - Separate storage of naloxone received through the program from other medications that may be billed to patient insurance;
  - Inventory and tracking of naloxone received through the program;
  - Distribution plan for naloxone received through the program

## **10. What if I operate a harm reduction or community outreach program out of an FQHC or clinic?**

If you operate a harm reduction or community outreach program out of a health care site, please provide supplemental documentation to your application that explains the program, and how naloxone provided through the program will be kept separate from naloxone used in the health care site.

## **11. Is it acceptable to include a P.O. box as the mailing address?**

No. FedEx (the shipping service utilized under this project) will not deliver the product to P.O. boxes.

## **12. Can I apply on behalf of another program?**

No. Please have any eligible entities apply separately for the program.

## **13. How much does it cost to obtain naloxone through the NDP?**

The product is free and is shipped directly to the qualified applicant.

## **14. What is the minimum order that I can request through the NDP?**

There is a minimum of 12 naloxone units (two 4mg devices per unit) per order; 12 units in one case. Please order in increments of 12 – for example, if you want three cases, please fill in "36" under the "units order" box in the NDP application.

## **15. Do I have to order in multiples of 12 units?**

Yes. Each shipping case contains 12 units of naloxone.

**16. What is the maximum order that I can request through the NDP?**

The maximum that an entity or organization can order is 2,400 units. For an order over 48 units, you must provide a brief and comprehensive summary that justifies your request.

If DHCS has additional questions about the quantity of naloxone requested, they may reach out to the applicant and request additional information to substantiate the request.

**17. If DHCS denies an application, can the entity reapply?**

Yes. If your application is denied, you may submit another application. Follow the application instructions, and the terms and conditions to qualify to receive the free shipment of naloxone. Applicants will be required to report on overdose reversals when re-applying for more naloxone.

**18. If DHCS approves an application for a specific quantity of naloxone, can another application be submitted to request more naloxone?**

Yes. You may request more naloxone by submitting a new application to DHCS. Prior approval does not guarantee automatic approval of the secondary request for additional naloxone.

**19. What is the purpose of the naloxone standing order?**

The standing order was issued by the state Public Health Officer (authorized by California Civil Code Section 1714.22) to: 1) allow community organizations and other entities in California that are not currently working with a physician, to distribute naloxone to a person at risk of an opioid-related overdose or to a family member, friend, or other person in a position to assist; and 2) allow for the administration of naloxone by a family member, friend, or other person to a person experiencing or reasonably suspected of experiencing an opioid overdose.

For more information about naloxone standing orders, review this [FAQ document issued by the California Department of Public Health](#).

If your organization does not have a standing order, you may apply for one at the [California Department of Public Health's standing order application page](#).

**20. Is training required to distribute naloxone?**

Yes. Staff of community organizations and other entities distributing naloxone under the NDP are required to receive opioid overdose prevention and treatment training and are required to train individuals who receive naloxone from them. Minimum training requirements, and an example training resource, are included on the NDP application.

For additional training resources, please visit the website [getnaloxonenow.org](http://getnaloxonenow.org) or the Harm Reduction Coalition's [Overdose Prevention and Naloxone Manual](#).

**21. Are entities that receive free naloxone through the NDP permitted to sell naloxone?**

No. The NDP program was established to allow community organizations and other entities that are in possession of naloxone to distribute it, and to allow individuals that receive naloxone to administer it.

The product may only be used by the applicant and may not be submitted for reimbursement of any type, including and not limited to, private pay, commercial, government authority, agency, or otherwise.

**22. What are data reporting requirements for entities receiving naloxone through the NDP?**

Entities participating in the program agree to maintain and report information regarding the number of reversals that occurred using the naloxone to [Naloxone@dhcs.ca.gov](mailto:Naloxone@dhcs.ca.gov). Entities requesting re-applying for the program be required to submit information about overdose reversals using naloxone received through the project.

**23. Once an application is approved, how long does the applicant have to wait to receive the shipment?**

DHCS will contact you via email within 8-10 weeks of the date of receipt of application and confirm if your request has been approved or denied. The shipment will be mailed within four weeks of the date of approval of application.

**24. Can I return the product?**

No. The product is not returnable or refundable.

**25. What should I do if there are issues with my naloxone shipment?**

Please direct all questions regarding the product or shipment to [customerservice@adaptpharma.com](mailto:customerservice@adaptpharma.com)

Please direct any questions regarding the application process to DHCS at [Naloxone@dhcs.ca.gov](mailto:Naloxone@dhcs.ca.gov)

**Addendum A - Military equipment  
policy Final PDF 031122.pdf**

## Addendum A

### A. MILITARY USE EQUIPMENT

1. **Robots:** A remotely-controlled unmanned machine that operates on the ground, which is utilized to enhance the safety of the community and officers. (Desert Regional SWAT Asset)
  - a. Description, quantity, capabilities, and purchase cost
    - i. ICOR Technology Mini-CALIBER Robot, cost: \$40,000, quantity: 1. Lightweight, modular and one-man portable, the Mini-CALIBER SWAT and EOD Robot is tested and recommended by the National Tactical Officers Association (NTOA). Designed for rapid tactical missions, the robot is simple to operate and quick to deploy for searching rooms, hallways, stairwells and confined spaces. With rubber tracks and articulating front and rear flippers, the Mini-CALIBER effortlessly climbs stairs. It also includes an extendible rotating claw arm that simplifies opening door handles.
  - b. Purpose

To be used to remotely gain visual/audio data, deliver CNT phone, open doors, clear buildings and deliver chemical munitions.
  - c. Authorized Use

Operators who have completed the required training shall be permitted to operate the robots.
  - d. Expected Lifespan 8-10 years.
  - e. Fiscal Impact

Annual maintenance and battery replacement cost is approximately \$600 (Batteries replaced at 3-4 years).
  - f. Training

All robot operators receive training annually during SWAT training days.
  - g. Legal and Procedural Rules

It is the policy of the IPD to utilize a robot only for official law enforcement purposes and in a manner that respects the privacy of our community, pursuant to State and Federal law.
2. **Armored Vehicles:** Commercially produced wheeled armored personnel vehicle utilized for lawenforcement purposes. (Desert Regional SWAT Asset. Both armored vehicles are owned and maintained by the Palm Springs Police Department).
  - a. Description, quantity, capabilities, and purchase cost
    - i. Lenco BEARCAT, cost: \$300,000, quantity: 1. The Lenco BearCat is an armored vehicle that seats 10-12 personnel with an open floor plan that allows for the rescue of downed personnel. It can stop various projectiles, which provides greater safety to citizens and officers beyond the protection level of shield and personal body armor.
    - ii. Lenco BEAR, cost: \$600,000, quantity: 1. The Lenco BEAR, is an armored vehicle that seats 16-18 personnel with an open floor plan that allows for the rescue of downed personnel. The Bear has increased ground clearance and a robust suspension which allows for an emergency response to almost any situation. It can stop various projectiles, which provides greater safety to citizens and officers beyond the protection level of shield and personal body armor. The Lenco BEAR features a heavy-duty hydraulic RAM mounted to the front of the vehicle. The removable RAM raises and lowers with interior controls and is capable of breaching doors, concrete barriers, and moving other large items. The RAM is a multi-purpose tool, which can also be equipped with a 360-degree camera system and a delivery system for non-lethal munitions.
  - b. Purpose

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To be used in response to critical incidents to enhance officer and community safety, improve scene containment and stabilization, and assist in resolving critical incidents.

c. Authorized Use

The use of armored vehicles shall only be authorized by a watch commander or SWAT commander, based on the specific circumstances of a given critical incident. Armored vehicles shall be used only by officers trained in their deployment and in a manner consistent with Department policy and training.

d. Expected Lifespan

Lenco BearCat and BEAR, 25 years.

e. Fiscal Impact

None. Maintenance is handled through the City of Palm Springs.

f. Training

All drivers/operators shall attend formalized instruction and be trained in vehicle operations and practical driving instruction. BEAR drivers are required to obtain a Class B driver's license prior to use.

g. Legal and Procedural Rules

It is the policy of the Department to utilize armored vehicles only for official law enforcement purposes and pursuant to State and Federal law.

**3. 40 MM Launchers and Rounds:** 40MM Launchers are utilized by department personnel as a less-lethal tool to launch impact rounds.

a. Description, quantity, capabilities, and purchase cost

- i. DEFENSE TECHNOLOGY, 40MM SINGLE SHOT LAUNCHER, #1425, cost: \$1000, quantity: 26. The 40MM Single Launcher is a tactical single-shot launcher that features an expandable ROGERS Super Stoc™ and an adjustable Integrated Front Grip (IFG) with light rail. It will fire standard 40mm less-lethal ammunition, up to 4.8 inches in cartridge length.
- ii. PENN ARMS, 40MM PUMP MULTI-LAUNCHER, #P540-1, cost: \$3,000, quantity: 4. Penn Arms 40MM launchers are manufactured using 4140 hardened steel, 6061-T6 mil-spec anodized aluminum and DuPont super tough glass-filled nylon. These launchers are lightweight, versatile and used worldwide by police and corrections officers. It will fire standard 40mm less-lethal ammunition, up to 4.8 inches in cartridge length.
- iii. DEFENSE TECHNOLOGY, 40MM EXACT IMPACT SPONGE, #6325, cost: \$29, quantity: 98. The eXact IMPact 40mm Sponge Round is a point-of-aim, point-of-impact direct-fire round. This lightweight, high-speed projectile consisting of a plastic body and sponge nose that is spin-stabilized via the incorporated rifling collar and the 40mm launcher's rifled barrel. The round utilizes smokeless powder as the propellant, and, therefore, has velocities that are extremely consistent. Used for Crowd Control, Patrol, and Tactical Applications.
- iv. DEFENSE TECHNOLOGY, 40MM DIRECT IMPACT OC, #6320, cost: \$30, quantity: 80. The 40mm Direct Impact® munition is a point-of-aim, point-of-impact direct-fire round. An excellent solution whether you need to incapacitate a single subject or control a crowd. When loaded with OC powder, the Direct Impact combines blunt trauma with the effects of an irritant powder, maximizing the potential for incapacitation. NOTE: The current 40mm OC munitions inventory is expired and is

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being retained in a secure location for training use only.

- v. DEFENSE TECHNOLOGY, 40MM DIRECT IMPACT MARKING, #6326, cost: \$30, quantity: 26. The 40mm Direct Impact® munition is a point-of-aim, point-of-impact direct-fire round. An excellent solution whether you need to incapacitate a single subject or control a crowd. When loaded with a green marking agent, the Direct Impact can be used to indicate the aggressor in a crowd or riot situation to the team on the ground. NOTE: The current 40mm marking munitions inventory is expired and is being retained in a secure location for training use only.
- vi. DEFENSE TECHNOLOGY, 40MM DIRECT IMPACT INERT, #6323, cost: \$30, quantity: 3. The 40mm Direct Impact® munition is a point-of-aim, point-of-impact direct-fire round. An excellent solution whether you need to incapacitate a single subject or control a crowd. The black-nosed inert munition is a great option for training. NOTE: The current 40mm inert munitions inventory is expired and is being retained in a secure location for training use only.

b. Purpose

To limit the escalation of conflict where employment of lethal force is prohibited or undesirable.

c. Authorized Use

Situations for use of the less lethal weapon systems may include, but are not limited to:

- i. Self-destructive, dangerous and/or combative individuals.
- ii. Riot/crowd control and civil unrest incidents.
- iii. Circumstances where a tactical advantage can be obtained.
- iv. Potentially vicious animals.
- v. Training exercises or approved demonstrations.

d. Expected Lifespan

Defense Technology #1425 40mm Single Launcher- 20 years.

Penn Arms #P540-1 40mm Multi-Launcher- 25 years.

Defense Technology #6325 Exact Impact Sponge- 5 years.

Defense Technology #6320 Direct Impact OC- 5 years.

Defense Technology #6326 Direct Impact Marking- 5 years.

Defense Technology #6323 Direct Impact Inert- 5 years.

e. Fiscal Impact

Annual maintenance is approximately \$50 for each launcher. Munitions need to be replaced at end of life (5-years) or as needed upon use.

f. Training

Sworn members utilizing 40MM less-lethal chemical agents or impact rounds are trained in their use by POST-certified less lethal and chemical agent instructors.

g. Legal and Procedural Rules

Use is established under IPD Policy Section 308.6 and 308.9. It is the policy of the IPD to utilize the 40mm only for official law enforcement purposes, and pursuant to State and Federal law, including those regarding the use of force.

**4. Combined Systems LC5 40MM Launching Cup:** Cup that attaches to 12 gauge less-lethal shotguns which allow officers to launch canisters of chemical agents or smoke.

a. Description, quantity, capabilities, and purchase cost

COMBINED SYSTEMS LC5 40MM LAUNCHING CUP, cost: \$315, quantity: 2. The



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LC5 Launching Cups are designed for the 5200 series grenades. The cups can be attached to virtually any 12ga shotgun and the munition is launched with the Combined Systems model 2600 launching cartridge.

b. Purpose

To limit the escalation of conflict where employment of lethal force is prohibited or undesirable.

c. Authorized Use

Situations for use of the less-lethal weapon systems may include, but are not limited to:

- i. Self-destructive, dangerous and/or combative individuals.
- ii. Riot/crowd control and civil unrest incidents.
- iii. Circumstances where a tactical advantage can be obtained.
- iv. Potentially vicious animals.
- v. Training exercises or approved demonstrations.

d. Expected Lifespan

Combined Systems LC5 40MM Launching Cup- 25 years

e. Fiscal Impact

No annual maintenance. However, replacement costs to maintain an adequate supply.

f. Training

Officers utilizing the launching cups are trained by POST-certified chemical agent instructors.

g. Legal and Procedural Rules

Use is established under IPD Policy Section 308..6. It is the policy of the IPD to utilize the 40mm launching cups to deliver chemical agents and/or smoke only for official law enforcement purposes, and pursuant to State and Federal law, including those regarding the use of force.

### 5. **Distraction Devices:** A device used to distract dangerous persons.

a. Description, quantity, capabilities, and purchase cost

- i. COMBINED TACTICAL SYSTEMS, 7290M MINI FLASH-BANG, cost: \$42, quantity: 9. The CTS 7290M Mini Flash-Bang is the newest generation in the evolution of the Flash-Bang. The Flash-Bang exhibits all of the same attributes as its larger counterpart but in a smaller and lighter package. Weighing in at just 15 ounces the new 7290M is approximately 30% lighter than the 7290 but still has the same 175db output of the 7290 and produces 6-8 million candela of light. The patented design of the 7290M, incorporates a porting system that eliminates movement of the body at detonation even if the top or bottom of the device should be in contact with a hard surface. In addition, internal adjustments have greatly reduced smoke output.
- ii. COMBINED TACTICAL SYSTEMS, 7290-3 FLASH-BANG cost \$109, quantity: 1. A non-bursting, non-fragmenting multi-bang device that produces a thunderous bang with an intense bright light. Ideal for distracting dangerous suspects during assaults, hostage rescue, room entry or other high-risk arrest situations.
- iii. COMBINED TACTICAL SYSTEMS, 7290-6 FLASH-BANG, cost \$135, quantity: 1. A non-bursting, non-fragmenting multi-bang device that produces a thunderous bang with an intense bright light. Ideal for distracting dangerous suspects during assaults, hostage rescue, room entry or other high-risk arrest situations.
- iv. COMBINED TACTICAL SYSTEMS, 7290-9 FLASH-BANG, cost \$146, quantity: 1. A

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non-bursting, non-fragmenting multi-bang device that produces a thunderous bang with an intense bright light. Ideal for distracting dangerous suspects during assaults, hostage rescue, room entry or other high-risk arrest situations.

b. Purpose

A distraction device is ideal for distracting dangerous suspects during assaults, hostage rescue, room entry or other high-risk arrest situations. To produce atmospheric over-pressure and brilliant white light and, as a result, can cause short-term (6-8 seconds) physiological/psychological sensory deprivation to give officers a tactical advantage. Can also be used as an option when confronted by vicious animals.

c. Authorized Use

Diversionary Devices shall only be used:

- i. By officers who have been trained in their proper use.
- ii. During barricaded subject and/or hostage situations.
- iii. During high-risk warrant services.
- iv. When discouraging dangerous animals from attacking
- v. During riotous situations or to restore or maintain order during civil disturbances.
- vi. Circumstances wherein distraction of violent and/or emotionally disturbed persons and/or those under the influence of alcohol/drugs is believed necessary to facilitate apprehension/custody.
- vii. Situations wherein the Incident Commander or on-scene Supervisor deems their use necessary to safely resolve the incident.
- viii. During training exercises.

d. Expected Lifespan

All of the above-listed distraction devices are single-use and expire after five years.

e. Fiscal Impact

No annual maintenance. However, replacement costs to maintain an adequate supply.

f. Training

Prior to use, officers must attend diversionary device training that is conducted by POST-certified instructors.

g. Legal and Procedural Rules

Use is established under IPD Policy Section 415. It is the policy of the IPD to utilize diversion devices only for official law enforcement purposes, and pursuant to State and Federal law regarding the use of force.

**6. Rifles:** Guns that are fired from shoulder level, having a longer, grooved barrel intended to make bullets spin and thereby have greater accuracy over a long distance.

a. Description, quantity, capabilities, and purchase cost

- i. AMERICAN DEFENSE MANUFACTURING AR-15, 5.56 CALIBER RIFLE, MODEL UIC MOD1, cost: \$1,200, quantity: 53. Built on a billet aluminum, fully ambidextrous upper and lower receiver set, the ADM UIC MOD 1 is the Law Enforcement Duty Carbine of the UIC line. Barrel lengths vary and include 11.5", 14.5", and 16" barrels. This is the standard AR-15 style rifle issued to officers and utilized by law enforcement agencies nationwide.
- ii. COLT M-4, .223 CALIBER RIFLE, MODEL LE6946CQB, cost: \$1,400, quantity: 12. The LE6946CQB displays fresh ingenuity with a folding front sight for enhanced optical solutions, and a straight gas tube and a removable lower rail which provides

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modularity for under mounting accessories. The patented one-piece monolithic upper receiver incorporates a continuous Mil-Spec rail from the rear of the upper receiver to the front sight. This feature affords unmatched repeatability for mounting optical systems, not found with separate handguard rail systems. Designed with accuracy in mind, its true free-floating barrel provides the enhanced accuracy necessary for long-range acquisition capability. This select-fire rifle is issued to SWAT operators assigned to the Desert Regional SWAT Team.

- iii. BUSHMASTER M-4, .223 CALIBER RIFLE, MODEL XM15-E25, cost: \$1,100, quantity: 11. One of Bushmaster's most popular rifles, the Patrolman's Carbine is equipped with a 16" M4 Barrel, with a chrome-lined bore and chamber. The A2 birdcage-type flash hider was built to control muzzle flash, and the six-position telestock allows for quick and lightweight handling. This model also includes an A3 removable carry handle with 1/2 MOA elevation and 1/2 MOA windage adjustments. This is the standard AR-15 style rifle issued to officers and utilized by law enforcement agencies nationwide.
  - iv. LWRC INTERNATIONAL MK12- 5.56mm cost: \$2,500, quantity: 1. The Mk12 is equipped with an 18" Barrel, This firearm is gas-operated with a rotating bolt, along with a Surefire muzzle brake. It is equipped with a LaRue/Harris bipod (Quick-detach) & Surefire MINI suppressor and Geissele trigger. The rifle has a Magpul stock with a medium-range mission-specific optic. This rifle is primarily used in an overwatch capacity or during a SWAT callout to protect the community during large events. (City Parades, Music Festivals, SWAT. deployments).
  - v. REMINGTON .308 CALIBER RIFLE, MODEL 700, cost: \$3,500, quantity 2. The Model 700 is a highly maneuverable member of the family. It's built for tack-driving accuracy with a 26" heavy-contour tactical-style barrel. It includes a bolt carrier group that reduces overall recoil and impulse and is easy to maintain and operate in all weather conditions. The rifle is equipped with a LaRue/Harris bipod, surplus sling, and a Leopold long-range scope. This rifle is primarily used in an overwatch capacity to protect the community during large events and during SWAT deployments.
  - vi. ACCURACY INTERNATIONAL .308 CALIBER RIFLE, cost \$7,000, quantity 1. 28" barrel. The AI .308 caliber rifle is a precision sniper rifle. It is a highly accurate and durable rifle that is easy to maintain and operate in all weather conditions. The AI features a Bolt-Connection System that dramatically increases the connection surface area between the barrel and upper receiver for increased stability, accuracy and consistency, traditionally only found in high-end bolt action rifles. The rifle is equipped with a LaRue/Harris bipod, sling, and long-range scope. This rifle is primarily used in an overwatch capacity to protect the community during large events and during SWAT deployments. NOTE: This rifle is owned by the Palm Springs Police Department. However, it is currently being utilized by an Indio Police officer assigned to Desert Regional SWAT.
- b. Purpose  
To be used as precision weapons to address a threat with more precision and/or greater distances than a handgun, if present and feasible.
  - c. Authorized Use  
Only members that are POST certified are authorized to use a rifle.
  - d. Lifespan  
American Defense Manufacturing rifles- 15 years.

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Colt M-4 rifles- 10 years.

Bushmaster rifles- 15 years.

LWRC International rifles- 10 years.

Remington 700 rifles- 10 years.

Accuracy International rifle- 10 years.

e. Fiscal Impact

Annual maintenance is approximately \$50 for each rifle.

f. Training

Prior to using a rifle, officers must be certified by POST instructors in the operation of the rifle. Additionally, all members that operate any rifle are required to pass a range qualification annually. Additional qualifications are in place for those assigned to Desert Regional SWAT.

g. Legal and Procedural Rules

Use is established under IPD Policy Sections 300, 312 and 409. It is the policy of the IPD to utilize rifles only for official law enforcement purposes, and pursuant to State and Federal law regarding the use of force.

**7. Chemical Agent and Smoke Canisters:** Canisters that contain chemical agents that are released when deployed.

a. Description, quantity, capabilities, and purchase cost

- i. COMBINED TACTICAL SYSTEMS, CS BAFFLED CANISTER GRENADE , PYRO, LOW FLAME POTENTIAL, #5230B, cost: \$45, quantity: 18. Pyrotechnic grenade designed for indoor use delivering a maximum amount of irritant smoke throughout multiple rooms with minimal risk of fire. The Baffled Grenade can be used in crowd control as well as tactical deployment situations by Law Enforcement and Corrections but was designed with the barricade situation in mind. Its applications in tactical situations are primarily to detect and/or dislodge barricaded subjects. The purpose of the Baffled Grenade is to minimize the risks to all parties through pain compliance, temporary discomfort, and/or incapacitation of potentially violent or dangerous subjects. The Baffled Grenade provides the option of delivering a pyrotechnic chemical device indoors, maximizing the chemicals' effectiveness via heat and vaporization while minimizing or negating the chance of fire to the structure.
- ii. COMBINED TACTICAL SYSTEMS, RIOT CS SMOKE, #5230, cost: \$34, quantity: 12. Large diameter burning grenade that discharges a high volume of smoke and chemical agent through multiple emission ports. Specifically for outdoor use and should not be deployed on rooftops, in crawl spaces or indoors due to potential fire hazards. Can be hand thrown or launched. Discharge duration can reach up to 40 seconds.
- iii. COMBINED TACTICAL SYSTEMS, WHITE SMOKE, #6210, cost: \$32, quantity: 24. White outdoor smoke grenades are used for obscuring tactical movement and signaling or marking a landing zone.
- iv. COMBINED SYSTEMS, 40MM CS POWDER BARRICADE PENETRATING ROUND, #4431, cost: \$25, quantity: 24. This round is a spin-stabilized, 4.1" long, CS powder-filled projectile that penetrates intermediate barriers and delivers irritant agents into an adjacent room. Effectiveness is dependent upon the type of weapon, angle of impact, environmental conditions, and the type of the intermediate barrier. The greatest probability for penetration occurs when the projectile impacts 90°

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perpendicular to the intermediate barrier. General usage in tactical situations involves intermediate barriers, such as single pane exterior windows, vehicle windows, pressed wood particle doors, 1-2 layers of wallboard, and interior hollow core doors. In a tactical deployment situation, the 40mm barricade penetrating round is primarily used to dislodge barricaded subjects from confined areas. Its purpose is to minimize the risks to all parties through pain compliance, temporary discomfort and/or incapacitation of potentially violent or dangerous subjects.

- v. DEFENSE TECHNOLOGY, RIOT CONTROL CONTINUOUS DISCHARGE GRENADE, CS, #1082, cost: \$29, quantity: 31. The Riot Control CS Grenade is designed specifically for outdoor use in crowd control situations with a high volume continuous burn that expels its payload in approximately 20-40 seconds through four gas ports located on the top of the canister. This grenade can be used to conceal tactical movement or to direct the route of a crowd. The volume of smoke and agent is vast and obtrusive. This launchable grenade is 6.0 in. by 2.35 in. and holds approximately 2.7 oz. of active agent. NOTE: The current inventory of this item is expired and is being retained in a secure location for training use only.
- vi. DEFENSE TECHNOLOGY, MILITARY STYLE SAF-SMOKE GRENADE, # 1063, cost \$26, quantity: 8. The Saf-Smoke™ Grenade was designed for training, but may also be used in operations. The Saf-Smoke Grenade offers the same approximate burn times as the Spede-Heat™ Grenade in CN or CS and the Riot Control Grenade in CN or CS. The similar burn times may make it the appropriate choice for training or simulation deployment of chemical agent canisters. The Saf-Smoke formulation is considered to be less toxic than Hexachloroethane (HC) smoke. The Saf-Smoke Grenade emits a very white smoke. NOTE: The current inventory of this item is expired and is being retained in a secure location for training use only.
- vii. DEFENSE TECHNOLOGY, POCKET TACTICAL GRENADE - SAF-SMOKE, #1017, cost \$28, quantity: 8. The Pocket Tactical Saf-Smoke™ Grenade is small and lightweight. The Saf-Smoke™ will burn for approximately 20-40 seconds. At 4.75 in. by 1.4 inches in size, it easily fits in most tactical pouches. This is a launchable grenade; however, it is normally used as a signaling or covering device. Though it is slightly over four inches in length, it produces a smoke cloud so fast it appears to be an enveloping screen produced by a full-size tactical grenade. NOTE: The current inventory of this item is expired and is being retained in a secure location for training use only.
- viii. DEFENSE TECHNOLOGY, POCKET TACTICAL GRENADE - CS, #1016, cost: \$24, quantity: 6. The Pocket Tactical CS Grenade is small and lightweight. The 0.9 oz. of active agent will burn approximately 20-40 seconds. At 4.75 in. by 1.4 inches in size, it easily fits in most tactical pouches. This is a launchable grenade; however, it is normally used as a signaling or covering device. Though this device is slightly over four inches in length, it produces a smoke cloud so fast it appears to be an enveloping screen produced by a full-size tactical grenade. NOTE: The current inventory of this item is expired and is being retained in a secure location for training use only.
- ix. DEFENSE TECHNOLOGY, 37MM FERRET - CS, #1162, cost: \$38, quantity: 12. The Ferret® 37 mm CS Round is a frangible projectile filled with chemical agent.

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Upon impacting the barrier, the nose cone ruptures and instantaneously delivers the .16 oz. agent payload inside a structure. These munitions are 4.8 in. by 1.5 in. and travels at 650fps within an effective range of 50 yards. NOTE: The current inventory of this item is expired and is being retained in a secure location for training use only.

- x. SABRE RED, PHANTOM AEROSOL GRENADE - OC, #AG-PTM-40 (MK-5), cost: \$13, quantity: 17. The SABRE Red 1.33% MC, 3.6 oz., MK-5 PHANTOM Evaporating Fog Delivery Aerosol Grenade empties in fourteen (14) seconds filling an area of 22,000 cubic feet in 60 seconds. PHANTOM's evaporating fog delivery is more debilitating (inhalation effect) and simpler to clean up (fresh air) than traditional fog delivery systems, making PHANTOM the ideal extraction tool.
- b. Purpose

To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for the use of the less-lethal weapon systems may include, but are not limited to:

  - i. Self-destructive, dangerous and/or combative individuals.
  - ii. Riot/crowd control and civil unrest incidents.
  - iii. Circumstances where a tactical advantage can be obtained.
  - iv. Potentially vicious animals.
  - v. Training exercises or approved demonstrations.
- c. Authorized Use

Only officers who have received POST certification in the use of chemical agents or have been trained by a POST-Certified instructor are authorized to use chemical agents.
- d. Expected Lifespan

All of the above-listed distraction devices are single-use and expire after five years.
- e. Fiscal Impact

No annual maintenance. However, replacement costs to maintain an adequate supply.
- f. Training

Sworn members utilizing chemical agent canisters are certified by POST less-lethal and chemical agents instructors. Desert Regional SWAT members conduct annual training for SWAT operators.
- g. Legal and Procedural Rules

Use is established under IPD Policy Section 308. It is the policy of the IPD to utilize chemical agents only for official law enforcement purposes, and pursuant to State and Federal law regarding the use of force.

### 8. **Explosive Breaching Tools:** Tools that are used to conduct an explosive breach.

- a. Description, quantity, capabilities, and purchase cost
  - i. ROYAL ARMS REMINGTON 870 BREACHING SHOTGUN, cost: \$795, quantity: 2. This weapon allows for breachers to safely utilize shotgun breaching rounds in order to destroy deadbolts, locks, and hinges. The stand-off that is attached to the end of the barrel allows for positive placement of the gun into the correct position and vents gases to prevent overpressure. This weapon, which is only utilized for breaching, can also defeat windows and sliding glass doors with a flashbang round.
  - ii. ROYAL ARMS TESAR-2 BLACK CAP 425 GRAIN COPPER FRANGIBLE

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- BREACHING ROUND, cost: \$5 per round, quantity: 16. The round is fired from a breaching shotgun and is used to destroy deadbolts, locks and hinges.
- iii. ROYAL ARMS TESC-R-3 GREEN CAP 375 GRAIN CLAYVON FRANGIBLE BREACHING ROUND, cost: \$5 per round, quantity: 5. The round is fired from a breaching shotgun and is used to destroy all locks, cross-bolts and hinges.
  - iv. ROYAL ARMS FB-82H 12-GAUGE 82 GRAIN FLASH BANG HARD BREACHING ROUND, cost: \$5 per round, quantity: 5. The rounds are fired from a breaching shotgun and can be used as a diversionary round or to can be used to breach solid wood doors, light steel, sliders or car windows.
- b. Purpose  
To safely gain entry into a structure.
  - c. Authorized Use  
Explosive breaching may only occur after authorization by the Incident Commander or SWAT Commander in the field and during training exercises.
  - d. Expected Lifespan  
Breaching Shotgun- 25 years  
Royal Arms TESAR-2 black cap 425 grain copper breaching round- 5 years  
Royal Arms TESR-3 green cap 375 grain clayvon frangible breaching round- 5 years  
Royal Arms FB-82H 12-gauge 82 grain flash-bang hard breaching round- 5 years
  - e. Fiscal Impact  
Annual maintenance is minimal. However, replacement costs to maintain an adequate supply.
  - f. Training  
All officers who use explosive breaching tools shall attend 40 hours of explosive breaching instruction and must additionally receive quarterly training for explosive operations.
  - g. Legal and Procedural Rules  
It is the policy of the IPD to utilize breaching tools only for official law enforcement purposes, and pursuant to State and Federal law.

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**DFEH\_RalphPoster\_ENG Hate  
violence informational poster.pdf**

# HATE VIOLENCE & CIVIL RIGHTS

## FACT SHEET

**DFEH**



The Ralph Civil Rights Act forbids acts of violence or threats of violence because of a person's actual or perceived sex/gender, including pregnancy, childbirth, and related medical conditions, gender identity and gender expression, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, immigration status, political affiliation, or position in a labor dispute (California Civil Code section 51.7). These listed characteristics are merely examples and other bases for a discrimination claim under the act are possible. The acts forbidden by civil law may also be criminal acts and can expose violators to criminal penalties. The Ralph Civil Rights Act also forbids a person from requiring a waiver of the act's protections as a condition of entering into a contract for goods or services, including the right to file a complaint or lawsuit or notify the attorney general, Department of Fair Employment and Housing (dfeh), or prosecutor or law enforcement agency.

### WHAT DFEH DOES

**The Department of Fair Employment and Housing enforces the California civil laws that prohibit hate violence by:**

- 1. Investigating complaints;**
- 2. Prosecuting violations of the law; and**
- 3. Educating Californians about the laws prohibiting hate violence, human trafficking, harassment, and discrimination by providing written materials and participating in seminars and conferences.**

### WHAT TYPE OF ACTS ARE FORBIDDEN UNDER CALIFORNIA LAW?

California law forbids verbal or written threats, physical assault or attempted assault, graffiti, and vandalism or property damage. Other California laws establish criminal penalties for acts that include disturbing a group of people gathered to worship; vandalizing a place of worship or a building owned and occupied by a religious educational institution; attempting to discourage religious activities by threats of violence; or, using a bomb or arson to cause a person to fear for his/her personal safety in places of worship or on any private property if the property was targeted because of the owner's or occupant's race, color, religion, ancestry, or other protected bases.

### HOW DO THESE LAWS HELP VICTIMS?

These laws provide civil remedies for persons who have been victims of acts of violence or threats of violence because of race, color, religion, ancestry, national origin, age, disability, sex, sexual orientation, political affiliation or position in a labor dispute.

Available civil remedies include:

- 1. Restraining Orders**
- 2. Actual Damages**
- 3. Punitive Damages**
- 4. Civil Penalties**
- 5. Attorney Fees**

There are several steps one can take to exercise the rights provided by these laws.

# HATE VIOLENCE & CIVIL RIGHTS

## FACT SHEET



## EXAMPLES OF HATE VIOLENCE

Under the Ralph Civil Rights Act, it is unlawful to:

- Interfere by force or threat of force with a person's constitutional rights because of that person's actual or perceived membership in a protected group.
- Willfully disturb a group of people gathered to worship on the basis of their religion.
- Attempt to discourage religious activities by threats of violence.
- Damage a person's property because of that person's actual or perceived membership in a protected group.
- Vandalize a place of worship or building on the basis of actual or perceived membership in a protected group.
- Assault a person on the basis of actual or perceived membership in a protected group.
- Advocate unlawful violence against any person on the basis of that person's actual or perceived membership in a protected group, where that advocacy is directed to inciting or producing imminent lawless action and is likely to produce such action.

## WHAT DO I DO IF I BELIEVE I'M A VICTIM OF HATE VIOLENCE?

1. You may use this brochure. Show it to an attorney, the police, or governmental agencies when you contact them about the problem.
2. Report any violent threat or act to the police. Be sure to explain the connection between the violent threat or act and the characteristic (race, sex, age, disability, sexual orientation, etc.). Remember that this connection can be based on your characteristic or that of a group or individual with whom you are associated.
3. You may file a complaint. A complaint may be filed with DFEH, in court, or with another governmental agency, such as the local police department, district attorney, or the California Attorney General.
4. A private lawsuit can be filed under California Civil code section 52 to enforce the Ralph or Bane Civil Rights Acts.

## CIVIL REMEDIES

1. **Restraining orders:** after a restraining order is obtained from a court, violators of that order can be fined or jailed
2. **Actual damages:** Including the cost of medical treatment, lost wages, property repair, or payment for emotional suffering and distress
3. **Punitive damages:** a court can order additional damages to punish violators
4. **Civil penalties:** a court may order a fine of \$25,000, which would be awarded to the person filing the complaint
5. **Attorney's fees:** a court may order payment of the attorney's fees resulting from the lawsuit

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**If you think you have been a victim of hate violence based on a protected class, file a complaint. A DFEH complaint must be filed within one year from the date the victim becomes aware of the perpetrator's identity, but in no case more than three years from the date of harm. An attorney is not required and there is no fee for the Department's services.**

If you have a disability that requires a reasonable accommodation, the DFEH can assist you by scribing your intake by phone or, for individuals who are Deaf or Hard of Hearing or have speech disabilities, through the California Relay Service (711), or you can contact us below.

## TO FILE A COMPLAINT

**Department of Fair Employment and Housing**  
dfeh.ca.gov  
Toll Free: 800.884.1684  
TTY: 800.700.2320

**DOJ-OIS-Announcement-AB-1506.pdf**

<p>California Department of Justice DIVISION OF LAW ENFORCEMENT John D. Marsh, Acting Chief</p> 	<p><b>INFORMATION BULLETIN</b></p>	
<p><i>Subject:</i></p> <p><b>Assembly Bill (AB) 1506 Definitions and Law Enforcement Agency's Notification Responsibility</b></p>	<p><i>No.</i></p> <p>2021-DLE-03</p>	<p><i>Contact for information:</i></p> <p>John D. Marsh, Acting Chief Division of Law Enforcement (916) 210-6300</p>
	<p><i>Date:</i></p> <p>6/24/2021</p>	

**TO: ALL DISTRICT ATTORNEYS, CHIEFS OF POLICE, SHERIFFS, AND STATE LAW ENFORCEMENT AGENCIES**

Effective July 1, 2021, pursuant to AB 1506, the Department of Justice (DOJ) is required to investigate “incidents of an officer-involved shooting resulting in the death of an unarmed civilian.” (Gov. Code, § 12525.3, subd. (b)(1).) The following is DOJ’s understanding of the terms used in this statute, and is to be used as guidance for all law enforcement partners in determining whether a case falls within the ambit of AB 1506. These definitions are meant to apply *only* in the context of AB 1506, and these terms may have different meanings in other contexts or in different statutes.

Notwithstanding these definitions, DOJ may elect to assume jurisdiction in cases where jurisdiction is unclear, or based on other extenuating circumstances, as determined by the Attorney General. (See Cal. Const., art V, § 13 [Attorney General is “chief law officer of the State” and has a duty “to see that the laws of the State are uniformly and adequately enforced”].)

1. “Officer-involved”

A shooting is “officer-involved” if the death to the unarmed civilian is caused by a California peace officer, within the meaning of Penal Code section 830, acting under color of authority. All shootings committed by officers while on duty are officer-involved shootings. Shootings committed by officers while off-duty are considered officer-involved shootings only if the officer is acting under color of authority.

Officers are acting under “color of authority” when they are performing an act that is made possible only because they are clothed with the authority of law, or when they are acting under pretense of law. Conversely, officers are not acting under “color of authority” when they commit private acts in furtherance of personal pursuits. Shootings by correctional officers as defined in Penal Code section 830.55 are excluded.

2. “Shooting”

A “shooting” is the discharge of a metal projectile by a firearm. A “firearm” is a “device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion.” (Pen. Code, § 16520.) A “shooting” does not include incidents involving

the use of electronic control devices, stun guns, BB, pellet, air, gas-powered guns, or weapons that discharge rubber bullets or beanbags.

3. “Unarmed civilian”

An “unarmed civilian” is “anyone who is not in possession of a deadly weapon.” (Gov. Code, § 12525.3, subd. (a)(2).)

4. “Possession”

A civilian is in “possession” if the weapon is under the civilian’s dominion and control at the time of the shooting. Possession usually requires that the weapon is available for use. Where a civilian attempts to take control of an officer’s firearm, the civilian is not in possession unless the officer loses control of the firearm.

5. “Deadly weapon”

“‘Deadly weapon’ includes, but is not limited to, any loaded weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged, or a switchblade knife, pilum, ballistic knife, metal knuckle knife, dagger, billy, blackjack, plastic knuckles, or metal knuckles.” (Gov. Code, § 12525.3, subd. (a)(1).) All firearms, and BB/pellet guns, even if unloaded or inoperable, are deadly weapons.

Objects that have a legitimate non-weapon purposes are considered deadly weapons only when, based on all the circumstances, they are actually being used in a manner likely to produce death or great bodily injury. The following are examples of objects that have been considered a deadly weapon when used in that manner: knives, box cutters, screwdrivers, bottles, chains, automobiles, rocks, razor blades, and iron bars.

Replica firearms are not considered deadly weapons unless they are used in some particular manner likely to produce death or great bodily injury (e.g., as a bludgeon).

6. “Death”

Death occurs when “[a]n individual ... has sustained either (1) irreversible cessation of circulatory and respiratory functions, or (2) irreversible cessation of all functions of the entire brain, including the brain stem[.]” (Health & Saf. Code, § 7180.) DOJ may assume responsibility for cases where death appears to be imminent.

### **Law Enforcement Agency’s (LEA) Notification Responsibility**

Effective July 1, 2021, immediately notify the DOJ when the LEA has an incident of an officer-involved shooting resulting in the death of an unarmed civilian. When situations arise and it is undetermined if the civilian was unarmed, a notification to DOJ is still requested. The Los Angeles Regional Criminal Information Clearinghouse (LA CLEAR) will be the central point of contact for all officer-involved shooting incident notifications: **(800) 522-5327**.

**PDF CI packet.pdf**



**INDIO POLICE DEPARTMENT  
STREET CRIMES UNIT  
INFORMANT PERSONAL HISTORY**

1) Date:		2) Informant No.	
----------	--	------------------	--

3) Name:			
	Last	First	Middle

4) Alias (Monikers)	
---------------------	--

5) Address:	
-------------	--

City:		State:		Zip:	
-------	--	--------	--	------	--

6) Race:		7) Sex:		8) DOB:		9) POB:	
----------	--	---------	--	---------	--	---------	--

10) Height:		11) Weight:		12) Hair		13) Eyes:	
-------------	--	-------------	--	----------	--	-----------	--

14) Occupation:		15) Employer:	
-----------------	--	---------------	--

16) Home Phone:		17) Work Phone:		18) Cell Phone	
-----------------	--	-----------------	--	----------------	--

19) Identifying Characteristics:	

20) CII #:		21) SSN:		22) FBI #:	
------------	--	----------	--	------------	--

23) Drivers License #:		State:		Expiration:	
Failures to Appear:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Failures to Pay:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Warrants:	<input type="checkbox"/> Yes <input type="checkbox"/> No

24) WSIN / LA CLEAR check	<input type="checkbox"/> Reliable <input type="checkbox"/> Unreliable <input type="checkbox"/> No Record <input type="checkbox"/> Other		
Date Contacted:		Who Contacted:	Rachel

25) Criminal History:	<input type="checkbox"/> Probation <input type="checkbox"/> Parole <input type="checkbox"/> Expunged <input type="checkbox"/> No Record <input type="checkbox"/> Other (explain)



26) Vehicle	Year:		Make/Model		Color		Lic. #	
-------------	-------	--	------------	--	-------	--	--------	--

27) Source of Informant:	What are we to document here? How we crossed path /Or why the union was considered?
--------------------------	---

28) Immediate Family:			
	Last Name	First	Middle

Address:		Phone:	
----------	--	--------	--

Other Family:			
	Last Name	First	Middle

Address:		Phone:	
----------	--	--------	--

29) Informant Motivation:	
---------------------------	--

30) Will Informant Testify:	<input type="checkbox"/> YES	<input type="checkbox"/> NO
-----------------------------	------------------------------	-----------------------------

31) Informant Admonition Form Attached:	<input type="checkbox"/> YES	<input type="checkbox"/> NO
---	------------------------------	-----------------------------

32) Remarks (Refer to Item No. when applicable)	
Item No. ( )	
Item No. ( )	
Item No. ( )	

33) Attachments:	<input checked="" type="checkbox"/> Driver License	<input checked="" type="checkbox"/> CII	<input checked="" type="checkbox"/> Photograph of Informant
	<input checked="" type="checkbox"/> RSO Data Warehouse	<input checked="" type="checkbox"/> Alliance Contacts	<input checked="" type="checkbox"/> Court Case Report

34) Detective's Name:	Jesse Marin	Signature:		Date:	
-----------------------	-------------	------------	--	-------	--

35) SCU Sergeant:		Signature:		Date:	
Approved:	[ ] YES [ ] NO				

36) SCU Commander:		Signature:		Date:	
Approved:	[ ] YES [ ] NO				

37) Remarks by Supervisor:	



**INDIO POLICE DEPARTMENT CONFIDENTIAL INFORMANT WAIVERS**

- | <b>Read Carefully and Initial</b>  | <b>Initial</b> |
|--|----------------|
| 1. You are not a regular employee of the Indio Police Department.  | _____          |
| 2. You are not privileged to violate any law while working with this agency.   | _____          |
| 3. You are not to disclose your association with this agency unless testifying before a judge.   | _____          |
| 4. You are not to participate in any criminal investigation unless it is supervised by the submitting officer.   | _____          |
| 5. You must follow the instructions of the officer supervising you while assisting in an investigation.  | _____          |
| 6. You must follow the instructions of the officer supervising you at least ( daily / weekly / bi-weekly) [circle one]   | _____          |
| 7. Your failure to report accurately and truthfully your action and observations during an investigation will result in a cancellation of any benefits promised to you by this agreement.  | _____          |
| 8. You are not to use your association with this agency or any law enforcement agency to resolve personal matters.   | _____          |
| 9. You are not to handle drugs at any time unless expressly authorized to do so by your accompanying officer and only if you do so as authorized by Section 11367 of the Health and Safety Code: "All duly authorized peace officers while investigating violations of this division, in performance of their official duties, and any person working under their immediate direction, supervision, or instruction are immune from prosecution under this division." | _____          |
| 10. No officer has the authority to promise any special treatment for any criminal actions pending against you now or in the future.   | _____          |
| 11. I will / will not testify. (circle one)  | _____          |
| 12. I will remain available and will appear at any time as required by law enforcement for court proceedings.  | _____          |
| 13. I will keep the submitting officer informed of my address and telephone numbers at all times.  | _____          |

**Read Carefully and Initial**

**Initial**

14. I waive my claim to any monies or property seized, and submitted for asset forfeiture with the case.

\_\_\_\_\_

Print Name

Signature

Date

\_\_\_\_\_  
Confidential Informant

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Handling Detective

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
SCU Sergeant

\_\_\_\_\_

\_\_\_\_\_

## Hate Crime Checklist.pdf

# HATE CRIME CHECKLIST

Page \_\_\_\_\_ of \_\_\_\_\_

<b>VICTIM</b>	<p style="text-align: center;"><b><u>Victim Type:</u></b></p> <p><input type="checkbox"/> <b>Individual</b>                  Legal name (Last, First): _____                  Other Names used (AKA): _____</p> <p><input type="checkbox"/> <b>School, business or organization</b>                  Name: _____                  Type: _____  <i>(e.g., non-profit, private, public school)</i>                  Address: _____</p> <p><input type="checkbox"/> <b>Faith-based organization</b>                  Name: _____                  Faith: _____                  Address: _____</p>	<p style="text-align: center;"><b><u>Target of Crime (Check all that apply):</u></b></p> <p><input type="checkbox"/> Person    <input type="checkbox"/> Private property    <input type="checkbox"/> Public property</p> <p><input type="checkbox"/> Other _____</p> <p style="text-align: center;"><b><u>Nature of Crime (Check all that apply):</u></b></p> <p><input type="checkbox"/> Bodily injury                      <input type="checkbox"/> Threat of violence</p> <p><input type="checkbox"/> Property damage</p> <p><input type="checkbox"/> Other crime: _____</p> <p>Property damage - estimated value _____</p>
---------------	---	--

<b>BIAS</b>	<p style="text-align: center;"><b><u>Type of Bias</u></b>  <b>(Check all characteristics that apply):</b></p> <p><input type="checkbox"/> Disability</p> <p><input type="checkbox"/> Gender</p> <p><input type="checkbox"/> Gender identity/expression</p> <p><input type="checkbox"/> Sexual orientation</p> <p><input type="checkbox"/> Race</p> <p><input type="checkbox"/> Ethnicity</p> <p><input type="checkbox"/> Nationality</p> <p><input type="checkbox"/> Religion</p> <p><input type="checkbox"/> Significant day of offense  <i>(e.g., 9/11, holy days)</i></p> <p><input type="checkbox"/> Other: _____</p> <p>Specify disability (be specific):                  _____                  _____</p>	<p style="text-align: center;"><b><u>Actual or Perceived Bias – Victim’s Statement:</u></b></p> <p><input type="checkbox"/> Actual bias [Victim actually has the indicated characteristic(s)].</p> <p><input type="checkbox"/> Perceived bias [Suspect believed victim had the indicated characteristic(s)].  <i>If perceived, explain the circumstances in narrative portion of Report.</i></p> <p style="text-align: center;"><b><u>Reason for Bias:</u></b></p> <p><b>Do you feel you were targeted based on one of these characteristics?</b>  <input type="checkbox"/> Yes    <input type="checkbox"/> No    <i>Explain in narrative portion of Report.</i></p> <p><b>Do you know what motivated the suspect to commit this crime?</b>  <input type="checkbox"/> Yes    <input type="checkbox"/> No    <i>Explain in narrative portion of Report.</i></p> <p><b>Do you feel you were targeted because you associated yourself with an individual or a group?</b>  <input type="checkbox"/> Yes    <input type="checkbox"/> No    <i>Explain in narrative portion of Report.</i></p> <p><b>Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)?</b>  <input type="checkbox"/> Yes    <input type="checkbox"/> No    <i>Describe in narrative portion of Report.</i></p> <p><b>Are there Indicators the suspect is affiliated with a criminal street gang?</b>  <input type="checkbox"/> Yes    <input type="checkbox"/> No    <i>Describe in narrative portion of Report.</i></p>
-------------	--	---

	<p style="text-align: center;"><b><u>Bias Indicators (Check all that apply):</u></b></p> <p><input type="checkbox"/> Hate speech                      <input type="checkbox"/> Acts/gestures                      <input type="checkbox"/> Property damage                      <input type="checkbox"/> Symbol used</p> <p><input type="checkbox"/> Written/electronic communication                      <input type="checkbox"/> Graffiti/spray paint                      <input type="checkbox"/> Other: _____</p> <p><i>Describe with exact detail in narrative portion of Report.</i></p>
--	--

<b>HISTORY</b>	<p style="text-align: center;"><b><u>Relationship Between Suspect &amp; Victim:</u></b></p> <p>Suspect known to victim?    <input type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p>Nature of relationship: _____</p> <p>Length of relationship: _____</p> <p><i>If Yes, describe in narrative portion of Report</i></p>	<p><input type="checkbox"/> Prior reported incidents with suspect? Total # _____</p> <p><input type="checkbox"/> Prior unreported incidents with suspect? Total # _____</p> <p>Restraining orders?    <input type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p><i>If Yes, describe in narrative portion of Report</i></p> <p>Type of order: _____    Order/Case# _____</p>
----------------	--	--

<b>WEAPONS</b>	<p>Weapon(s) used during incident?    <input type="checkbox"/> Yes    <input type="checkbox"/> No    Type: _____</p> <p>Weapon(s) booked as evidence?    <input type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p>Automated Firearms System (AFS) Inquiry attached to Report?    <input type="checkbox"/> Yes    <input type="checkbox"/> No</p>
----------------	--

# HATE CRIME CHECKLIST

Page \_\_\_\_ of \_\_\_\_

<b>EVIDENCE</b>	Witnesses present during incident? <input type="checkbox"/> Yes <input type="checkbox"/> No	Statements taken? <input type="checkbox"/> Yes <input type="checkbox"/> No
	Evidence collected? <input type="checkbox"/> Yes <input type="checkbox"/> No	Recordings: <input type="checkbox"/> Video <input type="checkbox"/> Audio <input type="checkbox"/> Booked
	Photos taken? <input type="checkbox"/> Yes <input type="checkbox"/> No	Suspect identified: <input type="checkbox"/> Field ID <input type="checkbox"/> By photo
	Total # of photos: _____ D#: _____ Taken by: _____ Serial #: _____	<input type="checkbox"/> Known to victim

<b>OBSERVATIONS</b>	<b><u>VICTIM</u></b>	<b><u>SUSPECT</u></b>
	<input type="checkbox"/> Tattoos <input type="checkbox"/> Shaking <input type="checkbox"/> Unresponsive <input type="checkbox"/> Crying <input type="checkbox"/> Scared <input type="checkbox"/> Angry <input type="checkbox"/> Fearful <input type="checkbox"/> Calm <input type="checkbox"/> Agitated <input type="checkbox"/> Nervous <input type="checkbox"/> Threatening <input type="checkbox"/> Apologetic <input type="checkbox"/> Other observations: _____	<input type="checkbox"/> Tattoos <input type="checkbox"/> Shaking <input type="checkbox"/> Unresponsive <input type="checkbox"/> Crying <input type="checkbox"/> Scared <input type="checkbox"/> Angry <input type="checkbox"/> Fearful <input type="checkbox"/> Calm <input type="checkbox"/> Agitated <input type="checkbox"/> Nervous <input type="checkbox"/> Threatening <input type="checkbox"/> Apologetic <input type="checkbox"/> Other observations: _____

**ADDITIONAL QUESTIONS (Explain all boxes marked "Yes" in narrative portion of report):**

Has suspect ever threatened you?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Has suspect ever harmed you?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Does suspect possess or have access to a firearm?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Are you afraid for your safety?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Do you have any other information that may be helpful?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

**Resources offered at scene:**  Yes  No Type: \_\_\_\_\_

<b>MEDICAL</b>	<b><u>Victim</u></b>	<b><u>Suspect</u></b>	<b>Paramedics at scene?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No Unit # _____
	<input type="checkbox"/>	<input type="checkbox"/>	Declined medical treatment
	<input type="checkbox"/>	<input type="checkbox"/>	Will seek own medical treatment
	<input type="checkbox"/>	<input type="checkbox"/>	Received medical treatment
Authorization to Release Medical Information, Form 05.03.00, signed? <input type="checkbox"/> Yes <input type="checkbox"/> No			Name(s)/ID #: _____ Hospital: _____ Jail Dispensary: _____ Physician/Doctor: _____ Patient #: _____

Officer (Name/Rank)	Date
Officer (Name/Rank)	Date
Supervisor Approving (Name/Rank)	Date

## **Statutes and Legal Requirements.pdf**



---

## Statutes and Legal Requirements

Items listed in this section include sections from the California Penal Code (CPC), Welfare and Institutions Code (WI) and Government Code (GC).

### *Definitions*

CPC 422.55 - Provides general definition of hate crimes in California.

CPC 422.56- Provides definitions of terms included in hate crimes statutes.

GC 12926- Disability-related definitions applicable to some hate crime statutes.

## Felonies

### *Hate Crimes*

CPC 422.7 - Commission of a crime for the purpose of interfering with another's exercise of civil rights.

### *Related Crimes*

CPC 190.2(a)(16) - Homicide penalties related to certain hate crime related acts.

CPC 190.03(a) - Homicide penalties related to certain hate crime related acts.

CPC 288(b)(2) - Sexual assault of dependent person by caretaker

CPC 368(b) - Dependent adult abuse generally - may apply as disability-related hate crime.

CPC 594.3 - Vandalism of places of worship.

CPC 11412 - Causing or attempting to cause other to refrain from exercising religion by threat.

CPC 11413 - Arson or destructive device at place of worship.

## Misdemeanors

### *Hate Crimes*

CPC 422.6 - Use of force, threats, or destruction of property to interfere with another's exercise of civil rights.

CPC 422.77 - Violation of civil order (Bane Act) protecting the exercise of civil rights

### *Related Crimes*

CPC 302 - Disorderly conduct during an assemblage of people gathered for religious worship at a tax-exempt place of worship.

CPC 538(c) - Unauthorized insertion of advertisements in newspapers and redistribution to the public.

CPC 640.2 - Placing handbill, notice of advertisement on a consumer product or product packaged without authorization.

CPC 11411 - Terrorism of owner or occupant of real property. Placement or display of sign, symbol, or other physical impression without authorization, engagement in pattern of conduct, or burning or desecration of religious symbols.

---

## Enhancements

**CPC 190.2(a)(16)** - Special circumstances imposing the Death Penalty or Life Without Possibility of Parole, if the victim was intentionally killed because of sexual orientation, gender, or disability.

**CPC 190.3** - Special circumstances imposing LWOP if the victim was intentionally killed because of sexual orientation, gender, or disability.

**CPC 422.75** - Penalty for felony committed because of victim's race, color, religion, nationality, country or origin, ancestry, disability, or sexual orientation shall be enhanced one, two, or three years in prison, if the person acts alone; and two, three, or four years if the person commits the act with another.

**CPC 1170.8** - Enhancement for robbery or assault at a place of worship.

**CPC 1170.85(b)** - Felony assault or battery enhancement due to age or disability.

## Reporting

**CPC 13023**- Requirement for law enforcement agencies to report hate crime data to DOJ.

**WI 15630** – Elder and Dependent Adult Abuse Mandated Reporting (may apply in disability-related hate crimes).

## Training and Policy Requirements

**CPC 422.87** - Hate crimes policy adoption and update requirements (AB 1985, Effective January 1, 2019).

**CPC 13519.6** - Defines hate crime training requirements for peace officers.

**CPC 13519.41** - Training requirements on sexual orientation and gender identity-related hate crimes for peace officers and dispatchers (AB 2504, Effective January 1, 2019).

## Miscellaneous Provisions

**CPC 422.78** - Responsibility for prosecution of stay away order violations.

**CPC 422.86** - Public policy regarding hate crimes.

**CPC 422.89** - Legislative intent regarding violations of civil rights and hate crimes

**CPC 422.92** - Hate crimes victims brochure requirement for law enforcement agencies.

**CPC 422.93** - Protection of victims and witnesses from being reported to immigration authorities.

**GC 6254** - Victim confidentiality.

**Commission on Peace Officer Standards and  
Training Hate Crimes Model Policy 2019.pdf**



# POST HATE CRIMES MODEL POLICY



COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

2019

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## POST Mission Statement

The mission of the California Commission on Peace Officer Standards and Training is to continually enhance the professionalism of California Law Enforcement in serving its communities



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## FOREWORD

Hate Crimes (i.e. crimes motivated by bias) convey a message of terror and exclusion, not just to the immediate victims but to entire communities. They often target victims who are least able to defend themselves. They cause trauma that is more extreme and longer lasting than similar crimes committed for other motivations. They can spark retaliatory crimes, escalating the cycle of crime and violence. If not addressed professionally and thoroughly they may undermine public confidence in law enforcement.

The 2018 California State Auditor's Report, titled "Hate Crimes in California," found that California law enforcement has not taken adequate action to identify, report, and respond to hate crimes. The report found that agencies did not properly identify some hate crimes, and underreported or misreported hate crimes as well. The report also noted that hate crimes are on the rise in California, increasing in both 2015 and 2016.

California Penal Code (CPC) 422.87 added new language and requirements to any newly created or updated agency hate crimes policy. Effective January 1, 2019, any local law enforcement agency that updates an existing hate crimes policy, or adopts a new one, shall include the content of the model policy framework provided in this document as well as any revisions or additions to the model policy in the future.

These guidelines are the primary elements that law enforcement executives are now required to incorporate into their hate crimes policy if an agency creates a new hate crimes policy or updates an existing one. The guidelines are designed for department-wide application and are intended to reflect a values-driven "top-down" process. They are intended to assist with the development and delivery of training and ensure proper identification, investigation, and reporting of hate crimes within each agency's jurisdiction.



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# POLICY GUIDELINES

## GUIDELINE #1

*Develop the foundation for the agency's hate crimes policy.*

The law enforcement executive is responsible for providing leadership, communicating organizational values to the department and the community, paying attention to hate crime trends and current events that could trigger hate incidents and/or hate crimes in the community, and providing education and training to establish the foundation for the agency's hate crimes policy. Employees' ability to respond appropriately to hate crimes and hate incidents is maximized when the executive effectively establishes and communicates the foundational values of the organization.

## GUIDELINE #2

*Develop a hate crimes policy for the agency.*

- I. An agency's hate crimes policy shall include the statutory definition of a hate crime, and its policy and programs should minimally include the following:
  - A. Response
  - B. Training
  - C. Planning and Prevention
  - D. Reporting

The law enforcement executive is responsible for the initial development of the policy and should be actively involved in its implementation. See the appendix for the exemplar "Message from the Agency Chief Executive".

## GUIDELINE #3

*Develop expertise to identify and investigate hate crimes.*

The law enforcement executive is responsible for ensuring that the agency possesses expertise to identify and investigate hate crimes, as well as ensuring compliance with state and federal

reporting and public information requirements. Agencies should assign identified personnel to appropriate training to develop expertise and knowledge to investigate hate crimes.

Hate crimes are low-frequency events with high-risk consequences for the agency and community. Agencies shall provide a checklist to first responders to provide direction for the investigation of all hate crimes as mandated by CPC 422.87.

## GUIDELINE #4

*Develop and implement cooperative hate crimes plans with other law enforcement agencies.*

- I. Coordinate cooperative efforts among regional, state, federal, and tribal law enforcement agencies to share information and training, and develop strategies to prevent hate crime activity.
- II. Develop and/or participate in law enforcement intelligence networks to enhance the agency's ability to anticipate potential hate crime targets. This interaction should include sharing intelligence information with other jurisdictions and cooperative investigations, arrests, and prosecutions if appropriate.

## GUIDELINE #5

*Develop and implement cooperative hate crime plans with the community and related governmental and non-governmental organizations, as appropriate.*

- I. Collaborate with the community, including human relations/civil rights organizations, advocacy groups, service organizations, neighborhood associations, religious institutions, local schools and colleges, to do the following:
  - Develop a network to build rapport with community groups

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- Develop a protocol for response to hate crimes
  - Obtain witness and victim cooperation
  - Provide support services to victims
  - Collect demographic information about specific communities
  - Identify hate crime trends based upon current events and activity (hate crimes and/or hate incidents)
  - Identify periods of increased vulnerability based on significant dates and events for affected communities
- II. Law enforcement should identify and seek out cultural diversity training and information from/about specific communities within its jurisdiction (immigrant, Muslim, Arab, LGBTQ, Black or African American, Jewish, Sikh, disability, etc.) to strengthen agency awareness.

## **GUIDELINE #6**

### ***Conduct an annual assessment of the agency's hate crimes policy and its ongoing implementation.***

The assessment should include:

- I. A review to ensure compliance with the POST Hate Crimes Model Policy and California law.
- II. A review and analysis of the agency's data collection, policy, and annual mandated reporting of hate crimes.
- III. A review and updating of the agency's hate crimes brochure to ensure compliance with CPC 422.92.
- IV. A review of any existing or available data or reports, including the annual California Attorney General's report on hate crimes, in preparation for, and response to, future hate crime trends.

- V. Annual outreach to the community including human relations/civil rights organizations, advocacy groups, service organizations, neighborhood associations, religious institutions, local schools, and colleges assessing the agency's responsiveness to hate crimes.

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# MINIMUM LEGAL REQUIREMENTS FOR AN AGENCY'S HATE CRIMES POLICY

## **CPC 13519.6, effective January 1, 2005, minimally requires:**

1. A message from the law enforcement agency's chief executive officer to the agency's officers and staff concerning the importance of hate crime laws and the agency's commitment to enforcement.
2. The definition of "hate crime" in Penal Code section 422.55.
3. References to hate crime statutes including Penal Code section 422.6.
4. A title-by-title specific protocol that agency personnel are required to follow, including, but not limited to, the following:
  - a. Preventing and preparing for likely hate crimes by, among other things, establishing contact with persons and communities who are likely targets, and forming and cooperating with community hate crime prevention and response networks.
  - b. Responding to reports of hate crimes, including reports of hate crimes committed under the color of authority.
  - c. Accessing assistance, by, among other things, activating the Department of Justice hate crimes rapid response protocol when necessary.
  - d. Providing victim assistance and follow-up, including community follow-up.
  - e. Reporting

## **CPC 422.87, effective January 1, 2019, states and minimally requires:**

Each local law enforcement agency may adopt a hate crimes policy. Any local law enforcement agency that updates an existing hate crimes policy or adopts a new one shall include, but not limited to, the following:

1. The definitions in Penal Code sections 422.55 and 422.56.
2. The content of the model policy framework that the Commission on Peace Officer Standards and Training developed pursuant to Section 13519.6 (above) and any content that the commission may revise or add in the future, including any policy, definitions, response and reporting responsibilities, training resources, and planning and prevention methods.
3. Information regarding bias motivation
  - a. For the purposes of this paragraph, "bias motivation" is a preexisting negative attitude toward actual or perceived characteristics referenced in Section 422.55. Depending on the circumstances of each case, bias motivation may include, but is not limited to, hatred, animosity, resentment, revulsion, contempt, unreasonable fear, paranoia, callousness, thrill-seeking, desire for social dominance, desire for social bonding with those of one's "own kind," or a perception of the vulnerability of the victim due to the victim being perceived as being weak, worthless, or fair game because of a protected characteristic, including, but not limited to, disability or gender.
    - i. In recognizing suspected disability-bias hate crimes, the policy shall advise officers to consider whether there is any indication that the perpetrator was motivated by hostility or other bias, occasioned by factors such as, but not limited to, dislike of persons who arouse



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fear or guilt, a perception that persons with disabilities are inferior and therefore “deserving victims,” a fear of persons whose visible traits are perceived as being disturbing to others, or resentment of those who need, demand, or receive alternative educational, physical, or social accommodations.

- ii. In recognizing suspected disability-bias hate crimes, the policy also shall advise officers to consider whether there is any indication that the perpetrator perceived the victim to be vulnerable and, if so, if this perception is grounded, in whole or in part, in anti-disability bias. This includes, but is not limited to, if a perpetrator targets a person with a particular perceived disability while avoiding other vulnerable-appearing persons such as inebriated persons or persons with perceived disabilities different than those of the victim, those circumstances could be evidence that the perpetrator’s motivations included bias against persons with the perceived disability of the victim and that the crime must be reported as a suspected hate crime and not a mere crime of opportunity.
- b. Information regarding the general underreporting of hate crimes and the more extreme underreporting of anti-disability and anti-gender hate crimes *and a plan for the agency to remedy this underreporting* (emphasis added).
- c. A protocol for reporting suspected hate crimes to the Department of Justice pursuant to Penal Code section 13023.
- d. A checklist of first responder responsibilities, including, but not limited to, being sensitive to effects of the crime on the victim, determining whether any additional resources are needed on the scene to assist the victim or whether to refer the victim to appropriate community and legal services, and giving the victims and any interested persons the agency’s hate crimes brochure, as required by Section 422.92.
- e. A specific procedure for transmitting and periodically retransmitting the policy and any related orders to all officers, including a simple and immediate way for officers to access the policy in the field when needed.
- f. The title or titles of the officer or officers responsible for assuring that the department has a hate crime brochure as required by Section 422.92 and ensuring that all officers are trained to distribute the brochure to all suspected hate crime victims and all other interested persons.
- g. A requirement that all officers be familiar with the policy and carry out the policy at all times unless directed by the chief, sheriff, director, or other chief executive of the law enforcement agency or other command-level officer to whom the chief executive officer formally delegates this responsibility.
- h. Any local law enforcement agency that updates an existing hate crimes policy or adopts a new hate crimes policy may include any of the provisions of a model hate crime policy and other relevant documents developed by the International Association of Chiefs of Police that are relevant to California and consistent with this chapter.

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# MODEL POLICY FRAMEWORK

## Purpose

This model policy framework is designed to assist in identifying and handling crimes motivated by hate or other bias toward individuals and groups with legally defined protected characteristics, to define appropriate steps for assisting victims, and to provide a guide to conducting related investigations. It outlines the general policy framework for prevention, response, accessing assistance, victim assistance and follow up, and reporting as related to law enforcement's role in handling hate crimes. It also serves as a declaration that hate crimes are taken seriously and demonstrates how law enforcement agencies may best use its resources to investigate and solve an offense, in addition to building community trust and increasing police legitimacy.

## Policy

It is the policy of this agency to safeguard the rights of all individuals irrespective of their disability, gender, nationality, race or ethnicity, religion, sexual orientation, and/or association with a person or group with one or more of these actual or perceived characteristics. Any acts or threats of violence, property damage, harassment, intimidation, or other crimes motivated by hate or bias should be viewed very seriously and given high priority.

This agency will employ necessary resources and vigorous law enforcement action to identify and arrest hate crime perpetrators. Also, recognizing the particular fears and distress typically suffered by victims, the potential for reprisal and escalation of violence, and the far-reaching negative consequences of these crimes on the community, this agency should attend to the security and related concerns of the immediate victims and their families as feasible.

The agency policy shall include a requirement that all officers be familiar with the policy and carry out the policy at all times unless directed by the chief, sheriff, director, or other chief executive of the law enforcement agency or other command-level officer to whom the chief executive officer formally delegates this responsibility.

The agency policy shall provide a specific procedure for transmitting and periodically retransmitting the policy and any related orders to all officers, including a simple and immediate way for officers to access the policy in the field when needed.

## Response, Victim Assistance and Follow-up

### *Initial response*

First responding officers should know the role of all department personnel as they relate to the agency's investigation of hate crimes and/or incidents. Responding officers should evaluate the need for additional assistance, and working with supervision and/or investigations, access needed assistance if applicable. Responding officers should ensure the crime scene is properly protected, preserved and processed.

At the scene of a suspected hate or bias crimes, officers should take preliminary actions deemed necessary, to include, but not limited to, the following:

1. Use agency checklist (per CPC 422.87) to assist in the investigation of any hate crime (see appendix, page 21, for exemplar checklist based on the Los Angeles Police Department Hate Crimes Supplemental Report with the agency's permission).

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2. Stabilize the victim(s) and request medical attention when necessary.
  3. Ensure the safety of victims, witnesses, and perpetrators.
    - a. Issue a Temporary Restraining Order (if applicable).
  4. Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.
  5. Ensure that the crime scene is properly protected, preserved, and processed and that all physical evidence of the incident is removed as soon as possible after the offense is documented. If evidence of an inflammatory nature cannot be physically removed, the property owner should be contacted to ensure that it is removed or covered up as soon as possible. Agency personnel should follow-up to ensure that this is accomplished in a timely manner.
  6. Collect and photograph physical evidence or indicators of hate crimes such as:
    - a. Hate literature.
    - b. Spray paint cans.
    - c. Threatening letters.
    - d. Symbols used by hate groups.
  7. Identify criminal evidence on the victim.
  8. Request the assistance of translators or interpreters when needed to establish effective communication with witnesses, victims, or others as appropriate.
  9. Conduct a preliminary investigation and record pertinent information including, but not limited to:
    - a. Identity of suspected perpetrator(s).
    - b. Identity of witnesses, including those no longer at the scene.
    - c. The offer of victim confidentiality per Government Code (GC) 5264.
    - d. Prior occurrences, in this area or with this victim.
    - e. Statements made by suspects; exact wording is critical.
    - f. The victim's protected characteristics and determine if bias was a motivation "in whole or in part"<sup>1</sup> in the commission of the crime.
      1. "Bias motivation" is a preexisting negative attitude toward actual or perceived characteristics referenced in Section 422.55. Depending on the circumstances of each case, bias motivation may include, but is not limited to, hatred, animosity, resentment, revulsion, contempt, unreasonable fear, paranoia, callousness, thrill-seeking, desire for social dominance, desire for social bonding with those of one's "own kind," or a perception of the vulnerability of the victim due to the victim being perceived as being weak, worthless, or fair game because of a protected characteristic, including, but not limited to, disability or gender.
        - (a) In recognizing suspected disability-bias hate crimes, the policy shall advise officers to consider whether there is any indication that the perpetrator was motivated by hostility or other bias, occasioned by factors such as, but not limited to, dislike of persons

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<sup>1</sup>See Appendix, page 15, for definition

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who arouse fear or guilt, a perception that persons with disabilities are inferior and therefore “deserving victims,” a fear of persons whose visible traits are perceived as being disturbing to others, or resentment of those who need, demand, or receive alternative educational, physical, or social accommodations.

(b) In recognizing suspected disability-bias hate crimes, the policy also shall advise officers to consider whether there is any indication that the perpetrator perceived the victim to be vulnerable and, if so, if this perception is grounded, in whole or in part, in anti-disability bias. This includes, but is not limited to, if a perpetrator targets a person with a particular perceived disability while avoiding other vulnerable-appearing persons such as inebriated persons or persons with perceived disabilities different than those of the victim, those circumstances could be evidence that the perpetrator’s motivations included bias against persons with the perceived disability of the victim and that the crime must be reported as a suspected hate crime and not a mere crime of opportunity.

10. Adhere to CPC 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law.
11. Provide information regarding immigration remedies available to victims of crime. (U-Visa, T-Visa, S-Visa, etc.).
12. Provide the agency’s Hate Crimes Brochure (per CPC 422.92) if asked, if necessary or per policy (if applicable).
13. Utilize proper techniques for interviewing people with disabilities and being aware of and providing appropriate accommodations (such as ADA standards, Braille, visuals, translators for the deaf or hard of hearing, etc.).
14. Report any suspected multi-mission extremist crimes to the agency Terrorism Liaison Officer (TLO), or assigned designee, and direct the TLO/ designee to send the data to the Joint Regional Information Exchange System.

### ***Investigation***

Investigators at the scene of or while performing follow-up investigation on a suspected hate or bias crimes (or hate incident if agency policy requires it) should take all actions deemed necessary, including, but not limited to, the following:

1. Consider typologies of perpetrators of hate crimes and incidents, including but not limited to thrill, reactive/defensive, and mission (hard core).
2. Utilize investigative techniques and methods to handle hate crimes or hate incidents in a professional manner.
3. Utilize proper techniques for interviewing people with disabilities and being aware of and providing appropriate accommodations (such as ADA standards, Braille, visuals, translators for the deaf or hard of hearing, etc.).
4. Fully investigate any report of hate crime committed under the color of authority per CPC 422.6 and CPC 13519.6.

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5. Collect and photograph physical evidence or indicators of hate crimes such as:
    - a. Hate literature.
    - b. Spray paint cans.
    - c. Threatening letters.
    - d. Symbols used by hate groups.
    - e. Desecration of religious symbols, objects, or buildings.
  6. Request the assistance of translators or interpreters when needed to establish effective communication.
  7. Conduct a preliminary investigation and record information regarding:
    - a. Identity of suspected perpetrator(s).
    - b. Identity of witnesses, including those no longer at the scene.
    - c. Offer of victim confidentiality per GC 5264.
    - d. Prior occurrences, in this area or with this victim.
    - e. Statements made by suspects; exact wording is critical.
    - f. Document the victim's protected characteristics.
  8. Provide victim assistance and follow-up.
  9. Canvass the area for additional witnesses.
  10. Examine suspect's social media activity for potential evidence of bias motivation.
  11. Coordinate the investigation with agency, state, and regional intelligence operations. These sources can provide the investigating officer with an analysis of any patterns, organized hate groups, and suspects potentially involved in the offense.
  12. Coordinate the investigation with the crime scene investigation unit (if applicable) or other units of the agency.
  13. Determine if the incident should be classified as a hate crime.
  14. Take steps to ensure appropriate assistance is provided to hate crime victim(s), including the following measures:
    - a. Contact the victim periodically to determine whether he/she is receiving adequate and appropriate assistance.
    - b. Provide ongoing information to the victim about the status of the criminal investigation.
    - c. Provide the victim and any other interested person the brochure on hate crimes per CPC 422.92 and information on any local advocacy groups (if asked).
  15. Report any suspected multi-mission extremist crimes to the agency TLO, or assigned designee, and direct the TLO or designee to send the data to the Joint Regional Information Exchange System.
  16. Coordinate with other law enforcement agencies in the area to assess patterns of hate crimes and/or hate incidents (if directed by policy), and determine if organized hate groups are involved.

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## *Supervision*

The supervisor shall confer with the initial responding officer(s) and ensure that necessary preliminary actions have been taken. The supervisor shall request any appropriate personnel necessary to accomplish the following:

1. Provide immediate assistance to the crime victim by:
  - a. Expressing the law enforcement agency's official position on the importance of these cases and the measures that will be taken to apprehend the perpetrators.
  - b. Expressing the department's interest in protecting victims' anonymity (confidentiality forms GC 6254) to the extent possible. Allow the victim to convey his/her immediate concerns and feelings.
  - c. Identifying individuals or agencies that may provide victim assistance and support. Local victim assistance resources may include family members or close acquaintances, clergy or departmental chaplain, as well as community service agencies that provide shelter, food, clothing, child care, or other related services (per CPC 422.92).
2. Ensure that all relevant facts are documented on an incident and/ or arrest report and make an initial determination as to whether the incident should be classified as a hate crime for federal and state bias-crimes reporting purposes.
3. Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.
4. In cases of large-scale hate crime waves, or in circumstances where the potential exists for subsequent hate crimes or incidents, consider directing resources to protect vulnerable sites (such as assigning an officer at specific locations that could become targets).
5. Ensure hate crimes are properly reported, including reporting to the Department of Justice, pursuant to CPC 13023.
6. Ensure adherence to CPC 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law. Supervisors should also be aware of the immigration remedies available to victims of crime. (U-Visa, T-Visa, S-Visa, etc.)
7. Respond to and investigate any reports of hate crimes committed under the color of authority.
8. Provide appropriate assistance, including activating the California Department of Justice hate crime rapid response protocol if necessary. For information see the California Department of Justice webpage or use following link: <https://oag.ca.gov/sites/all/files/agweb/pdfs/civilrights/AG-Rapid-Response-Team-Protocol-2.pdf>
9. Report or ensure any suspected multi-mission extremists crimes are reported to the agency TLO, or assigned designee, and direct the TLO/ designee to send the data to the Joint Regional Information Exchange System.
10. Make a final determination as to whether the incident should be classified as a hate crime.

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## Training

All staff, including dispatch, desk personnel, volunteers, records, support staff, officers, supervisors, and managers shall be properly trained on the department's hate crimes policy. The agency will follow all legislatively mandated training requirements.

POST offers training and video courses to assist law enforcement in the identification, investigation, documentation and reporting of hate crimes. These courses provide officers with information and skills necessary to effectively identify, investigate, document and report hate crimes. Various training programs include the history and definitions of hate crimes, recognition of hate groups, international terrorism, legal considerations, victims' considerations, initial response duties, victim interviewing and care, suspect identification and interrogation, evidence identification, report writing, the role of law enforcement, investigative strategies, intelligence collection, supervisory roles, community relations, media relations and local program training development, and other topics such as proper use of computer systems and methods for reporting. POST also maintains an extensive array of training videos on applicable topics such as working with those with mental illness and intellectual disabilities, hate crimes, and working with minority communities.

For more information on POST training opportunities and available videos, visit the POST website at [www.post.ca.gov](http://www.post.ca.gov). In conjunction with POST training opportunities, trainers may utilize other state and federal agencies that offer training courses, such as the U.S. Department of Justice.

## Planning and Prevention

The general underreporting of hate crimes is an identified issue in California. Underreporting is caused by victims not reporting hate crimes or hate incidents due to a number of factors, including fear of reprisal and the belief that law enforcement will not properly investigate them. A report by the State Auditor in 2018 determined that California law enforcement has not taken adequate action to identify, report and respond to hate crimes. There is also an extreme underreporting of anti-disability and anti-gender hate crimes. The agency's plan to remedy this underreporting *shall be inserted into the policy* (emphasis added).

In order to facilitate the recommendations contained within this policy, it is strongly recommended that agencies build and strengthen relationships with the community, engage in dialogue, and provide education to the community about this policy. Agency personnel are also encouraged to learn about the inherent issues concerning their communities in relation to hate crimes. Assigned personnel should perform the following:

1. Meet with residents in target communities to allay fears; emphasize the agency's concern over this and related incidents; reduce the potential for counter-violence; and provide safety, security, and crime prevention information. Cultural diversity education and immersion programs (if available) could facilitate this process.
2. Provide direct and referral assistance to the victim and his/her family.
3. Conduct public meetings on hate crime threats and violence in general.
4. Establish relationships with formal community-based organizations and leaders.
5. Expand, where appropriate, preventive programs such as hate, bias, and crime reduction seminars for school children.

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6. Review the Attorney General's latest opinion on hate crime statistics and targets in order to prepare and plan for future crimes, specifically for Arab/Middle Eastern and Islamic communities.<sup>2</sup>
  7. Provide orientation of and with communities of specific targeted victims such as immigrants, Muslims, Arabs, LGBTQ, Black or African-American, Jewish, Sikh, disabled persons, etc.

Hate crimes are not only a crime against the targeted victim(s) but also have impacts on the victim's family and community. Working constructively with segments of this larger community after such crimes is essential to help reduce fears, stem possible retaliation, prevent additional hate crimes, and encourage any other previously victimized individuals to step forward and report such crimes. This is particularly important if an upward trend has been identified in these crimes.

Although hate incidents are not criminal events, they can be indicators of, or precursors to, hate crimes. Most California law enforcement agencies do not track hate incidents. It is recommended that hate incidents be investigated and documented, if directed by policy, as part of the overall planning to prevent hate crime.

Tracking social media is also another identified area to find indicators of, or precursors to, hate crimes. It is recommended that agencies assign personnel to find, evaluate and monitor public social media sources to identify possible suspects in reported hate crimes, or to determine suspects or suspect groups in future hate crimes or hate incidents affecting the identified individuals, groups or communities that may be victimized, and planned hate-based events.

### ***Release of Information***

Agencies should have procedure and/or policy on public disclosure of hate crimes. Establishing a relationship with stakeholders, before any incident occurs, to develop a network and protocol for disclosure would assist greatly in any disclosure.

The benefit of public disclosure of hate crime incidents includes:

1. Dissemination of correct information.
2. Assurance to affected communities or groups that the matter is being properly and promptly investigated.
3. The ability to request information regarding the commission of the crime(s) from the victimized community.

Agencies should provide the supervisor, public information officer, or designee with information that can be responsibly reported to the media. When appropriate, the law enforcement media spokesperson should reiterate that the hate crimes will not be tolerated, will be taken seriously, and will be prosecuted to the full extent of the law.

Agencies are encouraged to consider the following when releasing information to the public regarding hate crimes and hate incidents that have been reported within the jurisdiction:

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<sup>2</sup>As described in CPC 13519.6(b)(8)



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1. Informing community organizations in a timely manner when a community group has been the target of a hate crime.
  2. Informing the community of the impact of these crimes on the victim, the victim's family, and the community, and the assistance and compensation available to victims.
  3. Informing the community regarding hate crime law and the legal rights of, and the remedies available to, victims of hate crimes.
  4. Providing the community with on-going information regarding hate crime and/or hate incidents (if policy requires it).

## Reporting

The agency policy shall require development of a procedure for data collection, documentation, and mandated reporting requirements. The agency shall:

1. Ensure that hate crimes are properly investigated, documented and reported.
2. During documentation, ensure hate crimes are flagged properly to allow for required reporting to the California Department of Justice. This is typically indicated by the title/penal code section identifying the report as a hate crime. Some agencies have added a check box specifically indicating a hate crime that could, if required by the agency policy, require a secondary review by an investigator/detective, supervisor or other identified party. It is the agency executive's responsibility to determine the form of documentation and type of indicators on crime reports.
3. The agency head or their designee (identified in the agency policy) should make a final determination as to whether the incident should be classified as a hate crime by the agency.
4. Agencies shall develop procedures to comply with legally mandated reporting, including the California Department of Justice, pursuant to CPC 13023.

## Checklist for the agency's policy creation

- Message from the law enforcement's agency's chief executive is included
  - The updated existing policy or newly adopted policy includes the content of the model policy framework from POST.
  - Definition of "hate crime" included from:
    - CPC 422.55
    - CPC 422.56
    - CPC 422.6
  - Title by title specific protocol regarding:
    - Prevention
      - Is contact is established with identified persons and/or communities who are likely targets?
      - Have we formed and/or are we cooperating with hate crime prevention and response networks?
      - Has a plan for the agency to remedy underreporting of hate crimes and the more extreme underreporting of anti-disability and anti-gender hate crimes been created?
    - Response
      - Requirement that all hate crimes be properly investigated and supervised
      - Requirement that any hate crimes committed under the color of authority are investigated
    - Accessing Assistance
      - Information provided for activating the Department of Justice hate crime rapid response protocol when necessary
    - Victim assistance and follow-up
    - Reporting
      - Protocol for reporting suspected hate crimes to the Department of Justice per CPC 13023
    - Training
      - Has a checklist for first responders been created and provided personnel (see exemplar officer checklist in appendix)
        - Does the checklist include first responder responsibilities include:
          - Determining the need for additional resources if necessary?
          - Referral information for appropriate community and legal services?
          - The requirement to provide the agency's hate crimes brochure per CPC 422.92?
        - Information regarding bias motivation from CPC 422.87
        - Information regarding the general underreporting of hate crimes and the more extreme underreporting of anti-disability and anti-gender hate crimes
- Definitions of terms used in the policy are listed
- Specific procedure for transmitting and periodically retransmitting the policy and any related orders to officers is included.
  - Procedure shall include a simple and immediate way for officers to access the policy in the field when needed
- Title or titles of the officer or officers responsible for assuring the department has a hate crime brochure (per CPC 422.92) and ensuring that all officers are trained to distribute the brochure to all suspected hate crime victims and all other interested persons.
- A requirement that all officers be familiar with the policy and carry out the policy at all times unless directed by the law enforcement chief executive or the chief executive's designee.



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# APPENDIX

## Definitions and Laws

In accordance with CPC sections 422.55, 422.56, 422.6, and 422.87, for purposes of all other state law unless an explicit provision of law or the context clearly requires a different meaning, the following shall apply:

### *Hate crime*

“Hate crime” means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

- (1) Disability.
- (2) Gender.
- (3) Nationality.
- (4) Race or ethnicity.
- (5) Religion.
- (6) Sexual orientation.
- (7) Association with a person or group with one or more of these actual or perceived characteristics.

(b) “Hate crime” includes, but is not limited to, a violation of Section 422.6.

“Association with a person or group with these actual or perceived characteristics” Includes advocacy for, identification with, or being on the ground owned or rented by, or adjacent to, any of the following: a community center, educational facility, family, individual, office, meeting hall, place of worship, private institution, public agency, library, or other entity, group, or person that has, or is identified with people who have, one or more of those characteristics listed in the definition of “hate crime” under paragraphs 1 to 6, inclusive, of CPC 422.55 subdivision (a).

**Note:** A “hate crime” need not be motivated by hate but may be motivated by any bias against a protected characteristic.

### *Hate Speech*

The First Amendment to the U.S. Constitution protects most speech, even when it is disagreeable, offensive, or hurtful. The following types of speech are generally not protected: fighting words, true threats, perjury, blackmail, incitement to lawless action, conspiracy and solicitation to commit any crime.

### *Hate incident*

A hate incident is an action or behavior motivated by hate or bias but legally protected by the First Amendment right to freedom of expression. Examples of hate incidents include:

- Name-calling
- Insults and epithets
- Distributing hate material in public places
- Displaying hate material on your own property

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## ***Bias Motivation***

Bias motivation is a preexisting negative attitude toward actual or perceived characteristics referenced in Section 422.55. Depending on the circumstances of each case, bias motivation may include, but is not limited to, hatred, animosity, resentment, revulsion, contempt, unreasonable fear, paranoia, callousness, thrill-seeking, desire for social dominance, desire for social bonding with those of one's "own kind," or a perception of the vulnerability of the victim due to the victim being perceived as being weak, worthless, or fair game because of a protected characteristic, including, but not limited to, disability or gender.

## ***Disability Bias***

In recognizing suspected disability-bias hate crimes, officers should consider whether there is any indication that the perpetrator was motivated by hostility or other bias, occasioned by factors such as, but not limited to, dislike of persons who arouse fear or guilt, a perception that persons with disabilities are inferior and therefore "deserving victims," a fear of persons whose visible traits are perceived as being disturbing to others, or resentment of those who need, demand, or receive alternative educational, physical, or social accommodations.

In recognizing suspected disability-bias hate crimes, officers should consider whether there is any indication that the perpetrator perceived the victim to be vulnerable and, if so, if this perception is grounded, in whole or in part, in anti-disability bias. This includes, but is not limited to, if a perpetrator targets a person with a particular perceived disability while avoiding other vulnerable-appearing persons such as inebriated persons or persons with perceived disabilities different than those of the victim, those circumstances could be evidence that the perpetrator's motivations included bias against persons with the perceived disability of the victim and that the crime must be reported as a suspected hate crime and not a mere crime of opportunity.

## ***Disability***

Disability includes mental disability and physical disability as defined in GC 12926, regardless of whether those disabilities are temporary, permanent, congenital or acquired by heredity, accident, injury, advanced age or illness.

## ***Gender***

Gender means sex and includes a person gender identity and gender expression. Gender expression means a person's gender-related appearance and behavior, whether or not stereotypically associated with the persons assigned sex at birth. A person's gender identity and gender related appearance and behavior, whether or not stereotypically associated with the person's assigned sex at birth.

## ***In Whole or In Part***

"In whole or in part because of" means that the bias motivation must be a cause in fact of the offense whether or not other causes also exist. When multiple concurrent motives exist, the prohibited bias must be a substantial factor in bringing about the particular result. There is no requirement that the bias be a main factor, or that crime would not have been committed but for the actual or perceived characteristic.

## ***Nationality***

Nationality includes citizenship, country of origin, and national origin.

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***Race or Ethnicity***

Race or ethnicity includes ancestry, color, and ethnic background.

***Religion***

Religion includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.

***Sexual orientation***

Sexual orientation means heterosexuality, homosexuality, or bisexuality.

***Victim***

Victim includes, but is not limited to, a community center, educational facility, entity, family, group, individual, office, meeting hall, person, place of worship, private institution, public



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## Statutes and Legal Requirements

Items listed in this section include sections from the California Penal Code (CPC), Welfare and Institutions Code (WI) and Government Code (GC).

### *Definitions*

CPC 422.55 - Provides general definition of hate crimes in California.

CPC 422.56- Provides definitions of terms included in hate crimes statutes.

GC 12926- Disability-related definitions applicable to some hate crime statutes.

## Felonies

### *Hate Crimes*

CPC 422.7 - Commission of a crime for the purpose of interfering with another's exercise of civil rights.

### *Related Crimes*

CPC 190.2(a)(16) - Homicide penalties related to certain hate crime related acts.

CPC 190.03(a) - Homicide penalties related to certain hate crime related acts.

CPC 288(b)(2) - Sexual assault of dependent person by caretaker

CPC 368(b) - Dependent adult abuse generally - may apply as disability-related hate crime.

CPC 594.3 - Vandalism of places of worship.

CPC 11412 - Causing or attempting to cause other to refrain from exercising religion by threat.

CPC 11413 - Arson or destructive device at place of worship.

## Misdemeanors

### *Hate Crimes*

CPC 422.6 - Use of force, threats, or destruction of property to interfere with another's exercise of civil rights.

CPC 422.77 - Violation of civil order (Bane Act) protecting the exercise of civil rights

### *Related Crimes*

CPC 302 - Disorderly conduct during an assemblage of people gathered for religious worship at a tax-exempt place of worship.

CPC 538(c) - Unauthorized insertion of advertisements in newspapers and redistribution to the public.

CPC 640.2 - Placing handbill, notice of advertisement on a consumer product or product packaged without authorization.

CPC 11411 - Terrorism of owner or occupant of real property. Placement or display of sign, symbol, or other physical impression without authorization, engagement in pattern of conduct, or burning or desecration of religious symbols.



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## Enhancements

**CPC 190.2(a)(16)** - Special circumstances imposing the Death Penalty or Life Without Possibility of Parole, if the victim was intentionally killed because of sexual orientation, gender, or disability.

**CPC 190.3** - Special circumstances imposing LWOP if the victim was intentionally killed because of sexual orientation, gender, or disability.

**CPC 422.75** - Penalty for felony committed because of victim's race, color, religion, nationality, country or origin, ancestry, disability, or sexual orientation shall be enhanced one, two, or three years in prison, if the person acts alone; and two, three, or four years if the person commits the act with another.

**CPC 1170.8** - Enhancement for robbery or assault at a place of worship.

**CPC 1170.85(b)** - Felony assault or battery enhancement due to age or disability.

## Reporting

**CPC 13023**- Requirement for law enforcement agencies to report hate crime data to DOJ.

**WI 15630** – Elder and Dependent Adult Abuse Mandated Reporting (may apply in disability-related hate crimes).

## Training and Policy Requirements

**CPC 422.87** - Hate crimes policy adoption and update requirements (AB 1985, Effective January 1, 2019).

**CPC 13519.6** - Defines hate crime training requirements for peace officers.

**CPC 13519.41** - Training requirements on sexual orientation and gender identity-related hate crimes for peace officers and dispatchers (AB 2504, Effective January 1, 2019).

## Miscellaneous Provisions

**CPC 422.78** - Responsibility for prosecution of stay away order violations.

**CPC 422.86** - Public policy regarding hate crimes.

**CPC 422.89** - Legislative intent regarding violations of civil rights and hate crimes

**CPC 422.92** - Hate crimes victims brochure requirement for law enforcement agencies.

**CPC 422.93** - Protection of victims and witnesses from being reported to immigration authorities.

**GC 6254** - Victim confidentiality.

# HATE CRIME CHECKLIST

Page \_\_\_\_\_ of \_\_\_\_\_

<b>VICTIM</b>	<p style="text-align: center;"><b><u>Victim Type:</u></b></p> <p><input type="checkbox"/> <b>Individual</b> Legal name (Last, First): _____ Other Names used (AKA): _____</p> <p><input type="checkbox"/> <b>School, business or organization</b> Name: _____ Type: _____ <i>(e.g., non-profit, private, public school)</i> Address: _____</p> <p><input type="checkbox"/> <b>Faith-based organization</b> Name: _____ Faith: _____ Address: _____</p>	<p style="text-align: center;"><b><u>Target of Crime (Check all that apply):</u></b></p> <p><input type="checkbox"/> Person    <input type="checkbox"/> Private property    <input type="checkbox"/> Public property</p> <p><input type="checkbox"/> Other _____</p> <p style="text-align: center;"><b><u>Nature of Crime (Check all that apply):</u></b></p> <p><input type="checkbox"/> Bodily injury                      <input type="checkbox"/> Threat of violence</p> <p><input type="checkbox"/> Property damage</p> <p><input type="checkbox"/> Other crime: _____</p> <p>Property damage - estimated value _____</p>
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<b>BIAS</b>	<p style="text-align: center;"><b><u>Type of Bias</u></b> <b>(Check all characteristics that apply):</b></p> <p><input type="checkbox"/> Disability</p> <p><input type="checkbox"/> Gender</p> <p><input type="checkbox"/> Gender identity/expression</p> <p><input type="checkbox"/> Sexual orientation</p> <p><input type="checkbox"/> Race</p> <p><input type="checkbox"/> Ethnicity</p> <p><input type="checkbox"/> Nationality</p> <p><input type="checkbox"/> Religion</p> <p><input type="checkbox"/> Significant day of offense <i>(e.g., 9/11, holy days)</i></p> <p><input type="checkbox"/> Other: _____</p> <p>Specify disability (be specific): _____ _____</p>	<p style="text-align: center;"><b><u>Actual or Perceived Bias – Victim’s Statement:</u></b></p> <p><input type="checkbox"/> Actual bias [Victim actually has the indicated characteristic(s)].</p> <p><input type="checkbox"/> Perceived bias [Suspect believed victim had the indicated characteristic(s)]. <i>If perceived, explain the circumstances in narrative portion of Report.</i></p> <hr/> <p style="text-align: center;"><b><u>Reason for Bias:</u></b></p> <p><b>Do you feel you were targeted based on one of these characteristics?</b> <input type="checkbox"/> Yes    <input type="checkbox"/> No    <i>Explain in narrative portion of Report.</i></p> <p><b>Do you know what motivated the suspect to commit this crime?</b> <input type="checkbox"/> Yes    <input type="checkbox"/> No    <i>Explain in narrative portion of Report.</i></p> <p><b>Do you feel you were targeted because you associated yourself with an individual or a group?</b> <input type="checkbox"/> Yes    <input type="checkbox"/> No    <i>Explain in narrative portion of Report.</i></p> <p><b>Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)?</b> <input type="checkbox"/> Yes    <input type="checkbox"/> No    <i>Describe in narrative portion of Report.</i></p> <p><b>Are there Indicators the suspect is affiliated with a criminal street gang?</b> <input type="checkbox"/> Yes    <input type="checkbox"/> No    <i>Describe in narrative portion of Report.</i></p>
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	<p style="text-align: center;"><b><u>Bias Indicators (Check all that apply):</u></b></p> <p><input type="checkbox"/> Hate speech                      <input type="checkbox"/> Acts/gestures                      <input type="checkbox"/> Property damage                      <input type="checkbox"/> Symbol used</p> <p><input type="checkbox"/> Written/electronic communication                      <input type="checkbox"/> Graffiti/spray paint                      <input type="checkbox"/> Other: _____</p> <p><i>Describe with exact detail in narrative portion of Report.</i></p>
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<b>HISTORY</b>	<p style="text-align: center;"><b><u>Relationship Between Suspect &amp; Victim:</u></b></p> <p>Suspect known to victim?    <input type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p>Nature of relationship: _____</p> <p>Length of relationship: _____</p> <p><i>If Yes, describe in narrative portion of Report</i></p>	<p><input type="checkbox"/> Prior reported incidents with suspect? Total # _____</p> <p><input type="checkbox"/> Prior unreported incidents with suspect? Total # _____</p> <p>Restraining orders?    <input type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p><i>If Yes, describe in narrative portion of Report</i></p> <p>Type of order: _____    Order/Case# _____</p>
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<b>WEAPONS</b>	<p>Weapon(s) used during incident?    <input type="checkbox"/> Yes    <input type="checkbox"/> No    Type: _____</p> <p>Weapon(s) booked as evidence?    <input type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p>Automated Firearms System (AFS) Inquiry attached to Report?    <input type="checkbox"/> Yes    <input type="checkbox"/> No</p>
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# HATE CRIME CHECKLIST

Page \_\_\_\_ of \_\_\_\_

<b>EVIDENCE</b>	Witnesses present during incident? <input type="checkbox"/> Yes <input type="checkbox"/> No	Statements taken? <input type="checkbox"/> Yes <input type="checkbox"/> No
	Evidence collected? <input type="checkbox"/> Yes <input type="checkbox"/> No	Recordings: <input type="checkbox"/> Video <input type="checkbox"/> Audio <input type="checkbox"/> Booked
	Photos taken? <input type="checkbox"/> Yes <input type="checkbox"/> No	Suspect identified: <input type="checkbox"/> Field ID <input type="checkbox"/> By photo
	Total # of photos: _____ D#: _____ Taken by: _____ Serial #: _____	<input type="checkbox"/> Known to victim

<b>OBSERVATIONS</b>	<b><u>VICTIM</u></b>	<b><u>SUSPECT</u></b>
	<input type="checkbox"/> Tattoos <input type="checkbox"/> Shaking <input type="checkbox"/> Unresponsive <input type="checkbox"/> Crying <input type="checkbox"/> Scared <input type="checkbox"/> Angry <input type="checkbox"/> Fearful <input type="checkbox"/> Calm <input type="checkbox"/> Agitated <input type="checkbox"/> Nervous <input type="checkbox"/> Threatening <input type="checkbox"/> Apologetic <input type="checkbox"/> Other observations: _____	<input type="checkbox"/> Tattoos <input type="checkbox"/> Shaking <input type="checkbox"/> Unresponsive <input type="checkbox"/> Crying <input type="checkbox"/> Scared <input type="checkbox"/> Angry <input type="checkbox"/> Fearful <input type="checkbox"/> Calm <input type="checkbox"/> Agitated <input type="checkbox"/> Nervous <input type="checkbox"/> Threatening <input type="checkbox"/> Apologetic <input type="checkbox"/> Other observations: _____

**ADDITIONAL QUESTIONS (Explain all boxes marked "Yes" in narrative portion of report):**

Has suspect ever threatened you?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Has suspect ever harmed you?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Does suspect possess or have access to a firearm?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Are you afraid for your safety?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Do you have any other information that may be helpful?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

**Resources offered at scene:**  Yes  No Type: \_\_\_\_\_

<b>MEDICAL</b>	<b><u>Victim</u></b>	<b><u>Suspect</u></b>	<b>Paramedics at scene?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No Unit # _____
	<input type="checkbox"/>	<input type="checkbox"/> Declined medical treatment	Name(s)/ID #: _____
	<input type="checkbox"/>	<input type="checkbox"/> Will seek own medical treatment	Hospital: _____
	<input type="checkbox"/>	<input type="checkbox"/> Received medical treatment	Jail Dispensary: _____
Authorization to Release Medical Information, Form 05.03.00, signed? <input type="checkbox"/> Yes <input type="checkbox"/> No			Physician/Doctor: _____
			Patient #: _____

Officer (Name/Rank)	Date
Officer (Name/Rank)	Date
Supervisor Approving (Name/Rank)	Date

**A-27 Return to Work Program Policy.pdf**



Administrative Policy Manual

Policy No: A-27Date: 7-26-11Approved: Don Martin

SUBJECT: POLICY ESTABLISHING RETURN TO WORK PROGRAM. (RTW)

PURPOSE: To return injured employees, who are temporarily precluded from performing their normal duties at work.

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### **I. PURPOSE**

The primary goal of the City of Indio's Return-to-Work (RTW) Program is to return eligible employees to the City workforce at the earliest medically allowable date and in accordance with their medical treatment plan. The RTW promotes rehabilitation and enhances the recovery process of employees experiencing an illness/injury, while maximizing productivity and controlling related expenditures. This is accomplished through a partnership, which includes the affected employee, medical providers, and a multi-disciplinary team of key personnel working together toward the common goal of expediting the employee's return to physical and psychological well-being.

### **II. WHY RETURN-TO-WORK?**

Research shows that returning an employee to work as soon as medically possible is essential in properly managing workers' compensation and non-work related disability claims. It is also beneficial for the employee both physically and psychologically.

### **II. RETURN-TO-WORK GOALS**

- Fulfill our moral, ethical and legal responsibilities to our employees
- Provide transitional assignments or temporary modified work while the employee is recovering
- Identify tasks for transitional duty work assignments for injured employees
- Create positive workplace morale through communication and support for the ill/injured worker
- Minimize the potential for re-injury or permanent disability
- Reduce medical and disability costs
- Increase productivity by decreasing lost work time

### **III. RESPONSIBILITY:**

The Human Resources Coordinator will act as the RTW Coordinator. This individual will function as the liaison with the workers' compensation claims administrator.

RTW Coordinator will:

1. Initiates contact with eligible employees and department supervisors to discuss the RTW Program. Provides information about the interactive discussion meeting for the RTW Job Assignment.
2. Receives reports from treating physician indicating current employee medical restrictions. Assures that department supervisor is advised of and understands restrictions and their effect on RTW job assignment. Regularly confers with workers' compensation claims administrator regarding RTW matters.
3. Monitors ongoing RTW job assignment for continuing appropriateness. Notifies department supervisor and workers' compensation claims administrator of any issues or problems an employee may have with his/her RTW job assignment.
4. Maintains database on RTW program, including employee's name, department, and number of working days saved/employee, and potential dollars saved through the RTW program.
5. Maintains documentation in RTW database system to communicate about employees' restrictions, impact on usual & customary duties, accommodations made, release to full duty, and any special circumstances that may arise.
6. Determining whether injured employees should continue participation in a RTW job assignment.

#### **IV. PROCEDURES:**

##### **A. Identifying RTW Assignments:**

1. Periodically, the RTW Coordinator will request that all departments complete the "RTW Assignment" form. This form assists the RTW Coordinator in identifying before hand possible RTW assignments that are within the work restrictions.

##### **B. Employee placed on RTW by a Treating Physician:**

1. If the employee has work restrictions, the work restrictions will be listed on the "Notice of Physician's Recommendations".
2. If the employee's department is able to accommodate the restrictions, the employee's supervisor will notify the RTW Coordinator, and the Coordinator will send a RTW agreement letter to the employee.
3. The employee's supervisor will ensure that the employee is complying with and working within the work restrictions imposed by the treating physician.
4. The RTW program is a temporary program for a period of 90 days with the possibility of one 90-day extension.
  - i. The City Manager or his designee can approve a one-time extension of that time frame where circumstances warrant

- C. Employee's Department Unable to Accommodate the Restrictions:
1. If the employee's department is unable to accommodate the restrictions, the department will notify the RTW Coordinator immediately.
  2. The RTW Coordinator will:
    - i. Check file for previously submitted RTW assignment forms.
    - ii. Contact other Departments for possible RTW assignments based upon the employee's restrictions.
    - iii. Instruct the employee where to report if an assignment in another department is located. (May be delegated to the employee's department)
- D. Unavailable Transitional Assignments:
1. If no transitional assignment is available, the employee will be put off work.
  2. Employees off work are to contact the RTW Coordinator immediately following a change in work restrictions or medical condition as determined by his/her treating physician.
  3. Failure to contact the RTW Coordinator may result in disciplinary action.
- E. Intermittent Assignment:
1. If an employee completes a temporary assignment and there is no additional transitional work available, the employee will be put off work.
  2. If the injury is work related the RTW Coordinator must immediately notify the workers' compensation claims administrator that the employee is not working.
- F. Timesheet Procedures:
1. The time record code "RTW" shall be used to track employees on transitional return to work assignments.
  2. "RTW" time is recorded on the employee's timesheet.
  3. The employee's regular program and account number are used.
  4. The code "RTW" is placed in the work performed column along with a description of the duties performed.

**V. REFERENCES:**

Americans with Disability Act of 1990 (Public Law 101-336) Fair Employment and Housing Act.

## **Post Incident Protocols and Peer Support\_ FINAL.pdf**



# INDIO POLICE DEPARTMENT



## Post Incident Protocols & Peer Support

Chief of Police Mike Washburn

July 2019

**INDIO POLICE DEPARTMENT'S POST CRITICAL INCIDENT – INVOLVED OFFICER CHECKLIST**

<b>Assigned Departmental Peer Support Officer(s):</b>	<b>Phone #</b>
<b>Peer Support Sergeant:</b>	<b>Phone #</b>
<b>IPOA /LDF Attorney:</b>	<b>Phone #</b>
<b>Counseling Team International – Psychologist:</b>	<b>Phone #</b>
<b>IPD PSU Sergeant:</b>	<b>Phone #</b>
<b>Assigned IPD Detectives:</b>	<b>Phone #</b>
<b>Allied Agency Investigators:</b>	<b>Phone #</b>

**Preface:**

As per the Indio Police Department's policy manual outlines, the following items **should** occur:

**310.10 DEBRIEFING**

***Following an officer-involved shooting or death, the Indio Police Department should conduct both a critical incident/stress debriefing and a tactical debriefing.***

**310.10.1 CRITICAL INCIDENT/STRESS DEBRIEFING**

A critical incident/stress debriefing should occur as soon as practical. The Investigative Support Services Division Chief is responsible for organizing the debriefing. Notes and recorded statements should not be taken because the sole purpose of the debriefing is to help mitigate the stress-related effects of a traumatic event.

The debriefing is not part of any investigative process. Care should be taken not to release or repeat any communication made during a debriefing unless otherwise authorized by policy, law or a valid court order.

***Attendance at the debriefing shall only include those members of the department directly involved in the incident, which can include support personnel (e.g., dispatchers, other non-sworn personnel).***

**Note:**

Family or other support personnel may attend with the concurrence of those involved in the incident. The debriefing shall be closed to the public, and should be closed to all other members of the Department, including supervisory and Professional Standards Unit personnel.

**310.10.2 TACTICAL DEBRIEFING**

A tactical debriefing should take place to identify any training, or areas of policy that need improvement. The Chief of Police should identify the appropriate participants. This debriefing should not be conducted until all involved members have provided recorded, or formal statements to criminal and/or administrative investigators.

**310.11 MEDIA RELATIONS**

Any media release shall be prepared with input from the supervisor and department representative responsible for each phase of the investigation, and shall be approved by the Chief of Police. Releases will be available to the Watch Commander, Investigative Support Services Division Chief, and Public Information Officer, in the event of inquiries from the media.

The Department shall not subject any involved IPD officer to visits by the media (Government Code § 3303(e)). No involved IPD officer shall make any comment to the media, unless he/she is authorized by the Chief of Police or a Division Chief. Department members receiving inquiries regarding officer-involved shootings or deaths occurring in other jurisdictions shall refrain from public comment, and will direct those inquiries to the agency having jurisdiction, and primary responsibility for the investigation.

### **What Happens Now?**

At the onset of any critical incident (Internal) investigation, the involved officer(s) will be taken to the Indio Police Department where they will be sequestered, and reasonable accommodations will be made to keep them comfortable, until legal representation arrives.

### ***Family / Significant Other Notifications:***

It is encouraged that each involved officer contact their respective family / significant other to make them aware they have been involved in a critical incident. In the event the officer is unable to make these notifications, notifications will be made by IPD staff, and will be a department priority.

### **Peer Support:**

One of the most important things, especially for the involved officer(s), will be the assignment of a Peer Support Officer. On the day of the incident, your initial Peer Support Officer will be assigned by the current Peer Support Supervisor. Should you request a different Peer Support Officer subsequent to the day of the incident, you will have the ability to request one of the other pre-designated officers from this team. (See attached list of Peer Support Officers)

### **Legal Representation:**

Understand, as a Police Officer, you are afforded rights like any other person in this Country. In addition, you are also covered by the **Peace Officers Bill of Rights (POBR)** and you will be provided with a Legal Defense Fund (LDF) attorney, through your respective bargaining unit, to represent you through the remainder of this process.

### **Charting:**

As part of the investigation, "Charting" is a common process in which involved officers will be photographed in order to document how they appeared at the time of the occurrence, as well as what gear they had with them.

Generally your IPOA Representative or your assigned Peer Support Officer will be present. In addition, while the charting is taking place, Investigators may ask you simple questions pertaining to your uniform, appearance, and gear.

### **Review of Body Worn Camera Video:**

Officers involved in a critical incident will be permitted to review their body worn camera footage, as per IPD policy 310.8, prior to providing a voluntary recorded statement.

### **Statements:**

Officers involved in critical incidents may be compelled to provide multiple statements regarding the incident:

- Public safety statement (Immediate information provided at scene – limited)
- In person, compelled statement (*Lybarger statement*)
- Scene /incident walk through – Note: Involved officer's attorneys will assist you with the Lybarger / walk through statements.

### **Weapons Exchange:**

At times, during a critical incident, the involved officers may have utilized their department issued gear (i.e. firearm and /or Conducted Energy Device (CED)) which may be collected as evidence related to the incident. The Peer Support Sergeant will ensure the involved officer(s) are issued replacement items in a timely fashion.

A department armorer will issue the involved officer(s) a new firearm and record the serial. The armorer will ensure the involved officer(s) are issued any magazines, and department ammunition as needed, to be duty ready.

The department CED instructor will provide the involved officer(s) a new CED or cartridges, if needed, and record the serial numbers.

### **Replacement Weapon Function Test:**

In the event you are issued a temporary replacement firearm, you will be required to execute a function test at the IPD firing range prior to returning to full duty. This function test will be coordinated through the IPD Range Staff. This is not a scored qualification, but rather an assurance that the replacement weapon functions properly.

### **Post Incident Counseling:**

Officers directly involved in the critical incident will be required to meet with a mental health professional (The Counseling Team International) if reasonably and logistically possible, prior to end of watch on the day of the incident.

Witness officers / dispatchers will be given the option to meet with a mental health professional as well.

The Counseling Team International will communicate with the Peer Support Sergeant in an effort to coordinate either the amount of time off recommended, or how soon you may return to work.

Please note, the information shared with IPD regarding your interaction with The Counseling Team International will only be general, pertaining to your ability to return to work.

The services of The Counseling Team International will be provided at no cost to you. Directly involved personnel may bring a spouse /family member, also at no cost to them.

**Administrative Leave:**

. 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 department policy and, if lawfully justified.
- (b) The employee has had the opportunity to receive necessary counseling and/or psychological clearance.
- (c) Return to duty will only be authorized by a lieutenant or above.

**Administrative Leave Notification:**

Effective \_\_\_\_\_, at \_\_\_\_\_ hours, you are being placed on administrative leave with pay, pending the results of an internal affairs investigation into an \_\_\_\_\_ (i.e. OIS, Traffic Collision, etc...) in which you were involved.

While on paid administrative leave you shall adhere to the following terms of employment.

- 1. You are not to engage in any police activity, conduct yourself as a police officer, or take any action as a police officer while on administrative leave, except to protect yourself or others.
- 2. Your official work schedule will be Monday through Friday, 0800 to 1600 hours. You are to be available via telephone during these hours. Note, you will not be required to be in the office during your paid administrative leave.
- 3. To ensure a full, fair, and effective investigation in this matter, and in order to preserve public confidence in the City's ability to operate effectively, during the pendency of the investigation, you are directed not to discuss this investigation with anyone other than the investigator (PSU Sergeant), your union representatives and/or legal counsel.

This order shall automatically be lifted at the conclusion of the investigation, when the need for accurate collection of information will abate.

- 4. If your chosen representative is anyone other than your attorney, you must identify that person prior to discussing the case with him or her. This notification is to ensure that the selected representative is not a party to the investigation.
- 5. You are required to honor any subpoenas that you have, or may receive in the future. No overtime will be accrued during your administrative leave without prior approval. Your cooperation in this sensitive matter is required and appreciated.

This order is not intended to prevent you from engaging in protected concerted activity under the Meyer-Milias-Brown Act. You may continue to engage in protected concerted activity under the Act, including but not limited to discussing any other aspects of your employment and working

conditions with others, including co-workers. If you are unsure whether discussing certain issues with others would violate this order, you are encouraged to consult with your union representatives and/or legal counsel, who may advise you, and to also contact the Professional Standards Unit Sergeant with any questions.

Failure to comply with any portion of this directive will constitute a violation of department policy and be considered insubordination, which could result in disciplinary action, up to and including termination of employment with the City of Indio.

I hereby acknowledge the understanding and receipt of this memorandum.

\_\_\_\_\_  
Employee Signature                      Date                      Contact Phone Number

\_\_\_\_\_  
Ranking Officer Signature                      Date

**Discretion & Discussions:**

If, at some point, you were directed to not discuss the specifics of the incident you were involved in, and are ultimately told this directive has been lifted, be mindful of who you can discuss the circumstances with. The reason being, several people close to you may not likely be immune from receiving a subpoena as to what you told them.

The people close to you that would not be subject to subpoena are your attorney, your mental health professional and your (Legal) spouse. All others can be subpoenaed.

**Media Attention:**

At the request of the media, information related to you may be released. This information may include your name, age, gender, rank / assignment and time with the department.

Be prepared for the media to make efforts to contact you via telephone and /or at your residence. Understand they do not have the right to be on your property without your permission.

Giving the media an interview, or providing them with comments is not recommended, and should not occur without consulting your LDF attorney. In the event you decide to speak with the media, you should make the department Public Information Officer (PIO) aware of this prior to making any comments. You should also make family members aware of your decision, which could lead to potentially being featured in a news story. It is also recommended you and your family refrain from reading media blogs, and other social media relating to the incident.

With regards to any social media accounts you have, you may want to consider closing or suspending them temporarily. In the event you choose not to, it is highly recommended you do not post anything related to your critical incident, as social media accounts can be subject to subpoena.

In the event you should have any questions regarding anything relating to the media, please contact the Peer Support Sergeant directly.

### **Use of Force Review Board (UOFRB):**

The UOFRB is an internal proceeding intended to determine the circumstances that brought about the use of force in this instance, and allow for evaluation of your compliance with current departmental policies.

The date for the UOFRB will be selected by the ISSD Assistant Chief of Police. Typically, the UOFRB occurs within 30-90 days of the incident, however, circumstances may deem that a longer period of time is needed. You will be notified in writing, well in advance of the scheduled date.

### **Coroner's Review:**

In the event the circumstances resulted in the loss of human life, there will be a review of the circumstances by the Riverside County Coroner's Office. As an involved officer, you will not be required to attend this review.

### **Criminal Proceedings:**

In the event the incident resulted in a criminal case being filed against any suspect, you will be required to participate as you normally would in any other investigation.

### **District Attorney Review:**

In the event of loss of human life that resulted from your actions during this critical incident, it is important to understand the Riverside County District Attorney's Office is obligated to investigate the circumstances.

Please be aware this is all part of the process. Do not feel that due to the aforementioned occurring, that you have done anything wrong or improper. It is important to recognize all of these steps are required to investigate the circumstances to their fullest, especially because a member of law enforcement is involved.



## INDIO POLICE DEPARTMENT'S PEER SUPPORT TEAM

<u>NAME</u>	<u>ASSIGNMENT/SHIFT</u>
Sergeant Lisa Corton	"A" Shift Patrol
Corporal Edmund Gomez	"B" Shift Patrol
Detective Jesse Marin	Street Crimes Unit
Detective Bryan Traynham	Street Crimes Unit
Detective Matthew Gutting	Major Crimes Unit
Detective Chris Cordova	Major Crimes Unit
Officer Jason Polanco	"A" Shift Patrol
Officer Steve Oehring	"A" Shift Patrol
Officer Gabby Mendoza	School Resource Officer
Officer Joel Osmond	School Resource Officer
Officer Brook-lyn Edney	School Resource Officer
Officer Ryan Kitchens	"C" Shift Patrol
Officer Israel Campoa	"C" Shift Patrol
CEO Jennifer Stroud	Code Enforcement
Dispatcher Cassie Edney	"C" Shift Dispatch

**Indio Police Department**

Post Critical Incident Screening

Consent /Release Form

I, \_\_\_\_\_, a sworn employee (Officer, Corporal, Detective, Sergeant, Lieutenant, etc.) with the Indio Police Department (IPD) have been ordered to attend a post incident screening session with *The Counseling Team International* following a critical incident. **No notes will be maintained regarding this session.**

I do authorize, *The Counseling Team International* to notify IPD that

\_\_\_ I will be resuming my normal duties without restriction, or

\_\_\_ I will be attending additional sessions as allowed by IPD policy, and will not be returning to normal duties without restrictions.

I consent to allow the providers and /or their agents to provide the above check information to the listed IPD representative via email, fax or telephone call.

**To Be Completed By Employee:**

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**To Be Completed by Provider: Upon Receipt of this Signed Form:**

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Authorized IPD Representative:**

Printed Name: \_\_\_\_\_

Contact Number: \_\_\_\_\_

**RCLEAA Policy R-001 OIS.pdf**



RIVERSIDE COUNTY  
LAW ENFORCEMENT ADMINISTRATORS  
POLICIES AND GUIDELINES

Adopted: May 30, 1988  
Rev. 1: June 2000  
Rev. 2: June 2002

SUBJECT: OFFICER INVOLVED USE OF FORCE GUIDELINES

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PURPOSE:

A law enforcement agency's primary function is to protect the rights of all persons within its jurisdiction to be free from criminal attack, secure in their possessions, and to live in a peaceful environment. To carry out this function, police officers may be required to use force. It is in the public interest that every law enforcement agency's officers be guided by a Use of Force Policy, which is fair, appropriate, and creates public confidence in the law enforcement profession. The use of force by law enforcement personnel is a matter of critical concern both to the public and the law enforcement community. Officers are involved on a daily basis in numerous and varied human encounters, and when warranted to do so, may use force in carrying out their duties.

Law enforcement agencies and their officers must have an understanding of, and true appreciation for, the limitations of their authority, particularly with respect to overcoming resistance from those with whom they come in official contact.

Depending on circumstances, less lethal weapons, if available, provide officers a use of force option that may be used to control an aggressive and uncooperative suspect that might reduce the risk of more serious injury to the suspect, civilians and officers.

The Riverside County Law Enforcement Administrators Association (RCLEAA) recognizes and respects the sanctity and dignity of human life. Vesting officers with authority to use force to protect the public welfare requires a very careful balancing of the rights of all human beings and the interests of law enforcement in resolving a particular situation.

These guidelines are provided to RCLEAA members for two purposes: (1) to provide a resource and guideline for developing effective decision making as to when force may be employed and the type of force that the law will permit and (2) to provide a protocol for a thorough and professional investigation free of conflicts of interest.

While the contents herein represent an understanding and agreement among Riverside County Law Enforcement Administrators (RCLEAA) it is recommended that members develop and implement use of force policies consistent with the following guidelines. This guideline is not a statute, ordinance or regulation and is not intended to increase the civil or criminal liability of participating agencies or their employees and shall not be construed as creating any mandatory obligations to, or on behalf of, third parties.

## I. DEFINITIONS

- A. Officer Involved Fatal Incident: An incident where death or serious likelihood of death results, and on duty, off duty or reserve officers are involved.
1. Intentional and accidental shootings;
  2. Intentional and accidental use of any other deadly or dangerous weapon;
  3. Assaults upon police employees who are acting for a law enforcement purpose;
  4. Attempts to affect an arrest or otherwise gain physical control over a person for a law enforcement purpose;
  5. Deaths of persons while in police custody, under police control or following release from police custody as appropriate;
  6. Physical altercations, such as mutual combat, in which the police agency employee is acting in a private capacity for other than law enforcement purposes;
  7. Vehicular collisions, except those involving solo vehicular collisions where only the police agency employee is fatally injured.
- B. Venue Agency - The agency, or agencies, within whose geographic jurisdiction the incident occurs
- C. Employing Agency - The agency by whom the involved police employee is employed
- D. Principal - A person whose act is a proximate cause of the injury to another person.
- E. Proximate Cause -A cause which, in a natural and continuous sequence, produces the injury and without which the injury would not have occurred
- F. Primary Investigating Agency -The agency to which the venue agency has relinquished responsibility for the investigation
- G. Peace Officer – Peace Officers are persons defined in Penal Code Section 830 et. al.
- H. Police Employee – A police employee is any person employed by or voluntarily working for a law enforcement agency including both sworn and non-sworn personnel

## II. USE OF FORCE GUIDELINES

- A. Overview  
In a complex urban society, officers are confronted daily with situations where control must be exercised to affect arrests and to protect the public safety. Control may be achieved through verbalization techniques such as advice, warnings, and persuasion, or by the use of physical force. Officers are permitted to use whatever force is

reasonable to protect others or themselves from bodily harm. RCLEAA.'s Use of Force Guidelines follows applicable California and federal law.

California Penal Code section 835a states that an officer who has reasonable cause to believe that a person to be arrested has committed a public offense may use reasonable force to effect the arrest, prevent escape, or overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his or her efforts by reason of resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his or her right to self defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance. Each situation explicitly requires the use of force to be reasonable and only that force which reasonably appears to be necessary may be used to gain control or resist attack. For example, mere verbal threats of violence, verbal abuse, or hesitancy by the suspect in following commands do not, in and of themselves, justify the use of force without additional facts or circumstances which, taken together, pose a threat of harm to the officer or others.

Officers must be prudent when applying any use of force techniques. Unreasonable application of force is a violation of California and federal law, which may result in criminal prosecution and/or civil liability for the officer. Officers who violate their agency's policy on use of force may be subject to department discipline. Officers should clearly understand that the standard for determining whether or not the force applied was reasonable is that conduct which a reasonable peace officer would exercise based upon the information the officer had when the conduct occurred. Officers must pay careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers, and others, and whether he or she is actively resisting arrests or attempting to evade arrest by flight.

## B. ESCALATION/DE-ESCALATION OF FORCE

The primary objective of the application of force is to ensure the control of a suspect with such force as is objectively reasonable under the circumstances. Ideally, officers should attempt to control a suspect through advice, warning, or persuasion, but be prepared for the use of force. The types of force an officer may utilize will vary, depending on the aggressive behavior or degree of resistance used by a suspect and the tactical practicability of a particular use of force technique. In situations when force is applied, an officer must escalate or de-escalate to the amount of force, which reasonable appears to be necessary to overcome the suspect's resistance and to gain control.

The concept of escalation and de-escalation of force must be put into a proper perspective so that officers can effectively handle all types of resistant suspects. There are six key points regarding the concept of escalation and de-escalation of physical force.

1. Physical force is used to control a suspect;

2. Whenever force is used, the officer's defensive reactions must be in response to the suspect's actions;

NOTE: This does not mean that an officer has to wait until a suspect attacks. Based on the circumstances, an officer may be justified in using reasonable force to prevent any attack.

3. An officer may use only the amount of force, which reasonably appears to be necessary to control the suspect. The Fourth Amendment of the United States Constitution requires that police officers use only such force as is objectively reasonable under the circumstances. Officers need not avail themselves of the least intrusive means of responding to an exigent situation; they need only act within that range of conduct identified as reasonable.
4. When a suspect physically attacks an officer, the officer must act in self-defense within approved use of force standards. For example, a suspect assumes a clenched fist-fighting stance some distance from the officer. The officer counters by drawing his baton as a show of force. At this time, the suspect drops his hands, resumes a normal posture, and submits to arrest. Although an officer must proceed with extreme caution, maintaining an advantageous position and ensuring that not additional threat exists, the officer should de-escalate to verbalization.
5. The increased amount of force used by a suspect requires an officer to escalate the degree of force needed to maintain control of the situation. An officer is also permitted by law to not only use the level of force used by the suspect, but to use reasonable force to overcome the resistance. As a suspect's use of force declines, the officer's reaction must also decline. The reasonable amount of force needed to control a suspect may vary from one officer to another.
6. Officers must realize that emotional involvement and mental attitude is also a factor in the escalation or de-escalation of force. In order to react to every situation with the reasonable amount of force, an officer must be in good physical condition, possess self-defense and verbalization skills, and have a mature, professional attitude. Additionally, officers must have self-confidence in their training and ability to control the situation.

### C. SITUATION BASED USE OF FORCE CONTINUUM

Building flexibility into an officer's determination of the appropriate use of force is important because the legal standard for evaluating use of force is reasonableness under the facts and circumstances known to the officer at the time. Situation Based Use of Force Continuum provides additional confidence and needed support to officers in making their decisions regarding use of force in the field.

It is important to note that an officer need not attempt to gain control over an individual by use of the lowest level of force on the continuum when reason dictates and the officer can articulate that a higher level of force is reasonable. Likewise, the skipping of steps may be

appropriate given the resistance encountered. An officer may go directly to any level of the continuum provided that the force selected is reasonable.

A number of factors must be taken into consideration when an officer selects force options, and when evaluating whether an officer has used reasonable force. RCLEAA recognizes that officers must make split second decisions and that the amount of time available to evaluate and respond to a situation may impact the officer's decisions. By establishing guidelines that include a Use of Force Continuum, RCLEAA hopes to provide agency guidance for their officers in making those split second decisions. Examples of facts, which may affect an officer's force option selection include, but are not limited to:

1. Officer/subject factors (age, size, relative strength, skill level, injury/exhaustion, and number of officers versus number of subjects).
2. Influences of drugs or alcohol.
3. Proximity to weapons.
4. Availability of other options.
5. Seriousness of the offense in question.
6. Other exigent circumstances.

#### D. REPORTABLE USE OF FORCE INCIDENTS

1. A reportable use of force incident is defined as an incident in which any on duty or off duty police employee whose occupation as an employee of a law enforcement agency is a factor, uses a less lethal control device or any force to:
  - a. Compel a person to comply with the employee's directions; or
  - b. Overcome resistance by a suspect during an arrest or a detention; or
  - c. Defend himself or herself or any person from an aggressive action by a suspect.
2. Reportable use of force does not include:
  - a. The mere presence and identification of police officer status; or
  - b. The use of a firm grip hold which does not result in an injury, complaint of injury, or complaint of pain; or
  - c. That force necessary to overcome passive resistance due to physical disability or intoxication which does not result in injury, complaint of injury; or



- d. Control holds utilized in conjunction with handcuffing and searching techniques, which do not result in injury, complaint of injury, and did not require any other reportable use of force; or
- e. Injuries sustained by a suspect as a sole consequence of his/her actions such as, but not limited to, falling while fleeing from officer(s); or
- f. Shooting of an animal as otherwise permitted by the agency's policies; or
- g. Use of the diversion or entry devices, approved by the officer's agency, which are deployed to gain entry into a structure, where no injury or complaint of injury results.

3. Employee responsibilities:

Any police employee who becomes involved in a reportable use of force incident or discharges a firearm, taser, less lethal munitions, or chemical irritant control device for any reason, other than an approved training exercise should:

- a. Summon medical aid, as needed;
- b. Immediately notify a supervisor that they have been involved in a use of force incident;
- c. Report the full details of the use of force incident in the related arrest or crime report;
- d. Photographs need to be taken in all reportable use of force incidents that result in an injury, or a complaint of injury. If practicable, photographs of the subject and the injury should be taken after the injury or wound is cleansed by medical personnel and before medical treatment, if any. Care should be taken to protect the subject's personal privacy interests. Any possible concerns should be discussed with a field supervisor prior to taking the photographs;
- e. Use a "memorandum" form to report the full details of the use of force incident when a crime or arrest report is not required;
- f. When off duty, notify their supervisor or watch commander, or designee without unnecessary delay.

4. Supervisor responsibilities:

Immediately after becoming aware of a reportable use of force incident, the supervisor should:

- a. Confirm medical aid has been summoned, as needed.

- b. Respond to the scene and conduct an independent investigation of the circumstances involving the use of force and prepare an administrative report. The administrative report should minimally include a description of the circumstances involving the use of force, identification of and statements from all involved and witnessing parties, review of the initial and supplemental reports prepared by involved and witnessing officers, photographs of any injuries or the absence of visible injuries, and a finding relative to compliance with department policy. If practicable, photographs of the subject and the injury should be taken after the injury or wound had been cleansed by medical personnel and before medical treatment, if any is necessary. Care should be taken to protect the subject's personal privacy interest. Any possible concerns should be discussed with the watch commander prior to taking the photographs.
  - c. Complete the administrative report in accordance with department policy.
  - d. If the force results in death or serious likelihood of death, the supervisor shall immediately notify the watch commander.
5. If the circumstances indicate that there may be a possibility of a criminal allegation against a peace officer, the initial responding supervisor also should:
- a. Preserve the scene until relieved by the supervisory personnel subsequently assigned to oversee the criminal investigations;
  - b. Immediately notify the watch commander and/or internal affairs.

### III. GENERAL INVESTIGATIVE GUIDELINES

- A. Investigations of officer involved shootings and incidents where death or serious likelihood of death may result will be performed to develop all available relevant information and in a manner which provides a thorough and professional investigation free of conflicts of interest.
- 1. The goals of which are to:
    - a. Conduct an objective fact finding process to determine the truth; and
    - b. Determine the existence or non existence of criminal responsibility; and
    - c. If criminal responsibility does exist, determine the identity of the person(s) responsible for the conduct; and
    - d. If criminal responsibility does exist, determine:
      - (1) The degree of the crime;
      - (2) Any legal or factual defenses to the crime;
      - (3) The existence of any factors which would mitigate or aggravate punishment for the conduct.

2. The investigation shall be performed in a manner consistent with the rules of admissibility of evidence in a criminal hearing and will commence as promptly as possible after the occurrence.

## B. NOTIFICATIONS

1. In any investigations of officer involved shootings and incidents where death or serious likelihood of death results, the venue agency will immediately notify:
  - a. The employing agency;
  - b. The on call Deputy District Attorney; and
  - c. In the case of death, the Sheriff Coroner

## C. INVESTIGATIVE RESPONSIBILITY

1. The responsibility for investigating incidents rests with the venue agency/agencies.
  - a. Investigative assistance may be requested from other law enforcement agencies.
  - b. The District Attorney's Office must be notified without delay.
  - c. If assistance is obtained from another agency, the venue agency may retain investigative responsibility for the investigation, or relinquish such investigative authority to the primary agency.
2. The venue agency has the initial responsibility for the preservation and security of the scene(s).
3. The employing agency may conduct its own administrative investigation.
4. The employing agency, if not the venue agency, may assign a liaison investigating officer to maintain contact and assist with the progress of the investigation.
5. The results of the incident investigation conducted will be submitted to the District Attorney for review.

## D. THE LEGAL ROLE OF THE DISTRICT ATTORNEY

1. The District Attorney has the authority to investigate and gather evidence in all cases of potential criminal activity. (Cal. Const. Art. XI 4c; Government Code §26500; Triple A Machine Shop v. State of California (1989) 213 Cal.App.3d 131 [citing Hicks v. Orange County Board of Supervisors (1977) 69 Cal.3d 228, 24].

Further, “the prosecutor is in a position to command the cooperation of all law enforcement authorities in the county.” (State v. Winne) (1935) 12 N.J. 152, 167 169; American Bar Association (ABA) Standards for Criminal Justice (3d Ed. 1993). As a result, in criminal matters the district attorney will:

- a. Provided a Deputy District Attorney for call out to all officer involved shootings and incidents where death or the serious likelihood of death results.
- b. The on scene Deputy District Attorney will participate in the investigation. Participation includes, but is not limited to:
  - (1) Advising on all legal issues relating to the investigation.
  - (2) Participation in the scene briefing and investigative team walk through of the scene.
  - (3) Advising the primary investigating agency with regard to collection of evidence.
  - (4) Participation in interviews of all witnesses including those of the officers involved.
    - (a) Participate in this instance means to either observe the interview, or observe the interview and provide questions to the agency interviewer to be put to witnesses.
    - (b) The Deputy District Attorney may be present at any autopsy or Coroner Review that is conducted.
    - (c) Nothing in the above precludes any law enforcement agency from requesting the District Attorney in other types of use of force incidents not covered by this guideline.
2. Upon the conclusion of the investigation and receipt of the investigation report from the investigating agency, a staffing of the incident will be conducted by the District Attorney’s Office. Notification of the results of the staffing will be sent to the Sheriff or the Chief of Police of the appropriate agencies.

## E. THE LEGAL ROLE OF THE SHERIFF CORONER

1. Duties of the Sheriff Coroner (Government Code 27491)
  - a. It is mandated by law that the Sheriff Coroner inquire into and determine the cause, manner and circumstances of all violent, sudden or unusual deaths.

- b. Custody and control of the body shall remain with the Sheriff Coroner at all times. Reasonable time at the scene shall be allowed by the Sheriff Coroner for criminal investigation by other law enforcement agencies.
- c. The Sheriff Coroner must be notified without delay.
- d. The Sheriff Coroner, on being notified of a death, may immediately proceed to where the body lies, make identification, make inquiry into the circumstances, manner, and means of death.
- e. The body shall not be disturbed or moved from the position or place of death without permission of the Sheriff Coroner.
- f. A Coroner's Review is conducted for all officers involved and in custody deaths and certain high profile cases that come under the jurisdiction of the Sheriff Coroner.
- g. The autopsy will be conducted per section V of the RCLEAA Guidelines for Death Investigation/Crime Scene Autopsy.

#### F. INTERVIEWS WITH POLICE EMPLOYEES

- 1. Interviews will be conducted by investigator(s) from the investigating agency.
- 2. Voluntary statements from those involved in officer involved shootings and incidents where death or serious likelihood of death results are encouraged, as they may be important in an objective fact finding process, notwithstanding contractual agreements, memorandums of understanding and law.
- 3. Refer to Section III; subsection D, 1, b above.

#### G. NEWS MEDIA RELATIONS

- 1. These guidelines are established in order to ensure that the interests of the public's right to know what occurred are protected and are balanced with the requirements of the investigation and the rights of the employee(s).
  - a. All other agencies will refer the news media to the investigating agency and/or the District Attorney, who will coordinate the following information with the employing agency:
    - (1) The employer employee relationship;
    - (2) Location, time of incident, parties involved, injuries and status of investigation;
    - (3) Upon completion, a written release of information should be provided to the media by the venue agency;

(4) After the case has been submitted to the District Attorney, the District Attorney's Media Guidelines will be followed.

b. The Sheriff Coroner release of information will be generally limited to the following, and only after prior notification of the venue, employing and primary investigating agency:

(1) Autopsy protocol;

(2) Death scene investigation;

(3) Toxicology results.

2. Refer to RCLEAA Sheriff Coroner Guideline, Section III, Subsection E, 1 3.

#### H. TRAINING FOR ALL RCLEAA AGENCIES

1. The training of those persons investigating officer involved shootings and incidents where death or serious likelihood of death results will be provided annually.

2. The training sessions will be at a minimum of 16 hours in duration and cover relevant topics.

3. All RCLEAA member agencies will participate, as much as is practical, in these training sessions.

4. The RCLEAA Committee on Officer Involved use of Force Guidelines will be responsible for curriculum development, approval of instructors and scheduling training.

**Distraction Device Accountability  
Form (Reloads)-Blank.pdf**





**th\_Exhibit C.jpg**

**th\_Exhibit A.jpg**

**Graham v. Connor 490 U.S. 386 (1989).pdf**

# U.S. Supreme Court

**Graham v. Connor, 490 U.S. 386 (1989)**

**Graham v. Connor**

**No. 87-6571**

**Argued February 21, 1989**

**Decided May 15, 1989**

**490 U.S. 386**

*CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR*

*THE FOURTH CIRCUIT*

## *Syllabus*

Petitioner Graham, a diabetic, asked his friend, Berry, to drive him to a convenience store to purchase orange juice to counteract the onset of an insulin reaction. Upon entering the store and seeing the number of people ahead of him, Graham hurried out and asked Berry to drive him to a friend's house instead. Respondent Connor, a city police officer, became suspicious after seeing Graham hastily enter and leave the store, followed Berry's car, and made an investigative stop, ordering the pair to wait while he found out what had happened in the store. Respondent backup police officers arrived on the scene, handcuffed Graham, and ignored or rebuffed attempts to explain and treat Graham's condition. During the encounter, Graham sustained multiple injuries. He was released when Connor learned that nothing had happened in the store. Graham filed suit in the District Court under 42 U.S.C. § 1983 against respondents, alleging that they had used excessive force in making the stop, in violation of "rights secured to him under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983." The District Court granted respondents' motion for a directed verdict at the close of Graham's evidence, applying a four-factor test for determining when excessive use of force gives rise to a § 1983 cause of action, which inquires, *inter alia*, whether the force was applied in a good faith effort to maintain and restore discipline or maliciously and sadistically for the very purpose of causing harm. *Johnson v. Glick*, 481 F.2d 1028. The Court of Appeals affirmed, endorsing this test as generally applicable to all claims of constitutionally excessive force brought against government officials, rejecting Graham's argument that it was error to require him to prove that the allegedly excessive force was applied maliciously and sadistically to cause harm, and holding that a reasonable jury applying the *Johnson v. Glick* test to his evidence could not find that the force applied was constitutionally excessive.

*Held:* All claims that law enforcement officials have used excessive force -- deadly or not -- in the course of an arrest, investigatory stop, or other "seizure" of a free citizen are properly analyzed under the Fourth Amendment's "objective reasonableness" standard, rather than under a substantive due process standard. Pp. 490 U. S. 392-399.

(a) The notion that all excessive force claims brought under § 1983 are governed by a single generic standard is rejected. Instead, courts must identify the specific constitutional right allegedly infringed by the challenged application of force, and then judge the claim by reference to the specific constitutional standard which governs that right. Pp. 490 U. S. 393-394.

(b) Claims that law enforcement officials have used excessive force in the course of an arrest, investigatory stop, or other "seizure" of a free citizen are most properly characterized as invoking the protections of the Fourth Amendment, which guarantees citizens the right "to be secure in their persons . . . against unreasonable seizures," and must be judged by reference to the Fourth Amendment's "reasonableness" standard. Pp. 490 U. S. 394-395.

(c) The Fourth Amendment "reasonableness" inquiry is whether the officers' actions are "objectively reasonable" in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a particular situation. Pp. 490 U. S. 396-397.

(d) The *Johnson v. Glick* test applied by the courts below is incompatible with a proper Fourth Amendment analysis. The suggestion that the test's "malicious and sadistic" inquiry is merely another way of describing conduct that is objectively unreasonable under the circumstances is rejected. Also rejected is the conclusion that, because individual officers' subjective motivations are of central importance in deciding whether force used against a convicted prisoner violates the Eighth Amendment, it cannot be reversible error to inquire into them in deciding whether force used against a suspect or arrestee violates the Fourth Amendment. The Eighth Amendment terms "cruel" and "punishment" clearly suggest some inquiry into subjective state of mind, whereas the Fourth Amendment term "unreasonable" does not. Moreover, the less protective Eighth Amendment standard applies only after the State has complied with the constitutional guarantees traditionally associated with criminal prosecutions. Pp. 490 U. S. 397-399.

827 F.2d 945, vacated and remanded.

REHNQUIST, C.J., delivered the opinion of the Court, in which WHITE, STEVENS, O'CONNOR, SCALIA, and KENNEDY, JJ., joined. BLACKMUN, J., filed an opinion concurring in part and concurring in the judgment, in which BRENNAN and MARSHALL, JJ., joined, *post*, p. 490 U. S. 399.

CHIEF JUSTICE REHNQUIST delivered the opinion of the Court.

This case requires us to decide what constitutional standard governs a free citizen's claim that law enforcement officials used excessive force in the course of making an arrest, investigatory stop, or other "seizure" of his person. We hold that such claims are properly analyzed under the Fourth Amendment's "objective reasonableness" standard, rather than under a substantive due process standard.

In this action under 42 U.S.C. § 1983, petitioner Dethorne Graham seeks to recover damages for injuries allegedly sustained when law enforcement officers used physical force against him during the course of an investigatory stop. Because the case comes to us from a decision of the Court of Appeals affirming the entry of a directed verdict for respondents, we take the evidence hereafter noted in the light most favorable to petitioner. On November 12, 1984, Graham, a diabetic, felt the onset of an insulin reaction. He asked a friend, William Berry, to drive him to a nearby convenience store so he could purchase some orange juice to counteract the reaction. Berry agreed, but when Graham entered the store, he saw a number of people ahead of him in the checkout

line. Concerned about the delay, he hurried out of the store and asked Berry to drive him to a friend's house instead.

Respondent Connor, an officer of the Charlotte, North Carolina, Police Department, saw Graham hastily enter and leave the store. The officer became suspicious that something was amiss, and followed Berry's car. About one-half mile from the store, he made an investigatory stop. Although Berry told Connor that Graham was simply suffering from a "sugar reaction," the officer ordered Berry and Graham to wait while he found out what, if anything, had happened at the convenience store. When Officer Connor returned to his patrol car to call for backup assistance, Graham got out of the car, ran around it twice, and finally sat down on the curb, where he passed out briefly.

In the ensuing confusion, a number of other Charlotte police officers arrived on the scene in response to Officer Connor's request for backup. One of the officers rolled Graham over on the sidewalk and cuffed his hands tightly behind his back, ignoring Berry's pleas to get him some sugar. Another officer said:

"I've seen a lot of people with sugar diabetes that never acted like this. Ain't nothing wrong with the M.F. but drunk. Lock the S.B. up."

App. 42. Several officers then lifted Graham up from behind, carried him over to Berry's car, and placed him face down on its hood. Regaining consciousness, Graham asked the officers to check in his wallet for a diabetic decal that he carried. In response, one of

the officers told him to "shut up" and shoved his face down against the hood of the car. Four officers grabbed Graham and threw him headfirst into the police car. A friend of Graham's brought some orange juice to the car, but the officers refused to let him have it. Finally, Officer Connor received a report that Graham had done nothing wrong at the convenience store, and the officers drove him home and released him.

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At some point during his encounter with the police, Graham sustained a broken foot, cuts on his wrists, a bruised forehead, and an injured shoulder; he also claims to have developed a loud ringing in his right ear that continues to this day. He commenced this action under 42 U.S.C. § 1983 against the individual officers involved in the incident, all of whom are respondents here, [Footnote 1] alleging that they had used excessive force in making the investigatory stop, in violation of "rights secured to him under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983." Complaint ¶ 10, App. 5. [Footnote 2] The case was tried before a jury. At the close of petitioner's evidence, respondents moved for a directed verdict. In ruling on that motion, the District Court considered the following four factors, which it identified as "[t]he factors to be considered in determining when the excessive use of force gives rise to a cause of action under § 1983": (1) the need for the application of force; (2) the relationship between that need and the amount of force that was used; (3) the extent of the injury inflicted; and (4) "[w]hether the force was applied in a good faith effort to maintain and restore discipline or maliciously and sadistically for the very purpose of causing harm." 644 F.Supp. 246, 248 (WDNC 1986). Finding that the amount of force used by the officers was "appropriate under the circumstances," that "[t]here was no discernible injury inflicted," and that the force used "was not applied maliciously or sadistically for the very purpose of causing harm," but in "a good faith effort to maintain or restore order in the face of a potentially explosive

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situation," *id.* at 248-249, the District Court granted respondents' motion for a directed verdict.

A divided panel of the Court of Appeals for the Fourth Circuit affirmed. 827 F.2d 945 (1987). The majority ruled first that the District Court had applied the correct legal standard in assessing petitioner's excessive force claim. *Id.* at 948-949. Without attempting to identify the specific constitutional provision under which that claim arose, [Footnote 3] the majority endorsed the four-factor test applied by the District Court as generally applicable to all claims of "constitutionally excessive force" brought against governmental officials. *Id.* at 948. The majority rejected petitioner's argument, based on Circuit precedent, [Footnote 4] that it was error to require him to prove that the allegedly excessive force used against him was applied "maliciously and sadistically for the very purpose of causing harm." [Footnote 5] *Ibid.* Finally, the majority held that a reasonable jury applying the four-part test it had just endorsed

to petitioner's evidence "could not find that the force applied was constitutionally excessive." *Id.* at 949-950. The dissenting judge argued that this Court's decisions in *Terry v. Ohio*, 392 U. S. 1 (1968), and *Tennessee v. Garner*, 471 U. S. 1 (1985), required that excessive force claims arising out of investigatory stops be analyzed under the Fourth Amendment's "objective reasonableness" standard. 827 F.2d at 950-952. We granted certiorari, 488 U.S. 816 (1988), and now reverse.

Fifteen years ago, in *Johnson v. Glick*, 481 F.2d 1028 (CA2), *cert. denied*, 414 U.S. 1033 (1973), the Court of Appeals for the Second Circuit addressed a § 1983 damages claim filed by a pretrial detainee who claimed that a guard had assaulted him without justification. In evaluating the detainee's claim, Judge Friendly applied neither the Fourth Amendment nor the Eighth, the two most textually obvious sources of constitutional protection against physically abusive governmental conduct. [Footnote 6] Instead, he looked to "substantive due process," holding that,

"quite apart from any 'specific' of the Bill of Rights, application of undue force by

law enforcement officers deprives a suspect of liberty without due process of law."

481 F.2d at 1032. As support for this proposition, he relied upon our decision in *Rochin v. California*, 342 U. S. 165 (1952), which used the Due Process Clause to void a state criminal conviction based on evidence obtained by pumping the defendant's stomach. 481 F.2d at 1032-1033. If a police officer's use of force which "shocks the conscience" could justify setting aside a criminal conviction, Judge Friendly reasoned, a correctional officer's use of similarly excessive force must give rise to a due process violation actionable under § 1983. *Ibid.* Judge Friendly went on to set forth four factors to guide courts in determining "whether the constitutional line has been crossed" by a particular use of force -- the same four factors relied upon by the courts below in this case. *Id.* at 1033.

In the years following *Johnson v. Glick*, the vast majority of lower federal courts have applied its four-part "substantive due process" test indiscriminately to all excessive force claims lodged against law enforcement and prison officials under § 1983, without considering whether the particular application of force might implicate a more specific constitutional right governed by a different standard. [Footnote 7] Indeed, many courts have seemed to assume, as did the courts below in this case, that there is a generic "right" to be free from excessive force, grounded not in any particular constitutional provision, but rather in "basic principles of § 1983 jurisprudence." [Footnote 8]

We reject this notion that all excessive force claims brought under § 1983 are governed by a single generic standard. As we have said many times, § 1983 "is not itself a



source of substantive rights," but merely provides "a method for vindicating federal rights elsewhere conferred." *Baker v. McCollan*, 443 U. S. 137, 443 U. S. 144, n. 3 (1979). In addressing an excessive force claim brought under § 1983, analysis begins by identifying the specific constitutional right allegedly infringed by the challenged application of force. See *id.* at 443 U. S. 140 ("The first inquiry in any § 1983 suit" is "to isolate the precise constitutional violation with which [the defendant] is charged"). [Footnote 9] In most instances, that will be either the Fourth Amendment's prohibition against unreasonable seizures of the person or the Eighth Amendment's ban on cruel and unusual punishments, which are the two primary sources of constitutional protection against physically abusive governmental conduct. The validity of the claim must then be judged by reference to the specific constitutional standard which governs that right, rather than to some generalized "excessive force" standard. See *Tennessee v. Garner*, *supra*, at 471 U. S. 7-22 (claim of excessive force to effect arrest analyzed under a Fourth Amendment standard); *Whitley v. Albers*, 475 U. S. 312, 475 U. S. 318-326 (1986) (claim of excessive force to subdue convicted prisoner analyzed under an Eighth Amendment standard).

Where, as here, the excessive force claim arises in the context of an arrest or investigatory stop of a free citizen, it is most properly characterized as one invoking the protections of the Fourth Amendment, which guarantees citizens the right "to be secure in their persons . . . against unreasonable . . . seizures" of the person. This much is clear from our decision in *Tennessee v. Garner*, *supra*. In *Garner*, we addressed a claim that the use of deadly force to apprehend a fleeing suspect who did not appear to be armed or otherwise dangerous violated the suspect's constitutional rights, notwithstanding the existence of probable cause to arrest.

Though the complaint alleged violations of both the Fourth Amendment and the Due Process Clause, see 471 U.S. at 471 U. S. 5, we analyzed the constitutionality of the challenged application of force solely by reference to the Fourth Amendment's prohibition against unreasonable seizures of the person, holding that the "reasonableness" of a particular seizure depends not only on when it is made, but also on how it is carried out. *Id.* at 471 U. S. 7-8. Today we make explicit what was implicit in *Garner's* analysis, and hold that all claims that law enforcement officers have used excessive force -- deadly or not -- in the course of an arrest, investigatory stop, or other "seizure" of a free citizen should be analyzed under the Fourth Amendment and its "reasonableness" standard, rather than under a "substantive due process" approach. Because the Fourth Amendment provides an explicit textual source of constitutional protection against this sort of physically intrusive governmental conduct, that Amendment, not the more generalized notion of "substantive due process," must be the guide for analyzing these claims. [Footnote 10]

Determining whether the force used to effect a particular seizure is "reasonable" under the Fourth Amendment requires a careful balancing of "*the nature and quality of the intrusion on the individual's Fourth Amendment interests*" against the countervailing governmental interests at stake. *Id.* at 471 U. S. 8, quoting *United States v. Place*, 462 U. S. 696, 462 U. S. 703 (1983). Our Fourth Amendment jurisprudence has long recognized that the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect it. See *Terry v. Ohio*, 392 U.S. at 392 U. S. 22-27. Because "[t]he test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application," *Bell v. Wolfish*, 441 U. S. 520, 441 U. S. 559 (1979), however, its proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight. See *Tennessee v. Garner*, 471 U.S. at 471 U. S. 8-9 (the question is "whether the totality of the circumstances justify[es] a particular sort of . . . seizure").

The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. See *Terry v. Ohio*, *supra*, at 392 U. S. 20-22. The Fourth Amendment is not violated by an arrest based on probable cause, even though the wrong person is arrested, *Hill v. California*, 401 U. S. 797 (1971), nor by the mistaken execution of a valid search warrant on the wrong premises, *Maryland v. Garrison*, 480 U. S. 79 (1987). With respect to a claim of excessive force, the same standard of reasonableness at the moment applies: "Not every push or shove, even if it may later seem unnecessary in the peace of a judge's chambers," *Johnson v. Glick*, 481 F.2d at 1033, violates the Fourth Amendment. The calculus of reasonableness must embody

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allowance for the fact that police officers are often forced to make split-second judgments -- in circumstances that are tense, uncertain, and rapidly evolving -- about the amount of force that is necessary in a particular situation.

As in other Fourth Amendment contexts, however, the "reasonableness" inquiry in an excessive force case is an objective one: the question is whether the officers' actions are "objectively reasonable" in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. See *Scott v. United States*, 436 U. S. 128, 436 U. S. 137-139 (1978); see also *Terry v. Ohio*, *supra*, at 392 U. S. 21 (in analyzing the reasonableness of a particular search or seizure, "it is imperative that the facts be judged against an objective standard"). An officer's evil intentions will not make a Fourth Amendment violation out of an objectively reasonable use of force; nor will an officer's good intentions make an objectively unreasonable use of force constitutional. See *Scott v. United States*, *supra*, at 436 U. S. 138, citing *United States v. Robinson*, 414 U. S. 218 (1973).

Because petitioner's excessive force claim is one arising under the Fourth Amendment, the Court of Appeals erred in analyzing it under the four-part *Johnson v. Glick* test. That test, which requires consideration of whether the individual officers acted in "good faith" or "maliciously and sadistically for the very purpose of causing harm," is incompatible with a proper Fourth Amendment analysis. We do not agree with the Court of Appeals' suggestion, see 827 F.2d at 948, that the "malicious and sadistic" inquiry is merely another way of describing conduct that is objectively unreasonable under the circumstances. Whatever the empirical correlations between "malicious and sadistic" behavior and objective unreasonableness may be, the fact remains that the "malicious and sadistic" factor puts in issue the subjective motivations of the individual officers, which our prior cases make clear has no bearing on whether a particular seizure is "unreasonable" under the Fourth Amendment. Nor do we agree with the

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Court of Appeals' conclusion, see *id.* at 948, n. 3, that, because the subjective motivations of the individual officers are of central importance in deciding whether force used against a convicted prisoner violates the Eighth Amendment, see *Whitley v. Albers*, 475 U.S. at 475 U. S. 320-321, [Footnote 11] it cannot be reversible error to inquire into them in deciding whether force used against a suspect or arrestee violates the Fourth Amendment. Differing standards under the Fourth and Eighth Amendments are hardly surprising: the terms "cruel" and "punishment" clearly suggest some inquiry into subjective state of mind, whereas the term "unreasonable" does not. Moreover, the less protective Eighth Amendment standard applies "only after the State has complied with the constitutional guarantees traditionally associated with criminal prosecutions." *Ingraham v. Wright*, 430 U. S. 651, 430 U. S. 671,

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n. 40 (1977). The Fourth Amendment inquiry is one of "objective reasonableness" under the circumstances, and subjective concepts like "malice" and "sadism" have no proper place in that inquiry. [Footnote 12]

Because the Court of Appeals reviewed the District Court's ruling on the motion for directed verdict under an erroneous view of the governing substantive law, its judgment must be vacated and the case remanded to that court for reconsideration of that issue under the proper Fourth Amendment standard.

*It is so ordered.*

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[Footnote 1]

Also named as a defendant was the city of Charlotte, which employed the individual respondents. The District Court granted a directed verdict for the city, and petitioner did

not challenge that ruling before the Court of Appeals. Accordingly, the city is not a party to the proceedings before this Court.

[Footnote 2]

Petitioner also asserted pendent state law claims of assault, false imprisonment, and intentional infliction of emotional distress. Those claims have been dismissed from the case, and are not before this Court.

[Footnote 3]

The majority did note that, because Graham was not an incarcerated prisoner, "his complaint of excessive force did not, therefore, arise under the eighth amendment." 827 F.2d at 948, n. 3. However, it made no further effort to identify the constitutional basis for his claim.

[Footnote 4]

Petitioner's argument was based primarily on *Kidd v. O'Neil*, 774 F.2d 1252 (CA4 1985), which read this Court's decision in *Tennessee v. Garner*, 471 U. S. 1 (1985), as mandating application of a Fourth Amendment "objective reasonableness" standard to claims of excessive force during arrest. See 774 F.2d at 1254-1257. The reasoning of *Kidd* was subsequently rejected by the en banc Fourth Circuit in *Justice v. Dennis*, 834 F.2d 380, 383 (1987), *cert. pending*, No. 87-1422.

[Footnote 5]

The majority noted that, in *Whitley v. Albers*, 475 U. S. 312 (1986), we held that the question whether physical force used against convicted prisoners in the course of quelling a prison riot violates the Eighth Amendment

"ultimately turns on 'whether force was applied in a good faith effort to maintain or restore discipline or maliciously and sadistically for the very purpose of causing harm.'"

827 F.2d at 948, n. 3, quoting *Whitley v. Albers*, *supra*, at 475 U. S. 320-321. Though the Court of Appeals acknowledged that petitioner was not a convicted prisoner, it thought it

"unreasonable . . . to suggest that a conceptual factor could be central to one type of excessive force claim but reversible error when merely considered by the court in another context."

827 F.2d at 948, n. 3.

[Footnote 6]

Judge Friendly did not apply the Eighth Amendment's Cruel and Unusual Punishments Clause to the detainee's claim for two reasons. First, he thought that the Eighth Amendment's protections did not attach until after conviction and sentence. 481 F.2d at 1032. This view was confirmed by *Ingraham v. Wright*, 430 U. S. 651, 430 U. S. 671, n. 40 (1977) ("Eighth Amendment scrutiny is appropriate only after the State has complied with the constitutional guarantees traditionally associated with criminal prosecutions"). Second, he expressed doubt whether a "spontaneous attack" by a prison guard, done without the authorization of prison officials, fell within the traditional Eighth Amendment definition of "punishment." 481 F.2d at 1032. Although Judge Friendly gave no reason for not analyzing the detainee's claim under the Fourth Amendment's prohibition against "unreasonable . . . seizures" of the person, his refusal to do so was apparently based on a belief that the protections of the Fourth Amendment did not extend to pretrial detainees. See *id.* at 1033 (noting that "most of the courts faced with challenges to the conditions of pretrial detention have primarily based their analysis directly on the due process clause"). See n 10, *infra*.

[Footnote 7]

See Freyermuth, Rethinking Excessive Force, 1987 Duke L.J. 692, 694-696, and nn. 16-23 (1987) (collecting cases).

[Footnote 8]

See *Justice v. Dennis, supra*, at 382 ("There are . . . certain basic principles in section 1983 jurisprudence as it relates to claims of excessive force that are beyond question[,] [w]hether the factual circumstances involve an arrestee, a pretrial detainee or a prisoner").

[Footnote 9]

The same analysis applies to excessive force claims brought against federal law enforcement and correctional officials under *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U. S. 388 (1971).

[Footnote 10]

A "seizure" triggering the Fourth Amendment's protections occurs only when government actors have, "by means of physical force or show of authority, . . . in some way restrained the liberty of a citizen," *Terry v. Ohio*, 392 U. S. 1, 392 U. S. 19, n. 16 (1968); see *Brower v. County of Inyo*, 489 U. S. 593, 489 U. S. 596 (1989).

Our cases have not resolved the question whether the Fourth Amendment continues to provide individuals with protection against the deliberate use of excessive physical force beyond the point at which arrest ends and pretrial detention begins, and we do not attempt to answer that question today. It is clear, however, that the Due Process Clause protects a pretrial detainee from the use of excessive force that amounts to punishment.

See *Bell v. Woefish*, 441 U. S. 520, 441 U. S. 535-539 (1979). After conviction, the Eighth Amendment

"serves as the primary source of substantive protection . . . in cases . . . where the deliberate use of force is challenged as excessive and unjustified."

*Whitley v. Albers*, 475 U.S. at 475 U. S. 327. Any protection that "substantive due process" affords convicted prisoners against excessive force is, we have held, at best redundant of that provided by the Eighth Amendment. *Ibid.*

[Footnote 11]

In *Whitley*, we addressed a § 1983 claim brought by a convicted prisoner, who claimed that prison officials had violated his Eighth Amendment rights by shooting him in the knee during a prison riot. We began our Eighth Amendment analysis by reiterating the long-established maxim that an Eighth Amendment violation requires proof of the "unnecessary and wanton infliction of pain." 475 U.S. at 475 U. S. 319, quoting *Ingraham v. Wright*, 430 U.S. at 430 U. S. 670, in turn quoting *Estelle v. Gamble*, 429 U. S. 97, 429 U. S. 103 (1976). We went on to say that, when prison officials use physical force against an inmate

"to restore order in the face of a prison disturbance, . . . the question whether the measure taken inflicted unnecessary and wanton pain . . . ultimately turns on 'whether the force was applied in a good faith effort to maintain or restore discipline or maliciously and sadistically for the very purpose of causing harm.'"

475 U.S. at 475 U. S. 320-321 (emphasis added), quoting *Johnson v. Glick*, 481 F.2d at 1033. We also suggested that the other prongs of the *Johnson v. Glick* test might be useful in analyzing excessive force claims brought under the Eighth Amendment. 475 U.S. at 475 U. S. 321. But we made clear that this was so not because Judge Friendly's four-part test is some talismanic formula generally applicable to all excessive force claims, but because its four factors help to focus the central inquiry in the Eighth Amendment context, which is whether the particular use of force amounts to the "unnecessary and wanton infliction of pain." See *id.* at 475 U. S. 320-321. Our endorsement of the *Johnson v. Glick* test in *Whitley* thus had no implications beyond the Eighth Amendment context.

[Footnote 12]

Of course, in assessing the credibility of an officer's account of the circumstances that prompted the use of force, a factfinder may consider, along with other factors, evidence that the officer may have harbored ill-will toward the citizen. See *Scott v. United States*, 436 U. S. 128, 436 U. S. 139, n. 13 (1978). Similarly, the officer's objective "good faith" - that is, whether he could reasonably have believed that the force used did not violate the Fourth Amendment -- may be relevant to the availability of the qualified immunity defense to monetary liability under § 1983. See *Anderson v. Creighton*, 483 U. S. 635

(1987). Since no claim of qualified immunity has been raised in this case, however, we express no view on its proper application in excessive force cases that arise under the Fourth Amendment.

JUSTICE BLACKMUN, with whom JUSTICE BRENNAN and JUSTICE MARSHALL join, concurring in part and concurring in the judgment.

I join the Court's opinion insofar as it rules that the Fourth Amendment is the primary tool for analyzing claims of excessive force in the prearrest context, and I concur in the judgment remanding the case to the Court of Appeals for reconsideration of the evidence under a reasonableness standard. In light of respondents' concession, however, that the pleadings in this case properly may be construed as raising a Fourth Amendment claim, see Brief for Respondents 3, I see no reason for the Court to find it necessary further to reach out to decide that prearrest excessive force claims are to be analyzed under the Fourth Amendment, *rather than* under a

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substantive due process standard. I also see no basis for the Court's suggestion, *ante* at 490 U. S. 395, that our decision in *Tennessee v. Garner*, 471 U. S. 1 (1985), implicitly so held. Nowhere in *Garner* is a substantive due process standard for evaluating the use of excessive force in a particular case discussed; there is no suggestion that such a standard was offered as an alternative and rejected.

In this case, petitioner apparently decided that it was in his best interest to disavow the continued applicability of substantive due process analysis as an alternative basis for recovery in prearrest excessive force cases. See Brief for Petitioner 20. His choice was certainly wise as a matter of litigation strategy in his own case, but does not (indeed, cannot be expected to) serve other potential plaintiffs equally well. It is for that reason that the Court would have done better to leave that question for another day. I expect that the use of force that is not demonstrably unreasonable under the Fourth Amendment only rarely will raise substantive due process concerns. But until I am faced with a case in which that question is squarely raised, and its merits are subjected to adversary presentation, I do not join in foreclosing the use of substantive due process analysis in prearrest cases.

**Tennessee v. Garner 471 U.S. 1 (1985).pdf**



U.S. Supreme Court

Tennessee v. Garner, 471 U.S. 1 (1985)

Tennessee v. Garner

No. 83-1035

Argued October 30, 1984

Decided March 27, 1985\*

471 U.S. 1

APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

JUSTICE WHITE delivered the opinion of the Court.

This case requires us to determine the constitutionality of the use of deadly force to prevent the escape of an apparently unarmed suspected felon. We conclude that such force may not be used unless it is necessary to prevent the escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.

I

At about 10:45 p. m. on October 3, 1974, Memphis Police Officers Elton Hymon and Leslie Wright were dispatched to answer a "prowler inside call." Upon arriving at the scene, they saw a woman standing on her porch and gesturing toward the adjacent house. [Footnote 1] She told them she had heard glass breaking and that "they" or "someone" was breaking in next door. While Wright radioed the dispatcher to say that they were on the scene, Hymon went behind the house. He heard a door slam and saw someone run across the backyard. The fleeing suspect, who was appellee-respondent's decedent, Edward Garner, stopped at a 6-foot-high chain link fence at the edge of the yard. With the aid of a flashlight, Hymon was able to see Garner's face and hands. He saw no sign of a weapon, and, though not certain, was "reasonably sure" and "figured" that Garner was unarmed. App. 41, 56; Record 219. He thought Garner was 17 or 18 years old and

[4]

about 5' 5" or 5' 7" tall. [Footnote 2] While Garner was crouched at the base of the fence, Hymon called out "police, halt" and took a few steps toward him. Garner then began to climb over the fence. Convinced that, if Garner made it over the fence, he would elude capture, [Footnote 3] Hymon shot him. The bullet hit Garner in the back of the head. Garner was taken by ambulance to a hospital, where he died on the operating table. Ten dollars and a purse taken from the house were found on his body. [Footnote 4]

In using deadly force to prevent the escape, Hymon was acting under the authority of a Tennessee statute and pursuant to Police Department policy. The statute provides that

"[i]f, after notice of the intention to arrest the defendant, he either flee or forcibly resist, the officer may use all the necessary means to effect the arrest."

Tenn.Code Ann.

[5]

40-7-108 (1982). [Footnote 5] The Department policy was slightly more restrictive than the statute, but still allowed the use of deadly force in cases of burglary. App. 140-144. The incident was reviewed by the Memphis Police Firearm's Review Board and presented to a grand jury. Neither took any action. *Id.* at 57.

Garner's father then brought this action in the Federal District Court for the Western District of Tennessee, seeking damages under 42 U.S.C. 1983 for asserted violations of Garner's constitutional rights. The complaint alleged that the shooting violated the Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments of the United States Constitution. It named as defendants Officer Hymon, the Police Department, its Director, and the Mayor and city of Memphis. After a 3-day bench trial, the District Court entered judgment for all defendants. It dismissed the claims against the Mayor and the Director for lack of evidence. It then concluded that Hymon's actions were authorized by the Tennessee statute, which in turn was constitutional. Hymon had employed the only reasonable and practicable means of preventing Garner's escape. Garner had "recklessly and heedlessly attempted to vault over the fence to escape, thereby assuming the risk of being fired upon." App. to Pet. for Cert. A10.

The Court of Appeals for the Sixth Circuit affirmed with regard to Hymon, finding that he had acted in good faith reliance on the Tennessee statute, and was therefore within the scope of his qualified immunity. 600 F.2d 52 (1979). It remanded for reconsideration of the possible liability of the city, however, in light of *Monell v. New York City Dept. of Social Services*, 436 U. S. 658 (1978), which had come down after the District Court's decision. The District Court was

[6]

directed to consider whether a city enjoyed a qualified immunity, whether the use of deadly force and hollow point bullets in these circumstances was constitutional, and whether any unconstitutional municipal conduct flowed from a "policy or custom" as required for liability under *Monell*. 600 F.2d at 54-55.

The District Court concluded that *Monell* did not affect its decision. While acknowledging some doubt as to the possible immunity of the city, it found that the statute, and Hymon's actions, were constitutional. Given this conclusion, it declined to consider the "policy or custom" question. App. to Pet. for Cert. A37-A39.

The Court of Appeals reversed and remanded. 710 F.2d 240 (1983). It reasoned that the killing of a fleeing suspect is a "seizure" under the Fourth Amendment, [Footnote 6] and is therefore constitutional only if "reasonable." The Tennessee statute failed as applied to this case, because it did not adequately limit the use of deadly force by distinguishing between felonies of different magnitudes -- "the facts, as

found, did not justify the use of deadly force under the Fourth Amendment." *Id.* at 246. Officers cannot resort to deadly force unless they

"have probable cause . . . to believe that the suspect [has committed a felony and] poses a threat to the safety of the officers or a danger to the community if left at large."

*Ibid.* [Footnote 7]

[7]

The State of Tennessee, which had intervened to defend the statute, see 28 U.S.C. 2403(b), appealed to this Court. The city filed a petition for certiorari. We noted probable jurisdiction in the appeal, and granted the petition. 465 U.S. 1098 (1984).

II

Whenever an officer restrains the freedom of a person to walk away, he has seized that person. *United States v. Brignoni-Ponce*, 422 U. S. 873, 878 (1975). While it is not always clear just when minimal police interference becomes a seizure, see *United States v. Mendenhall*, 446 U. S. 544 (1980), there can be no question that apprehension by the use of deadly force is a seizure subject to the reasonableness requirement of the Fourth Amendment.

A

A police officer may arrest a person if he has probable cause to believe that person committed a crime. E.g., *United States v. Watson*, 423 U. S. 411 (1976). Petitioners and appellant argue that, if this requirement is satisfied, the Fourth Amendment has nothing to say about how that seizure is made. This submission ignores the many cases in which this Court, by balancing the extent of the intrusion against the need for it, has examined the reasonableness of

[8]

the manner in which a search or seizure is conducted. To determine the constitutionality of a seizure,

"[w]e must balance the nature and quality of the intrusion on the individual's Fourth Amendment interests against the importance of the governmental interests alleged to justify the intrusion."

*United States v. Place*, 462 U. S. 696, 703 (1983); see *Delaware v. Prouse*, 440 U. S. 648, 654 (1979); *United States v. Martinez-Fuerte*, 428 U. S. 543, 555 (1976). We have described "the balancing of competing interests" as "the key principle of the Fourth Amendment." *Michigan v. Summers*, 452 U. S. 692, 700, n. 12 (1981). See also *Camara v. Municipal Court*, 387 U. S. 523, 536-537 (1967). Because one of the factors is the extent of the intrusion, it is plain that reasonableness depends on not only when a seizure is made, but also how it is carried out. *United States v. Ortiz*, 422 U. S. 891, 895 (1975); *Terry v. Ohio*, 392 U. S. 1, 28-29 (1968).

Applying these principles to particular facts, the Court has held that governmental interests did not support a lengthy detention of luggage, *United States v. Place*, supra, an airport seizure not "carefully tailored to its underlying justification," *Florida v. Royer*, 460 U. S. 491, 500 (1983) (plurality opinion), surgery under general anesthesia to obtain evidence, *Winston v. Lee*, 471 U. S. 753 (1985), or detention for fingerprinting without probable cause, *Davis v. Mississippi*, 394 U. S. 721 (1969); *Hayes v. Florida*, 471 U. S. 811 (1985). On the other hand, under the same approach it has upheld the taking of fingernail scrapings from a suspect, *Cupp v. Murphy*, 412 U. S. 291 (1973), an unannounced entry into a home to prevent the destruction of evidence, *Ker v. California*, 374 U. S. 23 (1963), administrative housing inspections without probable cause to believe that a code violation will be found, *Camara v. Municipal Court*, supra, and a blood test of a drunken-driving suspect, *Schmerber v. California*, 384 U. S. 757 (1966). In each of these cases, the question was whether

[9]

the totality of the circumstances justified a particular sort of search or seizure.

B

The same balancing process applied in the cases cited above demonstrates that, notwithstanding probable cause to seize a suspect, an officer may not always do so by killing him. The intrusiveness of a seizure by means of deadly force is unmatched. The suspect's fundamental interest in his own life need not be elaborated upon. The use of deadly force also frustrates the interest of the individual, and of society, in judicial determination of guilt and punishment. Against these interests are ranged governmental interests in effective law enforcement. [Footnote 8] It is argued that overall violence will be reduced by encouraging the peaceful submission of suspects who know that they may be shot if they flee. Effectiveness in making arrests requires the resort to deadly

[10]

force, or at least the meaningful threat thereof. "Being able to arrest such individuals is a condition precedent to the state's entire system of law enforcement." Brief for Petitioners 14.

Without in any way disparaging the importance of these goals, we are not convinced that the use of deadly force is a sufficiently productive means of accomplishing them to justify the killing of nonviolent suspects. Cf. *Delaware v. Prouse*, supra, at 659. The use of deadly force is a self-defeating way of apprehending a suspect and so setting the criminal justice mechanism in motion. If successful, it guarantees that that mechanism will not be set in motion. And while the meaningful threat of deadly force might be thought to lead to the arrest of more live suspects by discouraging escape attempts, [Footnote 9] the presently available evidence does not support this thesis. [Footnote 10] The fact is that a majority of police departments

[11]

in this country have forbidden the use of deadly force against nonviolent suspects. See *infra* at 18-19. If those charged with the enforcement of the criminal law have abjured the use of deadly force in

arresting nondangerous felons, there is a substantial basis for doubting that the use of such force is an essential attribute of the arrest power in all felony cases. See *Schumann v. McGinn*, 307 Minn. 446, 472, 240 N.W.2d 525, 540 (1976) (Rogosheske, J., dissenting in part). Petitioners and appellant have not persuaded us that shooting nondangerous fleeing suspects is so vital as to outweigh the suspect's interest in his own life.

The use of deadly force to prevent the escape of all felony suspects, whatever the circumstances, is constitutionally unreasonable. It is not better that all felony suspects die than that they escape. Where the suspect poses no immediate threat to the officer and no threat to others, the harm resulting from failing to apprehend him does not justify the use of deadly force to do so. It is no doubt unfortunate when a suspect who is in sight escapes, but the fact that the police arrive a little late or are a little slower afoot does not always justify killing the suspect. A police officer may not seize an unarmed, nondangerous suspect by shooting him dead. The Tennessee statute is unconstitutional insofar as it authorizes the use of deadly force against such fleeing suspects.

It is not, however, unconstitutional on its face. Where the officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or to others, it is not constitutionally unreasonable to prevent escape by using deadly force. Thus, if the suspect threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm, deadly force may be used if necessary to prevent escape, and if, where

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feasible, some warning has been given. As applied in such circumstances, the Tennessee statute would pass constitutional muster.

III

A

It is insisted that the Fourth Amendment must be construed in light of the common law rule, which allowed the use of whatever force was necessary to effect the arrest of a fleeing felon, though not a misdemeanor. As stated in Hale's posthumously published *Pleas of the Crown*:

"[I]f persons that are pursued by these officers for felony or the just suspicion thereof . . . shall not yield themselves to these officers, but shall either resist or fly before they are apprehended or being apprehended shall rescue themselves and resist or fly, so that they cannot be otherwise apprehended, and are upon necessity slain therein, because they cannot be otherwise taken, it is no felony."

2 M. Hale, *Historia Placitorum Coronae* 85 (1736). See also 4 W. Blackstone, *Commentaries* \*289. Most American jurisdictions also imposed a flat prohibition against the use of deadly force to stop a fleeing misdemeanor, coupled with a general privilege to use such force to stop a fleeing felon. E.g., *Holloway v. Moser*, 193 N.C. 185, 136 S.E. 375 (1927); *State v. Smith*, 127 Iowa 534, 535, 103 N.W. 944, 945 (1905); *Reneau v. State*, 70 Tenn. 720 (1879); *Brooks v. Commonwealth*, 61 Pa. 352 (1869); *Roberts v.*

State, 14 Mo. 138 (1851); see generally R. Perkins & R. Boyce, *Criminal Law* 1098-1102 (3d ed.1982); Day, *Shooting the Fleeing Felon: State of the Law*, 14 *Crim.L.Bull.* 285, 286-287 (1978); Wilgus, *Arrest Without a Warrant*, 22 *Mich.L.Rev.* 798, 807-816 (1924). But see *Storey v. State*, 71 Ala. 329 (1882); *State v. Bryant*, 65 N.C. 327, 328 (1871); *Caldwell v. State*, 41 Tex. 86 (1874).

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The State and city argue that, because this was the prevailing rule at the time of the adoption of the Fourth Amendment and for some time thereafter, and is still in force in some States, use of deadly force against a fleeing felon must be "reasonable." It is true that this Court has often looked to the common law in evaluating the reasonableness, for Fourth Amendment purposes, of police activity. See, e.g., *United States v. Watson*, 423 U. S. 411, 418-419 (1976); *Gersten v. Pugh*, 420 U. S. 103, 111, 114 (1975); *Carroll v. United States*, 267 U. S. 132, 149-153 (1925). On the other hand, it

"has not simply frozen into constitutional law those law enforcement practices that existed at the time of the Fourth Amendment's passage."

*Payton v. New York*, 445 U. S. 573, 591, n. 33 (1980). Because of sweeping change in the legal and technological context, reliance on the common law rule in this case would be a mistaken literalism that ignores the purposes of a historical inquiry.

B

It has been pointed out many times that the common law rule is best understood in light of the fact that it arose at a time when virtually all felonies were punishable by death. [Footnote 11]

"Though effected without the protections and formalities of an orderly trial and conviction, the killing of a resisting or

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fleeing felon resulted in no greater consequences than those authorized for punishment of the felony of which the individual was charged or suspected."

American Law Institute, *Model Penal Code* 3.07, Comment 3, p. 56 (Tentative Draft No. 8, 1958) (hereinafter *Model Penal Code Comment*). Courts have also justified the common law rule by emphasizing the relative dangerousness of felons. See, e.g., *Schumann v. McGinn*, 307 Minn. at 458, 240 N.W.2d at 533; *Holloway v. Moser*, *supra*, at 187, 136 S.E. at 376 (1927).

Neither of these justifications makes sense today. Almost all crimes formerly punishable by death no longer are or can be. See, e.g., *Enmund v. Florida*, 458 U. S. 782 (1982); *Coker v. Georgia*, 433 U. S. 584 (1977). And while in earlier times "the gulf between the felonies and the minor offences was broad and deep," 2 *Pollock & Maitland* 467, n. 3; *Carroll v. United States*, *supra*, at 158, today the distinction is minor, and often arbitrary. Many crimes classified as misdemeanors, or nonexistent, at common law are now felonies. Wilgus, 22 *Mich.L.Rev.* at 572-573. These changes have undermined the concept, which

was questionable to begin with, that use of deadly force against a fleeing felon is merely a speedier execution of someone who has already forfeited his life. They have also made the assumption that a "felon" is more dangerous than a misdemeanant untenable. Indeed, numerous misdemeanors involve conduct more dangerous than many felonies. [Footnote 12]

There is an additional reason why the common law rule cannot be directly translated to the present day. The common law rule developed at a time when weapons were rudimentary. Deadly force could be inflicted almost solely in a hand-to-hand struggle during which, necessarily, the safety

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of the arresting officer was at risk. Handguns were not carried by police officers until the latter half of the last century. L. Kennett & J. Anderson, *The Gun in America* 150-151 (1975). Only then did it become possible to use deadly force from a distance as a means of apprehension. As a practical matter, the use of deadly force under the standard articulation of the common law rule has an altogether different meaning -- and harsher consequences -- now than in past centuries. See Wechsler & Michael, *A Rationale for the Law of Homicide: I*, 37 *Colum.L.Rev.* 701, 741 (1937). [Footnote 13]

One other aspect of the common law rule bears emphasis. It forbids the use of deadly force to apprehend a misdemeanant, condemning such action as disproportionately severe. See *Holloway v. Moser*, 193 N.C., at 187, 136 S.E. at 376; *State v. Smith*, 127 Iowa at 535, 103 N.W. at 945. See generally *Annot.*, 83 A.L.R. 3d 238 (1978).

In short, though the common law pedigree of Tennessee's rule is pure on its face, changes in the legal and technological context mean the rule is distorted almost beyond recognition when literally applied.

C

In evaluating the reasonableness of police procedures under the Fourth Amendment, we have also looked to prevailing

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rules in individual jurisdictions. See, e.g., *United States v. Watson*, 423 U.S. at 421-422. The rules in the States are varied. See generally *Comment*, 18 *Ga.L.Rev.* 137, 140-144 (1983). Some 19 States have codified the common law rule, [Footnote 14] though in two of these the courts have significantly limited the statute. [Footnote 15] Four States, though without a relevant statute, apparently retain the common law rule. [Footnote 16] Two States have adopted the Model Penal Code's

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provision verbatim. [Footnote 17] Eighteen others allow, in slightly varying language, the use of deadly force only if the suspect has committed a felony involving the use or threat of physical or deadly force, or is escaping with a deadly weapon, or is likely to endanger life or inflict serious physical injury if not arrested. [Footnote 18] Louisiana and Vermont, though without statutes or case law on point, do forbid

the use of deadly force to prevent any but violent felonies. [Footnote 19] The remaining States either have no relevant statute or case law or have positions that are unclear. [Footnote 20]

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It cannot be said that there is a constant or overwhelming trend away from the common law rule. In recent years, some States have reviewed their laws and expressly rejected abandonment of the common law rule. [Footnote 21] Nonetheless, the long-term movement has been away from the rule that deadly force may be used against any fleeing felon, and that remains the rule in less than half the States.

This trend is more evident and impressive when viewed in light of the policies adopted by the police departments themselves. Overwhelmingly, these are more restrictive than the common law rule. C. Milton, J. Halleck, J. Lardner, & G. Abrecht, *Police Use of Deadly Force* 45-46 (1977). The Federal Bureau of Investigation and the New York City Police Department, for example, both forbid the use of firearms except when necessary to prevent death or grievous bodily harm. *Id.* at 40-41; App. 83. For accreditation by the Commission on Accreditation for Law Enforcement Agencies, a department must restrict the use of deadly force to situations where

"the officer reasonably believes that the action is in defense of human life . . . or in defense of any person in immediate danger of serious physical injury."

Commission on Accreditation for Law Enforcement Agencies, Inc., *Standards for Law Enforcement Agencies* 1-2 (1983) (italics deleted). A 1974 study reported that the police department regulations in a majority of the large cities of the United States allowed the firing of a weapon only when a

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felon presented a threat of death or serious bodily harm. Boston Police Department, Planning & Research Division, *The Use of Deadly Force by Boston Police Personnel* (1974), cited in *Mattis v. Schnarr*, 547 F.2d 1007, 1016, n.19 (CA8 1976), vacated as moot sub nom. *Ashcroft v. Mattis*, 431 U. S. 171 (1977). Overall, only 7.5% of departmental and municipal policies explicitly permit the use of deadly force against any felon; 86.8% explicitly do not. K. Matulia, *A Balance of Forces: A Report of the International Association of Chiefs of Police* 161 (1982) (table). See also Record 1108-1368 (written policies of 44 departments). See generally W. Geller & K. Karales, *Split-Second Decisions* 33-42 (1981); Brief for Police Foundation et al. as Amici Curiae. In light of the rules adopted by those who must actually administer them, the older and fading common law view is a dubious indicium of the constitutionality of the Tennessee statute now before us.

D

Actual departmental policies are important for an additional reason. We would hesitate to declare a police practice of long standing "unreasonable" if doing so would severely hamper effective law enforcement. But the indications are to the contrary. There has been no suggestion that crime has



worsened in any way in jurisdictions that have adopted, by legislation or departmental policy, rules similar to that announced today. Amici note that,

"[a]fter extensive research and consideration, [they] have concluded that laws permitting police officers to use deadly force to apprehend unarmed, non-violent fleeing felony suspects actually do not protect citizens or law enforcement officers, do not deter crime or alleviate problems caused by crime, and do not improve the crime-fighting ability of law enforcement agencies."

Id. at 11. The submission is that the obvious state interests in apprehension are not sufficiently served to warrant the use of lethal weapons against all fleeing felons. See *supra* at 10-11, and n. 10.

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Nor do we agree with petitioners and appellant that the rule we have adopted requires the police to make impossible, split-second evaluations of unknowable facts. See Brief for Petitioners 25; Brief for Appellant 11. We do not deny the practical difficulties of attempting to assess the suspect's dangerousness. However, similarly difficult judgments must be made by the police in equally uncertain circumstances. See, e.g., *Terry v. Ohio*, 392 U.S. at 20, 27. Nor is there any indication that, in States that allow the use of deadly force only against dangerous suspects, see nn. 15-19 *supra*, the standard has been difficult to apply or has led to a rash of litigation involving inappropriate second-guessing of police officers' split-second decisions. Moreover, the highly technical felony/misdemeanor distinction is equally, if not more, difficult to apply in the field. An officer is in no position to know, for example, the precise value of property stolen, or whether the crime was a first or second offense. Finally, as noted above, this claim must be viewed with suspicion in light of the similar self-imposed limitations of so many police departments.

IV

The District Court concluded that Hymon was justified in shooting Garner because state law allows, and the Federal Constitution does not forbid, the use of deadly force to prevent the escape of a fleeing felony suspect if no alternative means of apprehension is available. See App. to Pet. for Cert. A9-A11, A38. This conclusion made a determination of Garner's apparent dangerousness unnecessary. The court did find, however, that Garner appeared to be unarmed, though Hymon could not be certain that was the case. Id. at A4, A23. See also App. 41, 56; Record 219. Restated in Fourth Amendment terms, this means Hymon had no articulable basis to think Garner was armed.

In reversing, the Court of Appeals accepted the District Court's factual conclusions and held that "the facts, as found, did not justify the use of deadly force." 710 F.2d at 246.

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We agree. Officer Hymon could not reasonably have believed that Garner -- young, slight, and unarmed -- posed any threat. Indeed, Hymon never attempted to justify his actions on any basis other than the need to prevent an escape. The District Court stated in passing that "[t]he facts of this case did not indicate to Officer Hymon that Garner was nondangerous." App. to Pet. for Cert. A34. This conclusion is

not explained, and seems to be based solely on the fact that Garner had broken into a house at night. However, the fact that Garner was a suspected burglar could not, without regard to the other circumstances, automatically justify the use of deadly force. Hymon did not have probable cause to believe that Garner, whom he correctly believed to be unarmed, posed any physical danger to himself or others.

The dissent argues that the shooting was justified by the fact that Officer Hymon had probable cause to believe that Garner had committed a nighttime burglary. Post at 29, 32. While we agree that burglary is a serious crime, we cannot agree that it is so dangerous as automatically to justify the use of deadly force. The FBI classifies burglary as a "property," rather than a "violent," crime. See Federal Bureau of Investigation, Uniform Crime Reports, Crime in the United States 1 (1984). [Footnote 22] Although the armed burglar would present a different situation, the fact that an unarmed suspect has broken into a dwelling at night does not automatically mean he is physically dangerous. This case demonstrates as much. See also *Solem v. Helm*, 463 U. S. 277, 296-297, and nn. 22-23 (1983). In fact, the available statistics demonstrate that burglaries only rarely involve physical violence. During the 10-year period from 1973-1982, only 3.8% of all burglaries involved violent crime. Bureau of Justice Statistics, House

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hold Burglary 4 (1985). [Footnote 23] See also T. Reppetto, *Residential Crime* 17, 105 (1974); Conklin & Bittner, *Burglary in a Suburb*, 11 *Criminology* 208, 214 (1973).

V

We wish to make clear what our holding means in the context of this case. The complaint has been dismissed as to all the individual defendants. The State is a party only by virtue of 28 U.S.C. 2403(b), and is not subject to liability. The possible liability of the remaining defendants -- the Police Department and the city of Memphis -- hinges on *Monell v. New York City Dept. of Social Services*, 436 U. S. 658 (1978), and is left for remand. We hold that the statute is invalid insofar as it purported to give Hymon the authority to act as he did. As for the policy of the Police Department, the absence of any discussion of this issue by the courts below, and the uncertain state of the record, preclude any consideration of its validity.

The judgment of the Court of Appeals is affirmed, and the case is remanded for further proceedings consistent with this opinion.

So ordered.

\* Together with No. 83-1070, *Memphis Police Department et al. v. Garner et al.*, on certiorari to the same court.

JUSTICE O'CONNOR, with whom THE CHIEF JUSTICE and JUSTICE REHNQUIST join, dissenting.

The Court today holds that the Fourth Amendment prohibits a police officer from using deadly force as a last resort to

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apprehend a criminal suspect who refuses to halt when fleeing the scene of a nighttime burglary. This conclusion rests on the majority's balancing of the interests of the suspect and the public interest in effective law enforcement. Ante at 8. Notwithstanding the venerable common law rule authorizing the use of deadly force if necessary to apprehend a fleeing felon, and continued acceptance of this rule by nearly half the States, ante at 14, 16-17, the majority concludes that Tennessee's statute is unconstitutional inasmuch as it allows the use of such force to apprehend a burglary suspect who is not obviously armed or otherwise dangerous. Although the circumstances of this case are unquestionably tragic and unfortunate, our constitutional holdings must be sensitive both to the history of the Fourth Amendment and to the general implications of the Court's reasoning. By disregarding the serious and dangerous nature of residential burglaries and the longstanding practice of many States, the Court effectively creates a Fourth Amendment right allowing a burglary suspect to flee unimpeded from a police officer who has probable cause to arrest, who has ordered the suspect to halt, and who has no means short of firing his weapon to prevent escape. I do not believe that the Fourth Amendment supports such a right, and I accordingly dissent.

I

The facts below warrant brief review because they highlight the difficult, split-second decisions police officers must make in these circumstances. Memphis Police Officers Elton Hymon and Leslie Wright responded to a late-night call that a burglary was in progress at a private residence. When the officers arrived at the scene, the caller said that "they" were breaking into the house next door. App. in No. 81-5605 (CA6), p. 207. The officers found the residence had been forcibly entered through a window, and saw lights

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on inside the house. Officer Hymon testified that, when he saw the broken window, he realized "that something was wrong inside," *id.* at 656, but that he could not determine whether anyone -- either a burglar or a member of the household -- was within the residence. *Id.* at 209. As Officer Hymon walked behind the house, he heard a door slam. He saw Edward Eugene Garner run away from the house through the dark and cluttered backyard. Garner crouched next to a 6-foot-high fence. Officer Hymon thought Garner was an adult, and was unsure whether Garner was armed because Hymon "had no idea what was in the hand [that he could not see] or what he might have had on his person." *Id.* at 658-659. In fact, Garner was 15 years old and unarmed. Hymon also did not know whether accomplices remained inside the house. *Id.* at 657. The officer identified himself as a police officer and ordered Garner to halt. Garner paused briefly and then sprang to the top of the fence. Believing that Garner would escape if he climbed over the fence, Hymon fired his revolver and mortally wounded the suspected burglar.

Appellee-respondent, the deceased's father, filed a 42 U.S.C. 1983 action in federal court against Hymon, the city of Memphis, and other defendants, for asserted violations of Garner's constitutional rights. The District Court for the Western District of Tennessee held that Officer Hymon's actions were justified by a Tennessee statute that authorizes a police officer to "use all the necessary means to effect

the arrest," if "after notice of the intention to arrest the defendant, he either flee or forcibly resist." Tenn.Code Ann. 40-7-108 (1982). As construed by the Tennessee courts, this statute allows the use of deadly force only if a police officer has probable cause to believe that a person has committed a felony, the officer warns the person that he intends to arrest him, and the officer reasonably believes that no means less than such force will prevent the escape. See, e.g., *Johnson v. State*, 173 Tenn. 134, 114 S.W.2d

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(1938). The District Court held that the Tennessee statute is constitutional, and that Hymon's actions, as authorized by that statute, did not violate Garner's constitutional rights. The Court of Appeals for the Sixth Circuit reversed on the grounds that the Tennessee statute "authorizing the killing of an unarmed, nonviolent fleeing felon by police in order to prevent escape" violates the Fourth Amendment and the Due Process Clause of the Fourteenth Amendment. 710 F.2d 240, 244 (1983).

The Court affirms on the ground that application of the Tennessee statute to authorize Officer Hymon's use of deadly force constituted an unreasonable seizure in violation of the Fourth Amendment. The precise issue before the Court deserves emphasis, because both the decision below and the majority obscure what must be decided in this case. The issue is not the constitutional validity of the Tennessee statute on its face or as applied to some hypothetical set of facts. Instead, the issue is whether the use of deadly force by Officer Hymon under the circumstances of this case violated Garner's constitutional rights. Thus, the majority's assertion that a police officer who has probable cause to seize a suspect "may not always do so by killing him," ante at 9, is unexceptionable, but also of little relevance to the question presented here. The same is true of the rhetorically stirring statement that "[t]he use of deadly force to prevent the escape of all felony suspects, whatever the circumstances, is constitutionally unreasonable." Ante at 11. The question we must address is whether the Constitution allows the use of such force to apprehend a suspect who resists arrest by attempting to flee the scene of a nighttime burglary of a residence.

II

For purposes of Fourth Amendment analysis, I agree with the Court that Officer Hymon "seized" Gamer by shooting him. Whether that seizure was reasonable, and therefore permitted by the Fourth Amendment, requires a careful balancing

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of the important public interest in crime prevention and detection and the nature and quality of the intrusion upon legitimate interests of the individual. *United States v. Place*, 462 U. S. 696, 703 (1983). In striking this balance here, it is crucial to acknowledge that police use of deadly force to apprehend a fleeing criminal suspect falls within the "rubric of police conduct . . . necessarily [involving] swift action predicated upon the on-the-spot observations of the officer on the beat." *Terry v. Ohio*, 392 U. S. 1, 20 (1968). The clarity of hindsight cannot provide the standard for judging the reasonableness of police decisions made in uncertain and often dangerous circumstances. Moreover, I am far more reluctant

than is the Court to conclude that the Fourth Amendment proscribes a police practice that was accepted at the time of the adoption of the Bill of Rights and has continued to receive the support of many state legislatures. Although the Court has recognized that the requirements of the Fourth Amendment must respond to the reality of social and technological change, fidelity to the notion of constitutional -- as opposed to purely judicial -- limits on governmental action requires us to impose a heavy burden on those who claim that practices accepted when the Fourth Amendment was adopted are now constitutionally impermissible. See, e.g., *United States v. Watson*, 423 U. S. 411, 416-421 (1976); *Carroll v. United States*, 267 U. S. 132, 149-153 (1925). Cf. *United States v. Villamonte-Marquez*, 462 U. S. 579, 585 (1983) (noting "impressive historical pedigree" of statute challenged under Fourth Amendment).

The public interest involved in the use of deadly force as a last resort to apprehend a fleeing burglary suspect relates primarily to the serious nature of the crime. Household burglaries not only represent the illegal entry into a person's home, but also "pos[e] real risk of serious harm to others." *Solem v. Helm*, 463 U. S. 277, 315-316 (1983) (BURGER, C.J., dissenting). According to recent Department of Justice statistics,

"[t]hree-fifths of all rapes in the home,

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three-fifths of all home robberies, and about a third of home aggravated and simple assaults are committed by burglars."

Bureau of Justice Statistics Bulletin, *Household Burglary 1* (January 1985). During the period 1973-1982, 2.8 million such violent crimes were committed in the course of burglaries. *Ibid.* Victims of a forcible intrusion into their home by a nighttime prowler will find little consolation in the majority's confident assertion that "burglaries only rarely involve physical violence." *Ante* at 21. Moreover, even if a particular burglary, when viewed in retrospect, does not involve physical harm to others, the "harsh potentialities for violence" inherent in the forced entry into a home preclude characterization of the crime as "innocuous, inconsequential, minor, or nonviolent." *Solem v. Helm*, *supra*, at 316 (BURGER, C.J., dissenting). See also *Restatement of Torts* 131, Comment g (1934) (burglary is among felonies that normally cause or threaten death or serious bodily harm); R. Perkins & R. Boyce, *Criminal Law* 1110 (3d ed.1982) (burglary is dangerous felony that creates unreasonable risk of great personal harm).

Because burglary is a serious and dangerous felony, the public interest in the prevention and detection of the crime is of compelling importance. Where a police officer has probable cause to arrest a suspected burglar, the use of deadly force as a last resort might well be the only means of apprehending the suspect. With respect to a particular burglary, subsequent investigation simply cannot represent a substitute for immediate apprehension of the criminal suspect at the scene. See *President's Commission on Law Enforcement and Administration of Justice, Task Force Report: The Challenge of Crime in a Free Society* 97 (1967). Indeed, the Captain of the Memphis Police Department testified that, in his city, if apprehension is not immediate, it is likely that the suspect will not be caught. *App. in No. 81-5605 (CA6)*, p. 334. Although some law enforcement agencies may choose to assume the risk that a criminal will remain at large, the

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Tennessee statute reflects a legislative determination that the use of deadly force in prescribed circumstances will serve generally to protect the public. Such statutes assist the police in apprehending suspected perpetrators of serious crimes and provide notice that a lawful police order to stop and submit to arrest may not be ignored with impunity. See, e.g., *Wiley v. Memphis Police Department*, 548 F.2d 1247, 1252-1253 (CA6), cert. denied, 434 U.S. 822 (1977); *Jones v. Marshall*, 528 F.2d 132, 142 (CA2 1975).

The Court unconvincingly dismisses the general deterrence effects by stating that "the presently available evidence does not support [the] thesis" that the threat of force discourages escape, and that "there is a substantial basis for doubting that the use of such force is an essential attribute to the arrest power in all felony cases." Ante at 10, 11. There is no question that the effectiveness of police use of deadly force is arguable, and that many States or individual police departments have decided not to authorize it in circumstances similar to those presented here. But it should go without saying that the effectiveness or popularity of a particular police practice does not determine its constitutionality. Cf. *Spaziano v. Florida*, 468 U. S. 447, 464 (1984) ("The Eighth Amendment is not violated every time a State reaches a conclusion different from a majority of its sisters over how best to administer its criminal laws"). Moreover, the fact that police conduct pursuant to a state statute is challenged on constitutional grounds does not impose a burden on the State to produce social science statistics or to dispel any possible doubts about the necessity of the conduct. This observation, I believe, has particular force where the challenged practice both predates enactment of the Bill of Rights and continues to be accepted by a substantial number of the States.

Against the strong public interests justifying the conduct at issue here must be weighed the individual interests implicated in the use of deadly force by police officers. The

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majority declares that "[t]he suspect's fundamental interest in his own life need not be elaborated upon." Ante at 9. This blithe assertion hardly provides an adequate substitute for the majority's failure to acknowledge the distinctive manner in which the suspect's interest in his life is even exposed to risk. For purposes of this case, we must recall that the police officer, in the course of investigating a nighttime burglary, had reasonable cause to arrest the suspect and ordered him to halt. The officer's use of force resulted because the suspected burglar refused to heed this command and the officer reasonably believed that there was no means short of firing his weapon to apprehend the suspect. Without questioning the importance of a person's interest in his life, I do not think this interest encompasses a right to flee unimpeded from the scene of a burglary. Cf. *Payton v. New York*, 445 U. S. 573, 617, n. 14 (1980) (WHITE, J., dissenting) ("[T]he policeman's hands should not be tied merely because of the possibility that the suspect will fail to cooperate with legitimate actions by law enforcement personnel"). The legitimate interests of the suspect in these circumstances are adequately accommodated by the Tennessee statute: to avoid the use of deadly force and the consequent risk to his life, the suspect need merely obey the valid order to halt.

A proper balancing of the interests involved suggests that use of deadly force as a last resort to apprehend a criminal suspect fleeing from the scene of a nighttime burglary is not unreasonable within the meaning of the Fourth Amendment. Admittedly, the events giving rise to this case are, in retrospect, deeply regrettable. No one can view the death of an unarmed and apparently nonviolent 15-year-old without sorrow, much less disapproval. Nonetheless, the reasonableness of Officer Hymon's conduct for purposes of the Fourth Amendment cannot be evaluated by what later appears to have been a preferable course of police action. The officer pursued a suspect in the darkened backyard of a house that from all indications had just been burglarized. The

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police officer was not certain whether the suspect was alone or unarmed; nor did he know what had transpired inside the house. He ordered the suspect to halt, and when the suspect refused to obey and attempted to flee into the night, the officer fired his weapon to prevent escape. The reasonableness of this action for purposes of the Fourth Amendment is not determined by the unfortunate nature of this particular case; instead, the question is whether it is constitutionally impermissible for police officers, as a last resort, to shoot a burglary suspect fleeing the scene of the crime.

Because I reject the Fourth Amendment reasoning of the majority and the Court of Appeals, I briefly note that no other constitutional provision supports the decision below. In addition to his Fourth Amendment claim, appellee-respondent also alleged violations of due process, the Sixth Amendment right to trial by jury, and the Eighth Amendment proscription of cruel and unusual punishment. These arguments were rejected by the District Court and, except for the due process claim, not addressed by the Court of Appeals. With respect to due process, the Court of Appeals reasoned that statutes affecting the fundamental interest in life must be "narrowly drawn to express only the legitimate state interests at stake." 710 F.2d at 245. The Court of Appeals concluded that a statute allowing police use of deadly force is narrowly drawn, and therefore constitutional only if the use of such force is limited to situations in which the suspect poses an immediate threat to others. *Id.* at 246-247. Whatever the validity of Tennessee's statute in other contexts, I cannot agree that its application in this case resulted in a deprivation "without due process of law." Cf. *Baker v. McCollan*, 443 U. S. 137, 144-145 (1979). Nor do I believe that a criminal suspect who is shot while trying to avoid apprehension has a cognizable claim of a deprivation of his Sixth Amendment right to trial by jury. See *Cunningham v. Ellington*, 323 F.Supp. 1072, 1075-1076 (WD Tenn.1971) (three-judge court). Finally, because there is no indication that the use

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of deadly force was intended to punish, rather than to capture, the suspect, there is no valid claim under the Eighth Amendment. See *Bell v. Wolfish*, 441 U. S. 520, 538-539 (1979). Accordingly, I conclude that the District Court properly entered judgment against appellee-respondent, and I would reverse the decision of the Court of Appeals.

III

Even if I agreed that the Fourth Amendment was violated under the circumstances of this case, I would be unable to join the Court's opinion. The Court holds that deadly force may be used only if the suspect "threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm."

Ante at 11. The Court ignores the more general implications of its reasoning. Relying on the Fourth Amendment, the majority asserts that it is constitutionally unreasonable to use deadly force against fleeing criminal suspects who do not appear to pose a threat of serious physical harm to others. *Ibid.* By declining to limit its holding to the use of firearms, the Court unnecessarily implies that the Fourth Amendment constrains the use of any police practice that is potentially lethal, no matter how remote the risk. Cf. *Los Angeles v. Lyons*, 461 U. S. 95 (1983).

Although it is unclear from the language of the opinion, I assume that the majority intends the word "use" to include only those circumstances in which the suspect is actually apprehended. Absent apprehension of the suspect, there is no "seizure" for Fourth Amendment purposes. I doubt that the Court intends to allow criminal suspects who successfully escape to return later with 1983 claims against officers who used, albeit unsuccessfully, deadly force in their futile attempt to capture the fleeing suspect. The Court's opinion, despite its broad language, actually decides only that the

[32]

shooting of a fleeing burglary suspect who was in fact neither armed nor dangerous can support a 1983 action.

The Court's silence on critical factors in the decision to use deadly force simply invites second-guessing of difficult police decisions that must be made quickly in the most trying of circumstances. Cf. *Payton v. New York*, 445 U.S. at 619 (WHITE, J., dissenting). Police are given no guidance for determining which objects, among an array of potentially lethal weapons ranging from guns to knives to baseball bats to rope, will justify the use of deadly force. The Court also declines to outline the additional factors necessary to provide "probable cause" for believing that a suspect "poses a significant threat of death or serious physical injury," ante at 3, when the officer has probable cause to arrest and the suspect refuses to obey an order to halt. But even if it were appropriate in this case to limit the use of deadly force to that ambiguous class of suspects, I believe the class should include nighttime residential burglars who resist arrest by attempting to flee the scene of the crime. We can expect an escalating volume of litigation as the lower courts struggle to determine if a police officer's split-second decision to shoot was justified by the danger posed by a particular object and other facts related to the crime. Thus, the majority opinion portends a burgeoning area of Fourth Amendment doctrine concerning the circumstances in which police officers can reasonably employ deadly force.

IV

The Court's opinion sweeps broadly to adopt an entirely new standard for the constitutionality of the use of deadly force to apprehend fleeing felons. Thus, the Court "lightly brushe[s] aside," *Payton v. New*



York, *supra*, at 600, a longstanding police practice that predates the Fourth Amendment and continues to receive the approval of nearly half of the state legislatures. I cannot accept the majority's creation of a constitutional right to flight for burglary suspects

[33]

seeking to avoid capture at the scene of the crime. Whatever the constitutional limits on police use of deadly force in order to apprehend a fleeing felon, I do not believe they are exceeded in a case in which a police officer has probable cause to arrest a suspect at the scene of a residential burglary, orders the suspect to halt, and then fires his weapon as a last resort to prevent the suspect's escape into the night. I respectfully dissent.

Footnotes

[Footnote 1]

The owner of the house testified that no lights were on in the house, but that a back door light was on. Record 160. Officer Hymon, though uncertain, stated in his deposition that there were lights on in the house. *Id.* at 209.

[Footnote 2]

In fact, Garner, an eighth-grader, was 15. He was 5' 4" tall and weighed somewhere around 100 or 110 pounds. App. to Pet. for Cert. A5.

[Footnote 3]

When asked at trial why he fired, Hymon stated:

"Well, first of all it was apparent to me from the little bit that I knew about the area at the time that he was going to get away because, number 1, I couldn't get to him. My partner then couldn't find where he was because, you know, he was late coming around. He didn't know where I was talking about. I couldn't get to him because of the fence here, I couldn't have jumped this fence and come up, consequently jumped this fence and caught him before he got away because he was already up on the fence, just one leap and he was already over the fence, and so there is no way that I could have caught him."

App. 52.

He also stated that the area beyond the fence was dark, that he could not have gotten over the fence easily because he was carrying a lot of equipment and wearing heavy boots, and that Garner, being younger and more energetic, could have outrun him. *Id.* at 53-54.

[Footnote 4]

Garner had rummaged through one room in the house, in which, in the words of the owner, "[a]ll the stuff was out on the floors, all the drawers was pulled out, and stuff was scattered all over." *Id.* at 34.

The owner testified that his valuables were untouched, but that, in addition to the purse and the 10 dollars, one of his wife's rings was missing. The ring was not recovered. *Id.* at 34-35.

[Footnote 5]

Although the statute does not say so explicitly, Tennessee law forbids the use of deadly force in the arrest of a misdemeanor. See *Johnson v. State*, 173 Tenn. 134, 114 S.W.2d 819 (1938).

[Footnote 6]

"The right of the people to be secure in their persons . . . against unreasonable searches and seizures, shall not be violated. . . ." U.S.Const., Amdt. 4.

[Footnote 7]

The Court of Appeals concluded that the rule set out in the Model Penal Code "accurately states Fourth Amendment limitations on the use of deadly force against fleeing felons." 710 F.2d at 247. The relevant portion of the Model Penal Code provides:

"The use of deadly force is not justifiable . . . unless (i) the arrest is for a felony; and (ii) the person effecting the arrest is authorized to act as a peace officer or is assisting a person whom he believes to be authorized to act as a peace officer; and (iii) the actor believes that the force employed creates no substantial risk of injury to innocent persons; and (iv) the actor believes that (1) the crime for which the arrest is made involved conduct including the use or threatened use of deadly force; or (2) there is a substantial risk that the person to be arrested will cause death or serious bodily harm if his apprehension is delayed."

American Law Institute, Model Penal Code 3.07(2)(b) (Proposed Official Draft 1962).

The court also found that "[a]n analysis of the facts of this case under the Due Process Clause" required the same result, because the statute was not narrowly drawn to further a compelling state interest. 710 F.2d at 246-247. The court considered the generalized interest in effective law enforcement sufficiently compelling only when the the suspect is dangerous. Finally, the court held, relying on *Owen v. City of Independence*, 445 U. S. 622 (1980), that the city was not immune.

[Footnote 8]

The dissent emphasizes that subsequent investigation cannot replace immediate apprehension. We recognize that this is so, see n 13, *infra*; indeed, that is the reason why there is any dispute. If subsequent arrest were assured, no one would argue that use of deadly force was justified. Thus, we proceed on the assumption that subsequent arrest is not likely. Nonetheless, it should be remembered that failure to apprehend at the scene does not necessarily mean that the suspect will never be caught.

In lamenting the inadequacy of later investigation, the dissent relies on the report of the President's Commission on Law Enforcement and Administration of Justice. It is worth noting that, notwithstanding its awareness of this problem, the Commission itself proposed a policy for use of deadly force arguably

even more stringent than the formulation we adopt today. See President's Commission on Law Enforcement and Administration of Justice, Task Force Report: The Police 189 (1967). The Commission proposed that deadly force be used only to apprehend

"perpetrators who, in the course of their crime, threatened the use of deadly force, or if the officer believes there is a substantial risk that the person whose arrest is sought will cause death or serious bodily harm if his apprehension is delayed."

In addition, the officer would have "to know, as a virtual certainty, that the suspect committed an offense for which the use of deadly force is permissible." *Ibid.*

[Footnote 9]

We note that the usual manner of deterring illegal conduct -- through punishment -- has been largely ignored in connection with flight from arrest. Arkansas, for example, specifically excepts flight from arrest from the offense of "obstruction of governmental operations." The commentary notes that this

"reflects the basic policy judgment that, absent the use of force or violence, a mere attempt to avoid apprehension by a law enforcement officer does not give rise to an independent offense."

Ark.Stat. Ann. 41-2802(3)(a) (1977) and commentary. In the few States that do outlaw flight from an arresting officer, the crime is only a misdemeanor. See, e.g., Ind.Code 35-44-3-3 (1982). Even forceful resistance, though generally a separate offense, is classified as a misdemeanor. E.g., Ill.Rev.Stat., ch. 38, 1131-1 (1984); Mont.Code Ann. 45-7-301 (1984); N.H.Rev.Stat. Ann. 642:2 (Supp.1983); Ore.Rev.Stat. 162.315 (1983).

This lenient approach does avoid the anomaly of automatically transforming every fleeing misdemeanant into a fleeing felon -- subject, under the common law rule, to apprehension by deadly force -- solely by virtue of his flight. However, it is in real tension with the harsh consequences of flight in cases where deadly force is employed. For example, Tennessee does not outlaw fleeing from arrest. The Memphis City Code does, 22-34.1 (Supp. 17, 1971), subjecting the offender to a maximum fine of \$50, 1-8 (1967). Thus, Garner's attempted escape subjected him to (a) a \$50 fine, and (b) being shot.

[Footnote 10]

See Sherman, Reducing Police Gun Use, in *Control in the Police Organization* 98, 120-123 (M. Punch ed.1983); Fyfe, Observations on Police Deadly Force, 27 *Crime & Delinquency* 376, 378-381 (1981); W. Geller & K. Karales, Split-Second Decisions 67 (1981); App. 84 (affidavit of William Bracey, Chief of Patrol, New York City Police Department). See generally Brief for Police Foundation et al. as Amici Curiae.

[Footnote 11]

The roots of the concept of a "felony" lie not in capital punishment but in forfeiture. 2 F. Pollock & F. Maitland, *The History of English Law* 465 (2d ed.1909) (hereinafter Pollock & Maitland). Not all felonies

were always punishable by death. See *id.* at 466-467, n. 3. Nonetheless, the link was profound. Blackstone was able to write:

"The idea of felony is indeed so generally connected with that of capital punishment that we find it hard to separate them; and to this usage the interpretations of the law do now conform. And therefore if a statute makes any new offence felony, the law implies that it shall be punished with death, viz. by hanging, as well as with forfeiture. . . ."

4 W. Blackstone, *Commentaries* \*98. See also R. Perkins & R. Boyce, *Criminal Law* 14-15 (3d ed.1982); 2 Pollock & Maitland 511.

[Footnote 12]

White-collar crime, for example, poses a less significant physical threat than, say, drunken driving. See *Welsh v. Wisconsin*, 466 U. S. 740 (1984); *id.* at 755 (BLACKMUN, J., concurring). See Model Penal Code Comment at 57.

[Footnote 13]

It has been argued that sophisticated techniques of apprehension and increased communication between the police in different jurisdictions have made it more likely that an escapee will be caught than was once the case, and that this change has also reduced the "reasonableness" of the use of deadly force to prevent escape. E.g., Sherman, *Execution Without Trial: Police Homicide and the Constitution*, 33 *Vand.L.Rev.* 71, 76 (1980). We are unaware of any data that would permit sensible evaluation of this claim. Current arrest rates are sufficiently low, however, that we have some doubt whether, in past centuries, the failure to arrest at the scene meant that the police had missed their only chance in a way that is not presently the case. In 1983, 21% of the offenses in the Federal Bureau of Investigation crime index were cleared by arrest. Federal Bureau of Investigation, *Uniform Crime Reports, Crime in the United States* 159 (1984). The clearance rate for burglary was 15%. *Ibid.*

[Footnote 14]

Ala.Code 13A-3-27 (1982); Ark.Stat. Ann. 41-510 (1977); Cal.Penal Code Ann. 196 (West 1970); Conn.Gen.Stat. 53a-22 (1972); Fla.Stat. 776.05 (1983); Idaho Code 19-610 (1979); Ind.Code 35-41-3-3 (1982); Kan.Stat. Ann. 21-3215 (1981); Miss.Code Ann. 97-3-15(d) (Supp.1984); Mo.Rev.Stat. 563.046 (1979); Nev.Rev.Stat. 200.140 (1983); N.M.Stat. Ann. 30-2-6 (1984); Okla.Stat., Tit. 21, 732 (1981); R.I.Gen.Laws 12-7-9 (1981); S.D.Codified Laws 22-16-32, 22-16-33 (1979); Tenn.Code Ann. 40-7-108 (1982); Wash.Rev.Code 9A.16.040(3) (1977). Oregon limits use of deadly force to violent felons, but also allows its use against any felon if "necessary." Ore.Rev.Stat. 161.239 (1983). Wisconsin's statute is ambiguous, but should probably be added to this list. Wis.Stat. 939.45(4) (1981-1982) (officer may use force necessary for "a reasonable accomplishment of a lawful arrest"). But see *Clark v. Ziedonis*, 368 F.Supp. 544 (ED Wis.1973), *aff'd* on other grounds, 513 F.2d 79 (CA7 1975).

[Footnote 15]

In California, the police may use deadly force to arrest only if the crime for which the arrest is sought was "a forcible and atrocious one which threatens death or serious bodily harm," or there is a substantial risk that the person whose arrest is sought will cause death or serious bodily harm if apprehension is delayed. *Kortum v. Alkire*, 69 Cal.App.3d 325, 333, 138 Cal.Rptr. 26, 30-31 (1977). See also *People v. Ceballos*, 12 Cal.3d 470, 476-484, 526 P.2d 241, 245-250 (1974); *Long Beach Police Officers Assn. v. Long Beach*, 61 Cal.App.3d 364, 373-374, 132 Cal.Rptr. 348, 353-354 (1976). In Indiana, deadly force may be used only to prevent injury, the imminent danger of injury or force, or the threat of force. It is not permitted simply to prevent escape. *Rose v. State*, 431 N.E.2d 521 (Ind.App.1982).

[Footnote 16]

These are Michigan, Ohio, Virginia, and West Virginia. *Werner v. Hartfelder*, 113 Mich.App. 747, 318 N.W.2d 825 (1982); *State v. Foster*, 60 Ohio Misc. 46, 59-66, 396 N.E.2d 246, 255-258 (Com.Pl.1979) (citing cases); *Berr v. Hamman*, 203 Va. 596, 125 S.E.2d 851 (1962); *Thompson v. Norfolk & W. R. Co.*, 116 W.Va. 705, 711-712, 182 S.E. 880, 883-884 (1935)

[Footnote 17]

Haw.Rev.Stat. 703-307 (1976); Neb.Rev.Stat. 28-1412 (1979). Massachusetts probably belongs in this category. Though it once rejected distinctions between felonies, *Uranek v. Lima*, 359 Mass. 749, 750, 269 N.E.2d 670, 671 (1971), it has since adopted the Model Penal Code limitations with regard to private citizens, *Commonwealth v. Klein*, 372 Mass. 823, 363 N.E.2d 1313 (1977), and seems to have extended that decision to police officers, *Julian v. Randazzo*, 380 Mass. 391, 403 N.E.2d 931 (1980).

[Footnote 18]

Alaska Stat. Ann. 11.81.370(a) (1983); Ariz.Rev.Stat. Ann. 13-410 (1978); Colo.Rev.Stat. 18-1-707 (1978); Del.Code Ann., Tit. 11, 467 (1979) (felony involving physical force and a substantial risk that the suspect will cause death or serious bodily injury or will never be recaptured); Ga.Code 16-3-21(a) (1984); Ill.Rev.Stat., ch. 38, 7-5 (1984); Iowa Code 804.8 (1983) (suspect has used or threatened deadly force in commission of a felony, or would use deadly force if not caught); Ky.Rev.Stat. 503.090 (1984) (suspect committed felony involving use or threat of physical force likely to cause death or serious injury, and is likely to endanger life unless apprehended without delay); Me.Rev.Stat. Ann., Tit. 17-A, 107 (1983) (commentary notes that deadly force may be used only "where the person to be arrested poses a threat to human life"); Minn.Stat. 609.066 (1984); N.H.Rev.Stat. Ann. 627:5(II) (Supp.1983); N.J.Stat. Ann. 2C-3-7 (West 1982); N.Y. Penal Law 35.30 (McKinney Supp.1984-1985); N.C.Gen.Stat. 15A-401 (1983); N.D.Cent.Code 12.1-05-07.2.d (1976); 18 Pa.Cons.Stat. 508 (1982); Tex.Penal Code Ann. 9.51(c) (1974); Utah Code Ann. 76-2-404 (1978).

[Footnote 19]

See La.Rev.Stat. Ann. 14:20(2) (West 1974); Vt.Stat. Ann., Tit. 13, 2305 (1974 and Supp.1984). A Federal District Court has interpreted the Louisiana statute to limit the use of deadly force against fleeing

suspects to situations where "life itself is endangered or great bodily harm is threatened." *Sauls v. Hutto*, 304 F.Supp. 124, 132 (ED La.1969).

[Footnote 20]

These are Maryland, Montana, South Carolina, and Wyoming. A Maryland appellate court has indicated, however, that deadly force may not be used against a felon who "was in the process of fleeing and, at the time, presented no immediate danger to . . . anyone. . . ." *Giant Food, Inc. v. Scherry*, 51 Md.App. 586, 589, 596, 444 A.2d 483, 486, 489 (1982).

[Footnote 21]

In adopting its current statute in 1979, for example, Alabama expressly chose the common law rule over more restrictive provisions. *Ala.Code 13A-3-27, Commentary*, pp. 67-63 (1982). Missouri likewise considered but rejected a proposal akin to the Model Penal Code rule. See *Mattis v. Schnarr*, 547 F.2d 1007, 1022 (CA8 1976) (Gibson, C.J., dissenting), vacated as moot sub nom. *Ashcroft v. Mattis*, 431 U. S. 171 (1977). Idaho, whose current statute codifies the common law rule, adopted the Model Penal Code in 1971, but abandoned it in 1972.

[Footnote 22]

In a recent report, the Department of Corrections of the District of Columbia also noted that "there is nothing inherently dangerous or violent about the offense," which is a crime against property. D.C. Department of Corrections, *Prisoner Screening Project 2* (1985).

[Footnote 23]

The dissent points out that three-fifths of all rapes in the home, three-fifths of all home robberies, and about a third of home assaults are committed by burglars. *Post* at 26-27. These figures mean only that, if one knows that a suspect committed a rape in the home, there is a good chance that the suspect is also a burglar. That has nothing to do with the question here, which is whether the fact that someone has committed a burglary indicates that he has committed, or might commit, a violent crime.

The dissent also points out that this 3.8% adds up to 2.8 million violent crimes over a 10-year period, as if to imply that today's holding will let loose 2.8 million violent burglars. The relevant universe is, of course, far smaller. At issue is only that tiny fraction of cases where violence has taken place and an officer who has no other means of apprehending the suspect is unaware of its occurrence.

**Distraction Device Accountability  
Form (Body)-Blank.pdf**





**Indio Police Department Reserve  
Peace Officer Status Summary.pdf**

## Reserve Peace Officer Status Summary (July 2010)

APPOINTMENT	AUTHORITY	ASSIGNMENT	SUPERVISION	TRAINING
<b>LEVEL I</b> 830.6(a)(1) PC 832.6(a)(1) PC	24 hours <sup>1</sup> <u>OR</u> duration of specific assignment (on-duty)	General Law Enforcement <sup>2</sup>	Same as regular full-time peace officer (as determined by the agency)	1. Regular Basic Course <sup>3</sup> (min. 664 hours) 2. Field Training Program (min. 400 hours) 3. CPT (24 hours every 2 years)
<b>LEVEL II</b> 830.6(a)(1) PC 832.6(a)(2) PC	Only for duration of specific assignment (on-duty)	General Law Enforcement  OR  Limited Support Duties: May work assignments authorized for Level III Reserve Officers	Immediate supervision by a peace officer who has completed the POST Regular Basic Course  Without immediate supervision	1. Modules III and II (min. 333 hours) 2. CPT (24 hours every 2 years)
<b>LEVEL III</b> 830.6(a)(1) PC 832.6(a)(3) PC	Only for duration of specific assignment (on-duty)	Limited Support Duties  Duties not likely to result in physical arrests. Examples: traffic control, security at parades/sporting events, report writing, evidence transportation. May transport prisoners without immediate supervision	Supervised in the accessible vicinity by a Level I Reserve or a regular full-time peace officer	1. Module III (min. 144 hours)

<sup>1</sup>Agencies may appoint a Level I Reserve Peace Officer to full 830.1 PC powers and duties (24 hour) by authority of a city resolution or county ordinance (830.6 (a)(2) PC).

<sup>2</sup>General Law Enforcement: duties which include the investigation of crime, patrol of a geographic area, responding to the full range of requests for police services, and performing any enforcement action on the full range of law violations.

<sup>3</sup>The POST Regular Basic Course may be completed in an Intensive, Extended or Modular Format.

## **Homeless Persons Resources and Services - Riverside County Database and Referral.pdf**

# Homeless Persons Resources and Services

Dial 211. For The Riverside County Database and Referral

## Shelter & Emergency Assistance

[Homeless Access Center](#) ..... **Walk-In 7AM – 7PM**  
(drop-in center with connection to benefits, supportive services and referrals to housing and community resources)  
225 S. El Cielo Rd, Palm Springs; Monday – Saturday

[Riverside County HomeConnect](#)..... **1-800-498-8847**  
(Homeless & At-risk of homelessness County programs)

[Path of Life – CV Housing First](#)..... **760-601-5424**  
(shelter opportunities, homeless outreach and subsidized housing to qualified individuals and families)  
610 S. Belardo Rd., Ste 300, Palm Springs

[Coachella Valley Rescue Mission](#)..... **760-851-2160**  
(Shelter, meals, showers, hygiene products, clothing)  
84-110 Manila Street, Indio

[Martha's Village & Kitchen](#) ..... **760-347-4741**  
(Shelter, intake and referrals, meals, transportation, laundry services, life skills training)  
83-791 Date Avenue, Indio

[Desert S.O.S. Referrals](#)..... **760-323-6251**  
(Permanent Supportive Housing Program for homeless men and women living with disabilities)  
400 S. Farrell Dr., #B205, Palm Springs

[Salvation Army](#) ..... **760-324-2275 Ext. 209**  
(Hotel Voucher Program)  
30400 Landau Blvd, Cathedral City

[The Path Safehaven Program](#)..... **760-251-2346**  
(Drop-in center with outreach/behavioral health engagement programs; permanent supportive housing onsite)  
19351 McLane Street, Palm Springs

[Full Service Partnership Programs](#) ..... **760-288-4579**  
(Intensive wellness and recovery-based services for individuals who are experiencing homelessness or at risk of homelessness related to their mental health.)  
19531 McLane Street, Suite B, Palm Springs

[MVK Wrap Around Services](#) ..... **760-656-0370**  
(advocacy, birth certificates, bus passes, reunification, clothing vouchers, career and education, information and referral)  
441 S. Calle Encilia, Suite 4, Palm Springs

[ABC Recovery Center](#)..... **760-342-6616**  
(Detoxification, Substance Abuse Treatment Programs)  
44374 Palm Street, Indio

## Domestic Violence

[Shelter From the Storm](#)..... **800-755-6055**  
(Shelter for Victims of Domestic Violence)  
73550 Alessandro Drive #103, Palm Desert

## Homeless Youth

[Safehouse of the Desert \(Ages 11-22\)](#)..... **888-343-4660**  
(Emergency Shelter runaway, homeless, and youth in crisis)  
72710 East Lynn Street, Thousand Palms

[Harrison House Housing Programs](#)..... **760-636-4799**  
(Transitional living for Ages 18-24)  
72695 La Canada Way, Thousand Palms..... **800-551-1300**

[California Youth Crisis Line](#)..... **800-843-5200**

[What's Up Safehouse App](#)..... **Text SHHELP to 844-204-0880**  
24/7 free anonymous mental health crisis texting line.

## Transportation

[Sunline Transit Agency - SunDial Program](#)..... **760-343-3451**  
(Transportation service for persons who are ADA certified. Door-to-Door Van with Wheel-Chair Lift)

[Desert Aids Project \(DAP\)](#)..... **760-323-2118**  
(Bus pass and/or gas cards to registered clients only)

[Riverside County Office on Aging](#)..... **800-510-2020**  
(Transportation service programs for Veterans, Elderly & Disabled)

[Desert Blind/Handicapped Association](#)..... **760-969-5025**  
(Door through door transportation service for blind, elderly & disabled)

## Veterans

[Veterans Crisis Line](#)..... **800-273-8255 Press 1**

[VA Loma Linda Homeless Services](#)..... **800-741-8387 Ext.6085**

[LightHouse Social Service Center](#) ..... **951-571-3533**  
(Financial Assistance For Homeless Veterans)

[Palm Desert VA Medical Clinic](#)..... **760-341-5570**  
41-990 Cook St, Palm Desert

[Loma Linda VA Medical Center](#)..... **909-825-7084**  
11201 Benton St., Loma Linda

## Jobs

[Workforce Development Center](#)..... **760-863-2500**  
Job seekers, training opportunities, adults & youth  
44199 Monroe St. #B, Indio  
(M-F 8am – 5pm)

[MVK Wrap Around Services](#) ..... **760-656-0370**  
Food Handlers, job search, resume building, typing class  
441 S. Calle Encilia, Suite 4, Palm Springs  
M-T 9:30am-4:00pm

## Hotmeals

[Well in the Desert](#) ..... **760-656-8905**  
Call for Locations & Times

## Food Distribution

- [FIND Food Bank](#).....760-775-3663  
*(Locate a food distribution near you hotline)*
- [AAP – Food Samaritans](#).....760-325-4088  
*Food Vouchers for men, women and their dependent children living with HIV/AIDS*  
1276 N. Palm Canyon Dr. #108
- [Desert AIDS Project](#).....760-323-2118  
*Food Assistance Programs*  
1695 N Sunrise Way
- [The Center](#).....760-416-7790  
*Food Bank, 610 S Belardo Rd.*  
(Every Thurs. 5-7 pm)
- [First Baptist Church](#).....760-325-2650  
*Food Bank, 588 Rosa Parks Road*  
(1st & 2nd Tues 9-11 am)
- [St. Theresa Catholic Church](#).....760-323-2669  
*Food Bank, 2900 Ramon Rd.*  
(Every Mon. 7:30-9:00 am)
- [Well in the Desert](#).....760-656-8905  
*Food Bank, 441 S Calle Encilia, Palm Springs*  
(Every Sat. 6-9 am)
- [Desert Chapel](#).....760-327-2772  
*Food Bank, 630 S. Sunrise Way*  
(2nd Sat. every month, 7 am)
- [Drive-Thru Rapid Response Food Pantry](#)..760-775-3663  
*277 N. Avenida Caballeros, Palm Springs*  
(Every 1<sup>st</sup> and 2<sup>nd</sup> Thursday, 4:30-7:30pm)

## Showers

- [Well in the Desert](#).....760-285-7297  
441 S Calle Encilia, Palm Springs

## Clothing

- [Well in the Desert](#).....760-285-7297  
441 S Calle Encilia, Palm Springs

## Pets

- [Palm Springs Animal Shelter](#)..... 760-416-5718  
4575 E Mesquite Ave
- [Palm Springs Animal Control](#).....760-323-8151

## Other

- [Resource Directory](#).....www.CVHIP.com  
*Connection to health and wellness resources*
- [Lift to Rise](#).....760-349-8013  
*Financial assistance grants, connection to resources*

## Public Benefits

- [Social Security Administration Office](#)..... 800-772-1213  
4201 Ramon Road
- [DPSS Assistance Programs](#).....877-410-8827  
65753 Pierson Boulevard, Desert Hot Springs
- [Senior Advocates of the Desert](#).....760-202-1024  
*Assistance for seniors age 60+ in applying to Government Programs*

## Mental Health & Hotlines

- [National Suicide Prevention](#) .....800-273-8255
- [HELP Line – 24/7](#)..... 951-686-HELP  
*(Crisis & Suicide Intervention)*
- [Telecare](#).....760-863-8650  
*(24-hour Crisis Stabilization Unit for behavior health assessments, urgent mental health care & referrals)*
- [24/7 Mental Health Urgent Care](#).....442-268-7000  
2500 N. Palm Canyon Dr. Suite A4, Palm Springs
- [LGBT Community Center of the Desert](#).....760-416-7790  
*Therapy and Mental Health Counseling, group*  
1301 N Palm Canyon Dr, 3<sup>rd</sup> Floor, Palm Springs
- [Jewish Family Services of the Desert](#).....760-325-4088  
*Counseling Services and Support*  
490 S. Farrell Drive, Palm Springs
- [Mizell Senior Center](#).....760-323-5689  
*Mental Health Counseling Services for Seniors*  
480 S. Sunrise Way, Palm Springs
- [Desert AIDS Project](#).....760-323-2118  
*Psychiatry, Psychotherapy, Substance-Use Care, Group*  
1695 N. Sunrise Way
- [Transgender Health & Wellness Center](#).....760-202-4308  
*Social Services for LGBTQ+ Community*  
35325 Date Palm Drive, Suite 143, Cathedral City

## Healthcare

- [Desert Regional Medical Center](#) .....760-323-6251  
*(Medical Center & Emergency Room)*  
1150 N Indian Canyon Dr., Palm Springs
- [Mobile Health Clinic](#).....951-486-5765  
*(Call for locations and hours of operation)*

## Abuse

- [Adult Protective Services](#).....800-491-7123
- [Child Protective Services](#).....800-442-4918
- [Coachella Valley Sexual Assault Services](#).....800-656-4673

**2678\_001 DUI FINANCIAL  
RECOVERY FORM SIDE 1.pdf**



# Indio Police Department

IPD CASE#

## -Special Report-

### CRIME/INCIDENT: Driving Under the Influence

DEFENDANTS NAME:	DOB:	DATE:
IF JUVENILE, PARENTS NAME:	ALCOHOL TEST TAKEN: <input type="checkbox"/> BLOOD <input type="checkbox"/> BREATH <input type="checkbox"/> URINE <input type="checkbox"/> REFUSED	
HOME ADDRESS:		
CITY:	ZIP CODE:	HOME PHONE:
BUSINESS ADDRESS:		
CITY:	ZIP CODE:	BUSINESS PHONE:
SOCIAL SECURITY NUMBER:		
DRIVERS LICENSE NUMBER:	STATE:	

The following is a description of the cost expended by the City of Indio for required responses to the incident involving the above listed subject, who was arrested and booked for driving under the influence of an intoxicant.

OFFICER/ EMPLOYEE NAME	TIME @ SCENE	TIME SPENT INTERVIEWING & BOOKING	REPORT WRITING TIME	TOTAL TIME

#### POLICE DEPARTMENT EQUIPMENT USED

TYPE OF EQUIPMENT USED	NUMBER OF ITEMS USED	COST PER ITEM	TOTAL COST

#### TOTAL EXPENSES

(Officers only need to circle YES/NO if a Nurse was called for a blood draw or YES/NO if the person was booked at RSO Jail. The rest of the information will be completed by the Finance Department)		
OFFICER/EMPLOYEE HOURS USED MULTIPLIED BY HOURLY RATE (INCLUDING BENEFITS) =		\$
TOTAL EQUIPMENT COST		\$
NURSE/PHLEBOTOMIST RESPONSE CHARGE	<input type="checkbox"/> YES <input type="checkbox"/> NO	\$
TRANSPORTATION AND BOOKING FEE	<input type="checkbox"/> YES <input type="checkbox"/> NO	\$
ALCOHOL/DRUG SCREENING (TOXICOLOGY REPORT- Mandatory completed by D.O.J.)		\$
TOTAL COST TO BE REIMBURSED BY ARRESTEE		\$

Refer to the back of this page for instructions as to how to complete this form.

**PEN\_271.5. safe surrender law  
(child under 72 hours old).pdf**



**State of California**

**PENAL CODE**

**Section 271.5**

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271.5. (a) No parent or other individual having lawful custody of a minor child 72 hours old or younger may be prosecuted for a violation of Section 270, 270.5, 271, or 271a if he or she voluntarily surrenders physical custody of the child to personnel on duty at a safe-surrender site.

(b) For purposes of this section, “safe-surrender site” has the same meaning as defined in paragraph (1) of subdivision (a) of Section 1255.7 of the Health and Safety Code.

(c) (1) For purposes of this section, “lawful custody” has the same meaning as defined in subdivision (j) of Section 1255.7 of the Health and Safety Code.

(2) For purposes of this section, “personnel” has the same meaning as defined in paragraph (3) of subdivision (a) of Section 1255.7 of the Health and Safety Code.

(Amended by Stats. 2007, Ch. 130, Sec. 186. Effective January 1, 2008.)

## EmploymentRightsMILITARY RESERVE PDF.pdf

**Employment  
Rights**  
*of the*  
**National Guard  
and Reserve**



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**U.S. Department of Justice**  
*United States Attorney*  
*Eastern District of North Carolina*  
*310 New Bern Avenue, Suite 800*  
*Raleigh, North Carolina 27601*  
*(919) 856-4530*



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## **EMPLOYMENT RIGHTS OF THE NATIONAL GUARD & RESERVE**

Since the founding of our Republic, the citizen soldier has been ready on-call to leave home and protect our nation. Although the United States has the greatest standing military force in the world today, that force cannot accomplish its mission of protecting liberty without the support and augmentation of citizen soldiers, whether from the Army or Air National Guard or from the Army, Navy, Marine, Air Force, or Coast Guard Reserve. When citizen soldiers leave their families and civilian employment to protect our liberty, we have an obligation to them to protect their legal rights. This handbook summarizes and explains in plain language the legal rights of citizen soldiers under three federal statutes: the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Soldiers' and Sailors' Civil Relief Act (SSCRA), and the Family and Medical Leave Act (FMLA). We hope citizen soldiers, their family members, and employers find this handbook useful.

Frank D. Whitney  
United States Attorney  
Eastern District of North Carolina

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## USERRA

The **U**niformed **S**ervices **E**mployment and **R**eemployment **R**ights **A**ct (USERRA) was enacted to ensure that members of the uniformed services are entitled to return to their civilian employment upon completion of their service. They should be reinstated with the seniority, status, and rate of pay they would have obtained had they remained continuously employed by their civilian employer. The law also protects individuals from discrimination in hiring, promotion, and retention on the basis of present and future membership in the armed services.

USERRA is a follow up to the Veterans Reemployment Rights (VRR). The Soldier and Sailors Civil Relief Act (SSCRA) and the Family and Medical Leave Act (FMLA) go further to protect our service members and is used in conjunction with USERRA. Congress provided clear protection for all members of the uniformed services (including non-career National Guard and Reserve members, as well as active duty personnel). On October 13, 1994, Congress enacted Pub. Law 103-353, The Uniformed Services Employment and Reemployment Rights Act (USERRA), Chapter 43 of Title 38, U.S. code.

USERRA defines the employment and reemployment rights of all uniformed service members; the law is administered and enforced by the Department of Labor Veterans' Employment and Training Service (DoL/VETS).

The Department of Labor is the enforcement authority for USERRA, and it processes all formal complaints of violations of the law.

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## MAJOR SECTIONS OF THE LAW:

- Coverage now encompasses the Public Health Service, the Coast Guard, and others designated by the President in time of war or emergency;
- A 5-year limit (with some exceptions) is imposed on the cumulative length of time a person may serve in the military and remain eligible for reemployment rights with the pre-service employer; this does not include scheduled drills and applies to per employer;
- An individual is required to give advance notice either written or verbal to their employer prior to departing for military service;
- Time limits have been set for reporting back to work, based on the length of time in the uniformed service, not the type of service, and requires documentation of such service, if available;
- Employer provided health insurance continues **at the service member's request** for an 18-month period, with payment of up to 102% of the full premium by the service member;
- An employee's military service is not to be considered a break in employment for pension benefit purposes, and provides that the person's military service must be considered service with an employer for vesting and benefit accrual purposes;
- The U.S. Department of Labor Veterans' Employment and Training Service (VETS) shall assist all employees, including federal government workers.

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Important changes in military leave of absence management include:

- An employee no longer requests permission to be absent for military leave but rather provides notification of pending military service.
- There is no longer any differentiation between voluntary and involuntary service.
- An employee **cannot** be required to use earned vacation or similar leave days for military leave of absence.
- Military service will not be counted as time away from the employer for retirement purposes (Federal employees should review the Code of Federal Regulations, series 5 CFR 353.201-210 for details related to their employment.).

USERRA was significantly updated in 1996 and 1998. It provides reemployment protection and other benefits for veterans and employees who perform military service. It clarifies the rights and responsibilities of National Guard and Reserve members, as well as their civilian employers. It applies almost universally to all employers - including the federal government - regardless of the size of their business.

## **FEDERAL LAW.**

No law, policy, practices, etc. that would diminish the rights established in USERRA will take precedence over the provisions of USERRA. In contrast, USERRA does not supersede, nullify, or diminish any federal or state law, or company policy, union agreement, practice or contract that provides greater rights or benefits to service members.

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## APPLICABILITY.

USERRA applies to all employers in the United States, **regardless of the size of their business.** It protects part-time positions, unless the employment is for a brief, non-recurring period and is not expected to last indefinitely or for a significant period. USERRA does not protect independent contractors and others considered to be self-employed.

## DEFINITIONS.

Section 4303 contains a number of definitions which help clarify the law when applying to a civilian employment rights scenario.

- The law protects persons who perform **service** in the uniformed services. "Service" includes active or inactive duty under **federal** authority.
- **State** call-ups of members of the Army or Air National Guard are not protected under USERRA, because the term "employer," as it applies to National Guard technicians, refers to the Adjutant General of the state. Therefore, National Guard technicians on other than active or inactive duty for training are considered to be state employees and are not afforded protection under USERRA.
- "Uniformed services" encompasses the active and Reserve components of the Armed Forces, the Army and Air National Guard, the Commissioned Corps of the Public Health Service, and any other category of persons designated by the President in time of war or emergency.

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## **DISCRIMINATION.**

USERRA prohibits discrimination in hiring, retention, promotions, or other benefits of employment against a person because that person "is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service...." Employers are prohibited from retaliation against anyone who exercises USERRA rights or anyone who assists in the exercise of those rights by either testifying or participating in an investigation, even if that person has no military connection.

## **ELIGIBILITY.**

To qualify for reemployment rights following military service, you must meet the following five eligibility criteria:

- You must have left a civilian job;
- You must have given notice that you were leaving to perform military service;
- The cumulative period of service must not have exceeded five years (there are exceptions);
- You must have been released from service under honorable or general conditions; and
- You must have reported back to work or applied for reemployment within time constraints prescribed by law.

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## NOTICE.

Under USERRA, you (or an officer from your command) must give your employer advance notice (either written or verbal) of scheduled/upcoming military service of any type. If not you will not be eligible for reemployment protection following the period of military service. The only **exceptions** to the notification requirement would be if the giving of notice is precluded by military necessity (e.g. a classified recall) or if it is otherwise impossible or unreasonable to give notice. These exceptions to the notice requirement are expected to be very rare. The best course of action is to give as much advance notice to your employer as possible.

## FIVE-YEAR LIMIT.

USERRA sets a cumulative limit of 5-years on the amount of military service you can perform and retain reemployment rights with a given employer. If you get a new employer, you get a new 5-year limit.

### **Exceptions to the 5-year limit:**

- If you are unable to obtain release or if service is required to complete an initial period of obligated service, that time of service is exempt (examples: An initial enlistment may last more than 5 years, such as for nuclear power training. In this case, an employee retains reinstatement rights with the employer).

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- If an employee was hospitalized for or is convalescing from an illness or injury incurred in, or aggravated during military service, the limit may be extended up to an additional 2 years.
  - Drills (inactive duty training), annual training, involuntary active duty extensions (including training certified as necessary by your service), and recalls due to a war or national emergency are not counted in the 5-year cumulative total.

USERRA establishes that reemployment protection does not depend on the timing, frequency, duration, or nature of an individual's service. USERRA states that while an individual is performing military service he or she is deemed to be on a furlough or leave of absence and is entitled to the non-seniority rights accorded other individuals on nonmilitary leaves of absence.

**NOTE:** If you were employed by the same employer both before and after USERRA's effective date of December 12, 1994, military service that you performed under the previous law will **count against** the USERRA 5-year limit.

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## REEMPLOYMENT PROCEDURES.

The type of military duty performed doesn't relate to getting your job back. Reinstatement is strictly based on the duration of the uniformed service.

- For periods of military service 30 days or less, you must report back to work at the next regularly scheduled shift on the day following release from the military, albeit safe travel home, and eight hours of rest.
- For longer periods of service, reemployment is not necessarily immediate, however should be within a matter of days or at most a few weeks. For a period of 31-180 days of service, you must apply for reemployment within 14 days following release.
- For a period of service of 181 days or more, you must apply for reemployment within 90 days after release.
- When applying for reemployment you should identify yourself, explain that you left that employer to perform military service, that you have completed the service and want to be reinstated. Failure to do so within the specified time limits through your own fault does not necessarily forfeit your reemployment rights, but makes you subject to the employer's rules concerning unauthorized absence from work.



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## REEMPLOYMENT POSITION.

Employees returning from military service must be reemployed in the job that they would have attained had they not been absent for military service and with the same seniority, status and pay, as well as other rights and benefits determined by seniority. Reasonable efforts must be made to enable returning employees to refresh or upgrade their skills to enable them to qualify for reemployment. If refresher training is not successful, USERRA states that the employee must be reinstated in a position that most nearly approximates the originally held position.

Employees who are disabled (temporarily or permanently) due to military service must **also** be accommodated in a position most nearly approximating their original position.

## REEMPLOYMENT ENTITLEMENTS.

Upon completion of military service, if you meet the eligibility criteria outlined above, you have several specific entitlements. Such as:

- Prompt reemployment.
- Seniority, seniority-related benefits (including pension), status, and rate of pay as if you were continuously employed during the military absence.
- Immediate reinstatement of health insurance for you and previously covered dependents, with no waiting period and no exclusion of preexisting conditions, except conditions determined by the Government to be service-connected.
- Training or retraining by your employer if that is necessary to qualify you for the reemployment.

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- If you were disabled while on military duty, or a disability is aggravated by military service, your employer must make reasonable efforts to accommodate the disability. If your period of service was 181 days or more, you are protected from discharge, except for cause, for one year. If the service was for 31-180 days, the period of protection from discharge is 180 days.

## **DOCUMENTATION.**

Upon completion of service of 31 days or more you should be prepared to provide documentation to the employer.

- The documentation establishes that your application for reemployment was timely;
- You have not exceeded the cumulative 5-year limit;
- You were discharged under “honorable” or “general” conditions (i.e., you did not receive a punitive type of discharge). If the documentation is not readily available, or doesn't exist, the employer can't deny you reemployment, although if documentation later becomes available and shows you did not qualify for reemployment, the employer may immediately terminate you. Legal forms of documentation could include a DD-214, endorsed orders, or a letter from your command.

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## HEALTH CARE.

If the period of service is 30 days or less, you pay the normal employee cost, if any, for the coverage. You may elect to continue employer-provided health insurance for a period up to the first 18 months of your military service. However, if the service is 31 days or more, you **could be** required to pay up to 102 % of the total premium. You are also entitled to any non-seniority-related benefits that the employer offers to employees on nonmilitary leaves of absence (e.g. jury duty).

## PENSIONS.

All pension plans in which benefits are earned for length of service are protected.

## VACATIONS.

While on active duty, you may choose to use any personal vacation you have earned with your employer. The employer cannot require you to use vacation. You do not earn civilian vacation during a period of military service unless your employer provides this as a benefit for employees on a nonmilitary, non-pay leave of absence of similar duration.

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## ASSISTANCE AND ENFORCEMENT.

Members of a Reserve component who experience employment problems because of your military obligations should first notify your command. Usually a commander or legal officer can provide prompt and effective assistance in resolving disagreements between you and your civilian employer. If local efforts fail, contact Ombudsmen Services at ESGR National Headquarters (telephone: 1-800-336-4590 or DSN 426-1390/91; Web site - [www.esgr.org](http://www.esgr.org).) Ombudsmen are trained to provide information and informal mediation assistance. They will help your employer better understand the law and how it applies to them. Situations that are complex or cannot be resolved informally will be immediately referred to the U.S. Department of Labor Veterans' Employment and Training Service (VETS), or you can contact them at your local listing.

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## **USERRA PROVISIONS**

### **PROTECTION OF ACCRUAL RIGHTS:**

Employee pension benefit plans and profit sharing plans continue for the duration of active military duty (not exceeding five years) as if the employee was never away and counts as service with the employer, therefore benefits must accrue accordingly.

### **PROTECTION OF CONTRIBUTIONS:**

In plans with contribution features such as a 401(k) plan, the employee has the right to make up any missed contributions that would have otherwise been made if not for active military duty. The employee has three times the duration of military service (up to five years) to make up these contributions after reemployment. There is no waiting period for the reemployed employee to begin participation in the company retirement plan.

### **PROTECTION OF COMPANY MATCH CONTRIBUTIONS:**

If the plan provides for matching contributions, the employer must make any matching contributions relating to the employee contributions during the make-up period. Earnings and forfeitures are not included in determining the make-up benefits.

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## PROTECTION OF LOAN PROVISIONS:

Plans are permitted - but not required - to suspend participant loan payments during the military service period without violating loan requirements under IRC §72. The Summary Plan Document (SPD) for the qualified plan may include language relating to the authorization of participant loans. If so, the employer should modify the SPD to include USERRA loan provisions under these circumstances. As "interested parties," the employee should also retain the right to take out a loan during their service period.

## PROTECTION OF VESTING RIGHTS:

The duration of active military duty (not exceeding five years) also counts toward the employee's vesting schedule relative to the company retirement plan. The employee must be treated as **not** having a break in service.

USERRA applies to all pension benefit plans, but are not limited to qualified plans or those subject to the Employee Retirement Income Security Act (ERISA). (Bonus plans, severance plans and stock option plans appear to be excluded; these would be considered to be benefits protected by other guidelines including seniority.)

Employee's compensation during military service is based on the rate of pay that would have been received if not for the military absence. Upon reemployment, employee contributions during the make up period are not to be included as part of the plan's nondiscrimination testing. These contributions are subject to the general plan contribution and deduction limitations relative to the year for which they are made rather than the year in which they are made.

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Employers must provide military leave rights regardless of any other policy they may have established. Other protected employee benefits must also be available to military reserve personnel, including employment protection and nondiscrimination, health care coverage, disability and life insurance. Sponsors should consult with their providers regarding these types of benefit provisions established under USERRA.

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## **MAKING IT EASIER FOR CIVILIAN EMPLOYERS OF THOSE WHO SERVE IN THE NATIONAL-GUARD AND RESERVE**

Each employer plays an important role in maintaining a strong national defense. The National Guard and Reserve are an integral part of our defense forces. Many of the men and women serving in our armed forces are members of the National Guard and Reserve. Their performance must meet the same standards as their active duty counterparts. Because they do not serve full-time, the cost to the government is far less. As an employer, you are vital to empowering your employees who are members of the National Guard and Reserve to serve their country. Your active support and encouragement are essential to their success. Here are some ways you can help them protect our nation:

- Educate yourself and the company more about the role of the National Guard and Reserve. Become a dynamic leader by attending open houses and public functions at local military units. Speak with military and civilian leaders in your community about the National Guard and Reserve. Learn more about your employees concerning what they do and how they fit into the "big picture" of national defense.
- Get to know your employees' military commanders and supervisors. Ask them to provide you with advance notice of your employees' annual military training schedule and work out conflicts as early as possible, alternative arrangements may be possible. Remember they are human too, therefore they are not unapproachable.



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- Review your personnel policies to see how they accommodate and support participation in the National Guard or Reserve. For example, are there provisions for military leave of absence (exclusive of earned vacation time); are job opportunities and benefits equivalent to those of other employees? Get your entire management team to promote your support of the National Guard and Reserve. Explain your position and address problems or concerns that may arise.
  - Encourage employee participation in the National Guard and Reserve. Recognize and publicize their dedication and commitment to your business and the nation. Apply the training they receive from military duty. You'll be surprised to realize how much it enhances their job performance and value to your organization.
  - Understand that there may be occasional conflicts or concerns with the employment of "citizen soldiers" and their requirement to perform military duty. Try to resolve them as soon as they arise. Discuss with your employees their service requirements before problem situations arise, and keep an open dialogue to prevent them.
  - Seek assistance from your ESGR Committee or from the National ESGR Headquarters (1-800-336-4590). Ask to speak with an ombudsman. Ombudsmen serve as confidential, neutral liaisons for employers and employees who seek assistance or clarification regarding their rights and responsibilities. More than 95% of the calls they receive are resolved to the satisfaction of everyone involved. ESGR ombudsmen work closely with the U.S. Department of Labor Veterans' Employment and Training Service ("VETS") and will refer you to them if formal assistance is needed.

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- Don't hesitate to call upon your employees' military commander or supervisor if you have a conflict. They face some of the same challenges you do in their "business" and know that it is in everyone's best interest to work together. Usually, they can offer alternatives to meet individual needs. By taking a more active role in supporting the members of the National Guard and Reserve that work for you, you'll improve the quality of life for all your employees, you'll directly enhance the success of your organization, and you'll provide an invaluable service to the nation.

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## **USERRA FAQs for Employers**

**1. Is an employee protected from unlawful discrimination by an employer based on military affiliation?**

**Yes.** USERRA provides protections for initial hiring and adverse employment actions by an employer if the action is motivated even in part by the employee's military service. This protection also extends to witnesses who assist or testify in a USERRA investigation.

**2. Can an employer refuse to allow an employee to attend scheduled drills or annual training?**

**No.** Employees must be excused from work to attend inactive duty training (drill) or annual training and the employer must reemploy the employee as if he or she has not been absent.

**3. Is there a limit to the amount of military leave an employer must permit?**

**Yes.** However, there is no longer any differentiation between voluntary and involuntary military duty, there is a 5-year cumulative service limit on the amount of voluntary military leave an employee can use and still retain reemployment rights.

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**4. What is not included in the 5-year cumulative total?**

The 5-year total does not include: inactive duty training (drills); annual training; involuntary recall to or retention on active duty; voluntary or involuntary active duty in support of a war, national emergency, or certain operational missions; or additional training requirements determined and certified in writing by the Service Secretary, and considered to be necessary for professional development or for completion of skill training or retraining.

**5. Is prior notice to the employer required for leave of absence for military duty?**

**Yes.** Unless precluded by military necessity, advance notice must be provided either orally or in writing. The context for what constitutes timeliness of notification was not spelled out. However, employees who participate in the National Guard or Reserve should provide their employers as much advance notice as possible. Failure to provide notice could result in a denial of the protection of USERRA.

**6. What are valid military orders?**

All written or verbal orders are considered valid when issued by competent military authority. A military member in receipt of official orders is obligated by federal statute to execute them. The recurring requirement to perform inactive duty training (drill) is an example of when written orders may not be formally issued.

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**7. When may an employer require an employee to provide documentation of military service?**

After periods of military leave of absence for more than 30 days, the employer has the right to request such documentation, which can be used to establish the employee's basic eligibility for protection under USERRA. All National Guard and Reserve members are encouraged to provide a copy of orders, the annual drill schedule, or other type of documentation to employers as soon as available and, if possible, before the commencement of military duty.

**8. What if the employee cannot provide satisfactory documentation for military service in excess of 30 days?**

The employer must promptly reinstate the employee pending their availability. The employer may contact the military unit if necessary.

**9. Can an employer require an employee to apply for military leave of absence or otherwise submit official documentation for approval of military leave of absence?**

**No.** As stated previously, an employer may not require documentation for notification prior to military duty. Further, an employer does not have a "right of refusal" for military leave of absence, so long as the employee has not exceeded the 5 years of cumulative service provided under USERRA.

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**10. Can an employee be required to find someone to cover his or her work period when military duty interrupts the work schedule?**

**No.** An employee is responsible for notification but not for altering the work schedule or finding a replacement.

**11. Can an employer require an employee to reschedule drills, annual training, or any other military duty obligation?**

**No.** When military duties would require an employee to be absent from work for an extended period, during times of acute need, or when (in light of previous leaves) the requested military leave is cumulatively burdensome, the employer may contact the military commander of the employee's military unit to determine if the duty could be rescheduled or performed by another member. If the military commander determines that the military duty cannot be rescheduled or canceled, the employer is required to permit the employee to perform his or her military duty.

**12. Is an employer required to pay an employee who is on military leave of absence?**

**No.** While many employers offer differential pay or a specific number of paid military leave days, an employer is not required to pay an employee on military leave of absence.

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**13. Are there time limits for an employee to return to work after completion of military duty?**

**Yes.** There are three formats for reinstatement (application for reemployment), dependent on the duration of military service. Please refer to question 15 for a detailed breakdown of these formats. An employer should reinstate an employee within a matter of days of application, if not on the same day as the application is made.

**14. After completion of weekend drill, what is the time limit for an employee to return to work?**

The beginning of the next regularly scheduled work period on the first full day following completion of service and expiration of an 8-hour rest period following safe transportation home. For example, an employer cannot require a service member who returns home at 10 p.m. to report to work 2.5 hours later at 12:30 a.m. However, the employer can require the employee to report for the 6 a.m. shift, or scheduled work period, the next morning (after reasonable commute from military duty to home followed by 8-hours). Included in the 8-hour period is time for rest and the commute to work.

**15. What is the time limit for an employee to return to work after Annual Training or other types of extended military leave of absence?**

Time limits for returning to work depend on the duration of the orders. The rules are:

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- Service of 1 to 30 days: the beginning of the next regularly scheduled work period on the first full day following completion of service and expiration of an 8-hour rest period following safe transportation home.
  - Service of 31 to 180 days: application for reinstatement must be submitted not later than 14 days after completion of military duty.
  - Service of 181 or more days: application for reinstatement must be submitted not later than 90 days after completion of military duty.

**16. What if the employee has an accident, is delayed by lack of military transportation, or is otherwise unable to report back in a timely manner?**

The employee must report back to work as soon as possible. Unless the delay is through no fault of the employee, he or she is subject to the personnel policies and practices the employer would normally apply to employees with unexcused absences.

**17. What if an employee is injured or incurs a disability during military duty?**

The deadline for reinstatement may be extended for up to 2 years for persons who are convalescing due to a disability incurred or aggravated during military service, and employers must make reasonable accommodations for the impairment.



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**18. What job position is an employee returned to after a military leave of absence?**

Except with respect to persons whose disability occurred in or was aggravated by military service, the position into which an employee is reinstated is determined by priority, based on the length of military service. The rules are:

- Service of 1 to 90 days: (a) in the job the person would have held had he or she remained continuously employed (possibly a promoted position), so long as the person is qualified for the job or can become qualified after reasonable efforts by the employer, or (b), if the person cannot become qualified, in the position the person was employed on the date of the commencement of the military service.
- Service of 91 or more days: (a) same as for service of 1 to 90 days, or a position of like seniority, status and pay, so long as he or she is qualified, or (b) if the person cannot become qualified, in the position the person was employed on the date of the commencement of the military service or which nearly approximates that position.

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**NOTE:** The reemployment position with the highest priority reflects the "escalator" principle, which requires that a returning service member steps back onto the seniority escalator at the point the person would have occupied if the person had remained continuously employed. USERRA specifies that returning employees must be "promptly reemployed." What is prompt will depend on individual circumstances. Reinstatement after 3 years on active duty might require two weeks to allow giving notice to an incumbent employee who might have to vacate the position.

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## **A SMOOTH TRANSITION FOR NATIONAL GUARD AND RESERVE MEMBERS: AVOIDING JOB CONFLICTS**

Most conflicts can be avoided by being open with your employer about your obligations as a member of a Reserve component. Don't take your employer's support for granted. Keep your supervisor informed about what you do in the military and when you do it. Let him or her know the vital mission that is supported by your participation in the National Guard or Reserve. Let them know how your military experience and training will make you a more valuable employee. Take time to comprehend the sacrifice your boss and co-workers make when they support you.

### **TALK TO YOUR BOSS.**

No matter what your military assignment or specialty, let your employer know about it. Many people hold down military jobs that relate directly to their civilian careers. If yours is one of them, your boss would be pleased to know that you are learning and practicing military skills that can pay off on the job. Even if what you do in the military is different from your civilian job, sharing the details can impress your boss. The soft skills that you develop while being in the military makes you a better employee. At the same time you are using your spare time to participate in a second career that is of great importance to your community and the nation. That is a strong indication to people at work that you are the type of person who seeks-out and can handle serious responsibility.

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## **FEDERAL LAW.**

Experience has shown that members of the National Guard and Reserve, as well as their employers, do not always have a clear understanding about employment and reemployment rights for Reserve component members. Federal law guarantees the right to take time off from work to attend to your military responsibilities. The more that you, your boss, and your personnel office know about the federal laws and legal precedents that spell out Reserve reemployment rights, rules and obligations protected by the laws, the less chance there is for misunderstanding. The details of USERRA's provisions are discussed in some detail in the preceding pages.

## **DRILL SCHEDULES.**

Don't make your boss guess about your National Guard or Reserve duties. The more you share with your boss and the earlier you share it the better. Such as: drill schedules, annual training plans, reemployment rights and rules, and any extra time-off requirements. Many units meet on the same weekend of each month, with exceptions for holidays or when scheduled annual training intervenes. If your unit follows this pattern, let your employer know. Remember, you must give your employer advance notice of any military service, including drills. Let your boss know as early as possible when you will be absent from work. When schedule changes occur, notify your employer as soon as you know about them.

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## **ANNUAL TRAINING SCHEDULES.**

The same rules apply for Annual Training (AT). Most units schedule their AT months in advance - that is the time to provide notification to your employer. A change in orders can be more easily handled than an unplanned absence. If you are going to be on an advance party, or if your AT will exceed the traditional two weeks, make sure your employer knows about it well in advance.

## **EXTRA TRAINING.**

When you or your unit needs additional training, or you are scheduled to attend a service school, let your boss know about it. Giving employers the maximum lead-time enables them to make plans to accommodate your absence. To the extent that you have control over the scheduling of additional training, try to minimize any adverse impact your absence will cause your civilian job. Show consideration for your boss and your co-workers when you volunteer for nonessential training.

## **NON-TRAINING ACTIVE DUTY.**

Many Reserve component members perform tours of active duty that are not for training. This can range from short active duty tours, to support exercises or work on special projects, to years of active duty in the Active Guard Reserve (AGR) or similar programs. Again, under USERRA, prior notice of this type of duty must be given to your employer. Remember most duty of this type is subject to a cumulative 5-year time limit after which you no longer have reemployment rights under USERRA with a given employer.

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## **EMERGENCY / CONTINGENCY DUTY.**

Many Reserve component members have served on active duty in support of such operations as the Operation Enduring Freedom conflict. When you have been activated involuntarily for a particular mission, your period of service will not count against the cumulative 5-year limit established under USERRA. In most cases, voluntary duty will also be exempt from the 5-year limit if it is in direct support of a contingency operation.

## **SCHEDULING.**

If you miss work while you perform military service, your employer is not obligated to reschedule you to make up the time lost. However, if employees who miss work for nonmilitary reasons are afforded opportunities to make up the time lost, you must be treated in the same manner. Further, you cannot be required to find a replacement worker for the shift(s) you will miss as a condition of being given the time off by your employer to perform military service.

## **VACATION.**

Federal law allows you the option to use earned vacation while performing military service, but you cannot be required to do so. The only case where you could be required to use your vacation would be if your company has a planned shutdown period when everyone must take vacation, and your military service coincides with that period of time.

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## **VACATION ACCRUAL.**

Your employer is not required to provide for vacation accrual while you are absent from work performing military service, unless accrual is permitted for employees on nonmilitary leave of absence of similar length.

## **PAY.**

Although some private and many government employers provide full or partial civilian pay to employees absent on military duty – usually for a limited period of time – the law requires only an unpaid leave of absence.

## **FEDERAL EMPLOYEES PAID MILITARY LEAVE.**

Federal employees are entitled to time off at full pay for certain types of active or inactive duty in the National Guard or as a Reserve of the Armed Forces. More information is available from the Office of Personnel Management site at:

<http://www.opm.gov/oca/leave/html/military.htm>.

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## **NATIONAL GUARD AND RESERVE MEMBERS THAT ARE STUDENTS.**

Currently, federal law does not guarantee equal rights and protections across the country to members of the National Guard and Reserve who are enrolled in schools, colleges and universities. Student members of the National Guard and Reserve are not guaranteed refunds of tuition and fees paid for the term they cannot complete. There are no provisions for partial course credit, or the right to return to the college or university upon completion of active service. However, help is on the way. The Service Members Opportunity Colleges (SOC) organization is prepared to intercede for members experiencing problems, such as loss of credit in school courses due to call-up. If a student called to active duty is experiencing problems related to course credit, tuition, fees or re-enrollment in a program of study, he/she can call, toll free, 1-800-368-5622, or write to: Service Members Opportunity Colleges, 1 DuPont Circle, NW, Suite 680, Washington, DC 20036. A representative from SOC will work with the student soldier and the institution involved to resolve the issue. Unit commanders with members experiencing such problems are urged to make every effort to ensure these members know this help is available.

## **REWARD THE BOSS FOR SUPPORTING YOUR SERVICE.**

The Department of Defense will send your boss - through your unit commander - a personally prepared certificate of appreciation if you, the National Guard or Reserve member, just apply for it. The certificate comes mounted in a handsome folder, bearing the DoD seal embossed in gold. Take time to do your best to "brag" about your boss. The stronger your boss's support (as shown in the application), the greater the likelihood that he or she will also receive a higher award. Each ESGR Committee (one in each state, the District of Columbia, Guam,



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Puerto Rico, and the Virgin Islands) presents plaques to their six most supportive employers each year. The ESGR National Headquarters sponsors the prestigious PRO PATRIA award, presented each year by each ESGR Committee to their single most supportive employer. The Secretary of Defense presents the highest awards, the Employer Support Freedom Award, to the most outstanding employers for the year-one national winner and four regional semifinalists. Applications can be obtained from your unit ESGR representative, any member of your ESGR Committee, the Web site, [www.esgr.org](http://www.esgr.org) or by calling ESGR directly at 1-800-336-4590.

Take advantage of unit and ESGR programs and services to help you explain to your employer the vital role of the National Guard and Reserve in the National Military Strategy.

Inform your employer and your community about the impact of the military on the local economy. Work with your leadership to publish an annual financial report. Let the community know what your unit and others in the region contribute to the local economy through salaries, construction, and local purchases. Encourage your Public Affairs offices to develop and distribute press releases to local papers and television stations whenever events or actions occur that stimulate the economy. Visit <http://webl.whs.osd.mil/mmids/pubs.htm> for statistical information on the military in your state.

Be active in the community. Make the unit a live, vital element in the community. Cooperate in community affairs and work on supportive projects whenever possible within the military mission and you will see increased employer and community support.

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## **USERRA FAQs FOR SERVICE MEMBERS**

- 1. Is an employee protected from unlawful discrimination by an employer due to military affiliation?**

**Yes.** USERRA provides protections for initial hiring and adverse employment actions by an employer if the actions relate, even in part, to the employee's military service. This protection also extends to potential witnesses of a discriminatory action on the part of the employer.

- 2. What are the basic eligibility requirements for job protection under USERRA?**

To be protected, a National Guard or Reserve member must have a civilian job, must provide timely notification to the employer of military duty, and must report back to work for reemployment in a timely manner. Reemployment rights are provided even if the civilian job is described as "temporary," unless the employment was for a brief period with no reasonable expectation of continuance for a significant period of time.

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**3. Is there a limit to the amount of active duty an employee can perform and still have reemployment rights?**

**Yes.** There is a 5-year cumulative total of military service an employer is required to support. Not included in that total are: involuntary recall to active duty, drills (inactive duty training), annual training, and additional training requirements determined and certified in writing by the Service Secretary concerned to be necessary for professional development or for completion of skill training or retraining.

**4. Does USERRA apply to "state" military duty or governor call-ups of National Guard members?**

**No.** However, protection for such duty is generally provided by state statutes and in most instances is comparable to protections provided under the USERRA.

**5. When should an employee provide notification of upcoming duty?**

Written or oral notification must be made to employers prior to going on duty, unless precluded by military necessity. Employees are highly encouraged to notify their employer of any anticipated military activity when application for orders is made, or if notified of possible involuntary recall. Employees should be

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sensitive to employer scheduling requirements when providing notification and when submitting application to the unit commander for orders. Where possible, an employee should submit requests for orders during calendar periods outside of peak business seasons and not during the most popular vacation cycles.

**6. Does an employee have reinstatement rights following voluntary military service?**

**Yes.** There is no longer any differentiation between voluntary and involuntary orders under the USERRA, so long as the basic eligibility requirements are met.

**7. What if an employee does not return in a timely manner to work?**

The employee is subject to the personnel policies and practices of the employer for unexcused absences.

**8. How does military service affect employee status or seniority in the workplace?**

An employee must be considered not to have been absent from the workplace if the only reason for that absence was service in a uniformed service. A returning employee must be made "whole" by:

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- being allowed to contribute to the pension plan any amount that would have been contributed had the employee not been absent; and
  - being reinstated with privileges and status the employee earned by length of service (for example, after 3 years with a company an employee may be entitled to accrue more vacation per year, or after 5 years an employee is automatically advanced to a management position).

**9. What are the rules on contribution to the pension or thrift savings plan for periods of military leave of absence?**

Upon reemployment, the employee has 3 times the length of service (not to exceed 5 years) to make payments and the employer is liable to fund any resulting obligation of the plan within the same time frame.

**10. Can an employee contribute to the pension plan when on military leave of absence?**

There is no burden under the law for an employer to continue pension contributions while the employee is away from the worksite. An employer may choose to offer this benefit.

**11. What are the rules for entitlement to health insurance?**

For absence of less than 30 days, benefits continue as if the employee has not been absent.

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For absence of 31 days or more, coverage stops unless the employee elects to pay for cobra-like coverage (for a period of up to 18 months). Health insurance must be reinstated the day an employee is reinstated with no waiting period.

**12. Does an employee accrue vacation or medical/sick days from the employer while on military leave of absence?**

**No.** However, as in the previous question, an employer may choose to offer accrual of vacation or medical/sick days as an additional benefit. An employer is not required under USERRA to provide any paid benefit when an employee is not working at the worksite.

**13. Does an employee have the right to make up periods of work missed due to drill or military leave of absence?**

**No.** An employer may choose to offer an employee the opportunity to work hours missed as a benefit not provided under the USERRA. For example, an employer is not required to provide hours of work for an average 2-week, 80-hour period if part of that period is missed due to military service.

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**14. After completion of weekend drill, what is the time limit for an employee to return to work?**

Either the beginning of the next regularly scheduled work day or during that portion of the next regularly scheduled shift that would fall eight hours after the end of drill and a reasonable amount of time to commute home. For example, an employer cannot require a service member who returns home at 10 p.m. to report to work 2.5 hours later at 12:30 a.m. However, the employer can require the employee to report for the 6 a.m. shift, or scheduled work period, the next morning (after a reasonable time to commute from military duty to home followed by 8-hours). Included in the 8- hour period is time for rest and the commute to work.

**15. What is the time limit for an employee to return to work after Annual Training or other types of extended military leave of absence?**

Time limits for returning to work depend on the duration of the orders. The rules are:

- Service of 1 to 30 days: the beginning of the first regularly scheduled work day or 8 hours after the end of the military duty, plus reasonable commuting time from the military duty station to home.
- Service of 31 to 180 days: application for reinstatement must be submitted not later than 14 days after completion of military duty.

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- Service of 181 or more days: application for reinstatement must be submitted not later than 90 days after completion of military duty.

**16. What if the employee has an accident, is delayed by lack of military transportation, or is otherwise unable to report back in a timely manner?**

The employee must report back to work as soon as possible. If the reason for the employee's delay is not related to military duties, the employee is subject to the personnel policies and practices the employer would normally apply to employees with unexcused absences.

**17. What if an employee is injured or incurs a disability during military duty?**

The deadline for reinstatement may be extended for up to 2 years for persons who are convalescing due to a disability incurred or aggravated during military service and employers must make reasonable accommodations for the impairment.



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**18. What job position is an employee returned to after military leave of absence?**

Except with respect to persons whose disability occurred in or was aggravated by military service, the position into which an employee is reinstated is determined by priority, based on the length of military service. The rules are:

- Service of 1 to 90 days: (a) in the job the person would have held had he or she remained continuously employed (possibly a promoted position), so long as the person is qualified for the job or can become qualified after reasonable efforts by the employer, or (b), if the person cannot become qualified, in the position the person was employed on the date of the commencement of the military service.
- Service of 91 or more days: (a) same as for service of 1 to 90 days, or a position of like seniority, status and pay, so long as he or she is qualified, or (b) if the person cannot become qualified, in the position the person was employed on the date of the commencement of the military service or which nearly approximates that position.

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**NOTE:** The reemployment position with the highest priority reflects the "escalator" principle, which requires that a returning service member steps back onto the seniority escalator at the point the person would have occupied if the person had remained continuously employed.

**19. Where do I go for information or assistance?**

Even with the best of communication and partnership between employers and their employees that are members of the National Guard or Reserve, questions and concerns do arise related to the adverse consequences of military service. How should you handle them?

- For members of the National Guard or Reserve, your first approach should be to go to your employer. Most often, a calm, objective discussion can lead to an acceptable solution if it is conducted in an atmosphere of mutual respect and cooperation.

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- If you can't come up with a workable solution, go to your unit commander for advice and support. Even with their focus on mission accomplishment, commanders have a vested, long-range interest in their people. It's best for the unit to resolve your problem. They may be able to better explain the situation to you and your employer. A lot of times, they can suggest compromises or alternatives that will satisfy everyone's needs.

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## **EMPLOYMENT RIGHTS AND BENEFITS OF FEDERAL CIVILIAN EMPLOYEES WHO PERFORM ACTIVE MILITARY DUTY**

Civilian Federal employees who are members of the Uniformed Services and who are called to active duty (or volunteer for active duty) are entitled to the following rights and benefits:

### **EMPLOYEE ASSISTANCE PROGRAMS (EAPs).**

Employee Assistance Programs can be very helpful to employees and their families in coping with the stress and disruption associated with a call to active military duty. EAPs provide short-term counseling and referral services to help with financial, emotional, and dependent care problems. These services are available to employees who have been called to active military duty (or who volunteer for such duty) and to employees who are family members of those who are performing active military duty. In addition, many EAPs offer services to family members of employees.

### **PAY.**

Employees performing active military duty will receive compensation from the Armed Forces in accordance with the terms and conditions of their military enlistment or commission. They will not receive any compensation from their civilian employing agency unless they elect to use military leave or annual leave as described below. As usual, agencies should continue the payment of availability pay for criminal investigators and annual premium pay for Administratively Uncontrollable Overtime (AUO) work, or regularly scheduled standby duty, on days of military leave or annual leave.

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## MILITARY LEAVE.

Employees who perform active military duty may request paid military leave, as specified in 5 U.S.C. 6323(a).

- Under the law, an eligible full-time employee accrues 15 days (120 hours) of military leave each fiscal year. In addition, an employee may carry over up to 15 days (120 hours) of unused military leave from one fiscal year to the next. When the 15 days of military leave that are carried over are combined with the 15 days of military leave accrued at the beginning of the new fiscal year, this produces a maximum military leave benefit of 30 days in a fiscal year. However, since an employee cannot carry over more than 15 calendar days to the next fiscal year, any unused military leave in excess of 15 days will be forfeited at the beginning of the next fiscal year.
- Part-time career employees accrue military leave on a prorated basis. Employees who elect to use military leave will receive full compensation from their civilian position for each hour charged to military leave, in addition to their military pay for the same period. We remind agencies that 5 U.S.C. 6323 was amended in 2001 to require charges for military leave to be made on an hour for hour basis for all hours the employee would have worked. This does not apply to employees of the United States Postal Service. Additional information on charging military leave can be found in OPM's memorandum of January 25, 2001, at OPM's website at:

<http://www.opm.gov/oca/compmemo/2001/2001-02.htm>

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- Employees who perform active military duty may be granted an additional 22 days of military leave under 5 U.S.C. 6323(b) if such leave is granted for the purpose of providing military aid to assist domestic civilian authorities to enforce the law or protect life and property.

## **ANNUAL LEAVE.**

Employees who perform active military duty may request the use of accrued and accumulated annual leave to their credit (under 5 U.S.C. 6303 and 6304), and such requests must be granted by the agency. Requests for advanced annual leave may be granted at the agency's discretion. Employees who use annual leave will receive compensation from their civilian position for all hours charged to annual leave in addition to their military pay for the same period.

## **LEAVE WITHOUT PAY (LWOP).**

The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) generally requires an agency to place an employee entering the military on LWOP unless the employee chooses to be placed on military leave or annual leave, as appropriate, or the employee requests to be separated.

Full-time employees do not earn annual or sick leave in a pay period in which they have accumulated 80 hours of LWOP. Part-time employees on LWOP also earn less annual and sick leave, since they earn leave based on the number of hours in a pay status.

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## **LUMP-SUM LEAVE PAYMENTS.**

Employees who enter into active military duty may choose to:

- (1) have their annual leave remain to their credit until they return to their civilian position;
- (2) receive a lump-sum payment for all accrued and accumulated annual leave. However, an agency must make a lump-sum payment for any restored annual leave under 5 U.S.C. 6304(d). There is no requirement to separate from a civilian position in order to receive a lump-sum leave payment under 5 U.S.C. 5552.

Return to active Federal service. When an employee who has been on military duty returns to active Federal service prior to the end of the period covered by the lump sum payment, the employee must refund an amount equal to the pay that covers the period between the date of reemployment and the expiration of the lump-sum leave period. Agencies may not recredit any restored annual leave to the employee's leave account. Further guidance on the repayment of a lump-sum payment for annual leave can be found at:

<http://www.opm.gov/oca/leave/html/lumpsum.pdf>.

## **HEALTH BENEFITS.**

Employees who are put in a non-pay status or separated while on military duty may keep their Federal Employees Health Benefits (FEHB) coverage for up to 18 months from the date the absence to serve on military duty begins.

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- During the first 365 days, they are responsible for the employee share of the premium; they can either pay on a current basis or repay it when they return to active Federal service, just as any other employee on non-pay status.
  - During the remainder of the 18 months, they are responsible for both the employee and government share of the premium, plus a 2% administrative fee; these must be paid on a current basis.

Federal agencies have discretionary authority to pay both the employee and Government shares of the premium for employees who are called to active military duty in support of a contingency operation (5 U.S.C. 8906(e) as amended by sec. 519, Public Law 107-107). Department of Defense (DoD) agencies should contact their DoD Headquarters health benefits officer for information specific to them. Additional information can be found at:

<http://www.opm.gov/insure/handbook/fehb00.asp>.

## TERMINATION.

FEHB coverage terminates at the end of 18 months. Employees get a free 31-day extension of coverage during which they can convert to a non-group policy. (They are not eligible for Temporary Continuation of Coverage (TCC).) An employee who does not want to continue FEHB while on military duty may elect in writing to have the coverage terminated.

**Employees participating in premium conversion who want to terminate FEHB may do so only within 60 days of beginning their leave of absence (as this is a qualifying life event (QLE)), or during an annual open season.**



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Employees who prefer to have the option of terminating coverage at a later date must waive premium conversion participation within 60 days of this QLE or during an annual open season, since only those who do not participate in premium conversion may terminate FEHB at any time.

Additional information on FEHB coverage and military service may be found at:

[www.opm.gov/insure/health/qa/reservists.asp](http://www.opm.gov/insure/health/qa/reservists.asp).

## **RETURN TO ACTIVE FEDERAL SERVICE.**

The FEHB enrollment of an employee whose enrollment was terminated during military service is automatically reinstated when the employee is restored to a civilian position under the provisions of 5 CFR Part 353. However, if the employee waives his/her rights to immediate reinstatement of FEHB to take advantage of transitional TRICARE benefits, agencies may delay reinstatement until the transitional TRICARE ends. (Section 736 of the 2002 Defense Authorization Act provides for transitional TRICARE for up to 120 days.) The employee may make any changes to his enrollment or premium conversion participation within 60 days of reinstatement of the enrollment.

Employees who return to their civilian positions but are not restored under the provisions of 5 CFR Part 353, may enroll within 60 days of returning to civilian service provided the position is not excluded from FEHB coverage. FEHB Handbook information for employees who enter military service can be found at:

[www.opm.gov/insure/health/handbook](http://www.opm.gov/insure/health/handbook).

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## LIFE INSURANCE.

Employees who are put in a non-pay status while on military duty can keep their Federal Employees' Group Life Insurance (FEGLI) coverage for up to 12 months. This coverage is free. However at the end of 12 months in a non-pay status, the coverage terminates. Employees get a free 31-day extension of coverage and have the right to convert to a non-group policy.

Employees who separate from service while on military duty are considered to be in a non-pay status for FEGLI purposes. These individuals also can keep their FEGLI coverage for up to 12 months, or until 90 days after their military service ends, whichever date comes first. This coverage is free. Again at the end of 12 months (or 90 days after military service ends), the coverage terminates. These individuals also get the 31-day extension of coverage and the right to convert.

Being called up to active duty status or being sent to a combat zone does NOT cancel FEGLI coverage. Nor does it automatically make an employee ineligible for accidental death and dismemberment (AD&D) coverage. All FEGLI coverage remains in effect for the period of time described above.

If a Federal employee with FEGLI is called-up to active military duty and is killed, "regular" death benefits are payable to the employee's beneficiaries. Accidental death benefits are also payable under Basic insurance (and Option A, if the employee had that coverage) unless the employee was in actual combat (or unless nuclear weapons are being used) at the time of the injury that caused the employee's death. Accidental death benefits are *in addition to* regular death benefits. Even if accidental death benefits are not payable, regular death benefits ARE payable.

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## **RETURN TO ACTIVE FEDERAL SERVICE.**

When an employee who has been on military duty returns to active Federal service, he or she gets back whatever type(s) of life insurance he or she had prior to going into non-pay status (as long as the position is not excluded from coverage). The employee does not get an opportunity to elect more coverage unless he or she has been separated from service for at least 180 days.

## **RETIREMENT.**

An employee who is placed in an LWOP status while performing active military duty continues to be covered by the retirement law – i.e., the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS).

- Death benefits will be paid as if the person were still in the civilian position.
- If the employee becomes disabled for their civilian position during the LWOP and has the minimum amount of civilian service necessary to be eligible for disability benefits (5 years for CSRS, 18 months for FERS), the employee will become entitled to disability benefits under the retirement law. Upon retirement from civilian service, the period of military service is creditable under either CSRS or FERS, subject to the rules for crediting military service.
- If an employee separates to enter active military duty, he or she generally will receive retirement credit for the period of separation when the employee exercises restoration rights to his or her civilian position.

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- If the separated employee does not exercise the restoration right, but later re-enters Federal civilian service, the military service may be credited under the retirement system, subject to the rules governing credit for military service.

## **THRIFT SAVINGS PLAN.**

For purposes of the Thrift Savings Plan (TSP), no contributions can be made, either by the agency or the employee, for any time in an LWOP status or for a period of separation. Agencies should refer to the Thrift Savings Plan Bulletin for Agency TSP Representatives, No. 01-22, dated May 3, 2001. For additional information, agency representatives may contact the Federal Retirement Thrift Investment Board at (202) 942-1460. Employees should refer to the TSP Fact Sheet - Effect of Non-pay Status on TSP Participation. Both issuances are available from the TSP Internet web site at:

<http://www.tsp.gov/forms/index-factsheets.html>.

If employees are subsequently reemployed in, or restored to, a position covered by FERS or CSRS pursuant to 38 U.S.C. chapter 43, they may make up missed contributions. FERS employees are entitled to receive retroactive Agency Automatic (1 percent) Contributions and, if they make up their own contributions, retroactive Agency Matching Contributions.

If FERS employees separate and their Agency Automatic (1 percent) Contributions and associated earnings are forfeited because they did not meet the TSP vesting requirement, the employees are entitled to have these funds restored to their accounts after they are reemployed.

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If employees separate and their accounts are disbursed as automatic cash outs, the employees may return to the TSP an amount equal to the full amount of the payment after they are reemployed. For additional information see the TSP Fact Sheet -- Benefits that Apply to Members of the Military Who Return to Federal Civilian Service" at:

<http://www.tsp.gov/forms/index-factsheets.html>.

## **RETURN TO CIVILIAN DUTY.**

An employee, who enters active military duty (voluntarily or involuntarily) from any position, including a temporary position, has full job protection, provided he or she applies for reemployment within the following time limits:

- Employees who served less than 31 days must report back to work at the beginning of the next scheduled workday following their release from service and the expiration of 8 hours after a time for safe transportation back to the employee's residence.
- Employees who served more than 30 days, but less than 181 days; must apply for reemployment within 14 days of release by the military.
- Employees who served more than 180 days have 90 days to apply for reemployment.

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Employees who served less than 91 days must be restored to the position for which they qualified and which they would have attained had their employment not been interrupted. Employees who served more than 90 days have essentially the same rights, except that the agency has the option of placing an employee in a position for which they qualify of like seniority, status, and pay.

Upon return or restoration, an employee generally is entitled to be treated as though he or she had never left for purposes of rights and benefits based upon length of service. This means that the employee must be considered for career ladder promotions, and the time spent in the military will be credited for seniority, successive within-grade increases, probation, career tenure, annual leave accrual rate, and severance pay.

An employee, who was on a temporary appointment serves out the remaining time, if any, left on the appointment. (The military activation period does not extend the civilian appointment.)

An employee performing active military duty is protected from reduction in force (RIF) and may not be discharged from employment for a period of 1 year following separation (6 months in the case of a Reservist called to active duty under 10 U.S.C. 12304 for more than 30 days, but less than 181 days, or ordered to an initial period of active duty for training of not less than 12 consecutive weeks), except for poor performance or conduct or for suitability reasons.

**NOTE:** Employees in the intelligence agencies have substantially the same rights, but are covered under agency regulations, rather than the Office of Personnel Management's regulations, and have different appeal rights.

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## APPEAL RIGHTS.

An employee or former employee of an agency in the executive branch (including the U.S. Postal Service) who is entitled to restoration in connection with military duty may appeal an agency's failure to properly carry out the law directly to the Merit Systems Protection Board (MSPB), or the employee may first submit a complaint to the Department of Labor, which will attempt to resolve it. If a resolution is not possible, the Department may present the case to the **Office of the Special Counsel**, which may represent the employee in an appeal to the MSBP. Appeals to the Board must be submitted within 30 calendar days after the effective date of the action being appealed.

## DOCUMENTING PERSONNEL ACTIONS.

**Leave without Pay.** LWOP must be documented on an SF 50, Notification of Personnel Action, with nature of action **473/LWOP-US** and legal authorities **Q3K/5 CFR 353 and ZJW/Operation Enduring Freedom**. (Note: ZJW is a new legal authority that has been established to enable OPM and agencies to identify reservists who are involved in the effort under Operation Enduring Freedom). These same authorities must also be used on the **292/RTD** action when the reservist returns to civilian employment.

**Health Benefits and Life Insurance.** For those reservists with health benefits coverage while absent for reasons related to military duty, enter in block 45 of the SF 50 remark B66. Health benefits coverage will continue for 18 months unless you elect to terminate coverage. Contact your servicing Human Resources Office or see the FEHB Handbook at: <http://www.opm.gov/insure> for detailed information. Reservists with Federal Employees' Group Life Insurance (FEGLI) coverage, enter in block 45 of the SF 50 remark B72.

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FEGLI coverage continues until a reservist's time in non-pay status totals 12 months. Reservists should contact their servicing Human Resources Office or see the FEGLI Handbook at <http://www.opm.gov/insure> for detailed information.

**Separations.** If the reservist requests separation rather than LWOP, the separation must be documented with nature of action **353/Separation-US** and legal authorities **Q3K/5 CFR 353** and **ZJW/Operation Enduring Freedom**. Follow the instructions in Chapter 9 or 11 (as appropriate) of *The Guide to Processing Personnel Actions*, to document the reservist's restoration upon completion of his or her military service.

**Updated February 2003**

**PREMIUM PAY FOR FEDERAL CIVILIAN EMPLOYEES WHO PERFORM EMERGENCY WORK IN SUPPORT OF THE NATIONAL EMERGENCY DECLARED BY PRESIDENTIAL PROCLAMATION OF SEPTEMBER 14, 2001.**

The purpose of this attachment is to provide **updated** information about premium pay for civilian employees who perform emergency work in support of the National Emergency declared by the Presidential Proclamation of September 14, 2001.

Under 5 U.S.C. 5547(a) and 5 CFR 550.105, General Schedule employees and other covered employees, including law enforcement officers, may receive certain types of premium pay for a biweekly pay period only to the extent that the sum of basic pay and premium pay for the pay period **does not exceed the greater of the biweekly rate for (1) GS-15, step 10** (including any applicable locality rate or special salary rate), or **(2) level V** of the Executive Schedule. Please refer to our biweekly premium pay limitation fact sheet at:



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<http://www.opm.gov/oca/pay/HTML/03GSCap.asp>

for further information and guidance. Agencies are reminded of their authority under the law (5 U.S.C. 5547(b)) and OPM regulations (5 CFR 550.106) to make exception to the biweekly premium pay limitation. (Please note that overtime pay under the Fair Labor Standards Act of 1938, as amended, does not count toward this limitation.).

The head of an agency may apply an annual cap to certain types of premium pay for any pay period for:

- (1) employees performing work in connection with an emergency, including work performed in the aftermath of such an emergency; or
- (2) employees performing work critical to the mission of the agency. Such employees may receive certain types of premium pay only to the extent that the aggregate of basic pay and premium pay for the calendar year does not exceed the greater of the **annual** rate for:
  - (a) GS-15, step 10 (including any applicable special salary rate or locality rate of pay); or
  - (b) Level V of the Executive Schedule. (Also see 5 CFR 550.107 for information on premium payments that remain subject to the biweekly limitation when other premium payments are limited to the annual limitation.)

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## **VETERANS' REEMPLOYMENT RIGHTS (VRR)**

### **EXPIRATION OF THE VETERANS READJUSTMENT APPOINTMENT AUTHORITY**

The authority to noncompetitively appoint Vietnam era veterans under the Veterans' Readjustment Appointment authority expired on December 31, 1995. This applied to all Vietnam veterans who were released from active duty more than 10 years ago. The authority to appoint post-Vietnam era veterans and those Vietnam era veterans who were released from active duty within the past 10 years, and veterans with a 30 percent or more disability are not affected. We know of no plans by Congress to extend the authority at this time (see 38 U.S.C. 4214 (b)).

### **WHO IS COVERED?**

VRR applies to persons who were inducted into the Armed Forces, persons who volunteer directly for active duty and Reservists and members of the National Guard who are called to active duty either voluntarily or involuntarily. VRR covers members of the Reserves and National Guard during active duty training and inactive duty training.

### **BASIC PROVISIONS/ REQUIREMENTS:**

Veterans returning from active duty must meet the following five eligibility requirements to be covered by VRR:

- (1) Held an "other than temporary" (not necessarily "permanent") civilian job;

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- (2) Have left the civilian job for the purpose of going on active duty;
  - (3) Did not remain on active duty longer than 4 years, unless the period beyond 4 years (up to an additional year) was "at the request and for the convenience of the Federal Government";
  - (3) Was discharged or released from active duty "under honorable conditions"; and
  - (4) Applied for reemployment with the pre-service employer or successor in interest within 90 days after separation from active duty.

Eligible veterans are entitled to reinstatement within a reasonable time to a position of like seniority, status and pay. The returning veterans do not step back on the seniority escalator at the point they stepped off. Rather the veterans step back on at the precise point that they would have occupied had they kept the position continuously during the military service.

VRR provides that a Reservist or member of the National Guard shall upon request be granted a leave of absence by such person's employer to perform active duty training or inactive duty training and that the employee shall not be denied retention in employment or any promotion or other incident or advantage of employment because of any obligation as a member of a Reserve component of the Armed Forces. In addition, while the employer is not required to pay the Reservist or National Guard member for the hours or days not worked because of military training obligations, it is unlawful to require the employee to use earned vacation time for military training. A person who leaves a civilian job in order to perform active duty is not required to request a leave of absence or even to notify the employer that military service is the reason for leaving the job, however such

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a person is encouraged to provide the employer with as much information as possible. However, a Reservist or member of the

National Guard must request a leave of absence when leaving the civilian job to perform active duty training or inactive duty training.

VRR is enforced by DOL's Veterans' Employment and Training Service (VETS).

### **ASSISTANCE AVAILABLE.**

VETS have published two fact sheets covering the veteran reemployment and job rights. These are OASVET 90-09 entitled "Job Rights for Reservists and Members of the National Guard" and OAVET 90-10 entitled "Reemployment Rights for Returning Veterans." Copies of these and other VETS' publications or answers to questions on VRR may be obtained from the nearest VETS office.

### **RELATION TO STATE, LOCAL AND OTHER FEDERAL LAWS.**

The VRR does not preempt state laws providing greater or additional rights, but it does preempt state laws providing lesser rights or imposing additional eligibility criteria.

### **VETERANS' READJUSTMENT ACT.**

Special Appointing Authorities for Veterans, Veterans' Readjustment Appointment (VRA) is a special authority by which agencies can, if they wish, appoint an eligible veteran without competition. The candidate does not have to be on a list of eligibles, but must meet the basic qualification requirements for the position. The VRA is a convenient method of

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appointment for both the agency and the veteran. The use of the authority is entirely discretionary and no one is entitled to a VRA appointment. VRA appointees initially are hired for a 2-year period. Successful completion of the 2-year VRA appointment leads to a permanent civil service appointment.

## **SERVICE REQUIREMENTS.**

You must have served on active duty for a period of more than 180 days which occurred after August 4, 1964, and received other than a dishonorable discharge. Active duty is full-time duty in the Armed Forces, other than active duty for training. You do not need to serve more than 180 days of active duty if you were discharged or released from active duty because of a service-connected disability. Reserve and National Guard members do not need to serve more than 180 days of active duty if:

- (1) they were ordered to active duty under section 672(a), 672(d), 672(g), 673, or 673(b) of Title 10, and
- (2) their active duty was during a period of war or in a campaign or expedition for which a campaign badge is authorized.

For VRA eligibility, the term "period of war" includes Desert Storm/Shield, beginning 08/02/90. No ending date has been set.

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## **TIME LIMIT.**

Eligible post-Vietnam era veterans qualify for 10 years after the date of their last discharge or release from active duty or until December 31, 1999, whichever is later.

Eligible Vietnam era veterans (those who served on active duty between August 5, 1964, and May 7, 1975) qualify until 10 years after their last discharge or separation from active duty or until December 31, 1995, whichever is later.

Eligible veterans with a service-connected disability of 30% or more have no time limit.

## **TRAINING REQUIREMENT.**

If you were selected for a VRA and have less than 15 years of education, you must agree to participate in a training or educational program.

## **GRADE LEVEL OF JOBS THAT CAN BE FILLED.**

Agencies can use the VRA authority to fill white collar positions up through GS-11 and equivalent jobs under other pay systems.

## **CONDITIONS OF EMPLOYMENT.**

Veterans Readjustment Appointments are in the excepted service. After two years of substantially continuous service under a VRA, providing your performance has been satisfactory, your appointment shall be converted to the competitive service.

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## **HOW TO APPLY.**

You should contact the Federal agency personnel office where you are interested in working to find out about VRA opportunities. Agencies recruit candidates and make VRA appointments directly.

For a list of local agency personnel offices consult your telephone directory under "U.S. Government" for the nearest location and telephone number.

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## **30% OR MORE DISABLED VETERAN PROGRAM**

Federal agencies have the authority, by law, to give noncompetitive appointments to any veteran who has a service-connected disability of 30% or more. Like the VRA, this authority is discretionary with the agency.

### **WHO IS ELIGIBLE?**

To be eligible you must be a disabled veteran who has a compensable service-connected disability of 30 percent or more and the disability must be officially documented by the Department of Defense or the Department of Veterans Affairs.

### **GRADE LEVEL OF JOBS THAT CAN BE FILLED.**

This authority covers all grade levels and occupations.

### **CONDITIONS OF EMPLOYMENT.**

You must serve initially under a temporary appointment not limited to 60 days or less. After successfully performing on such a temporary appointment, the Federal agency may convert you to a permanent position.

### **CONDITIONS OF QUALIFICATIONS.**

You must meet all qualification requirements for any position to which you are appointed. This could include the requirement to achieve a passing score on a written test.



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## **HOW TO APPLY.**

You should contact the Federal agency personnel office where you are interested in working to find out about opportunities. Agencies recruit candidates and make appointments directly. As a part of your application package, you will need a copy of a letter dated within the last 12 months from the Department of Veterans Affairs or the Department of Defense certifying receipt of compensation for a service-connected disability of 30% or more.

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# **SOLDIERS' AND SAILORS' CIVIL RELIEF ACT**

## **INTRODUCTION**

The Soldiers' and Sailors' Civil Relief Act (SSCRA), was passed by Congress to provide protection to persons entering or called to active duty in the U.S. Armed Forces. Reservists and members of the National Guard (when in active federal service) are also protected under the SSCRA. **The protection begins on the date the soldier entered active duty service and terminates upon release from active duty.** However, some protections under the act extend for a limited time beyond discharge but are tied to the discharge date. Additionally, some of the Act's protections extend to the soldier's dependents.

## **Termination of Pre-Service Lease Agreements**

- A service member who is leasing/renting property used for dwelling, professional, business, agricultural or similar purposes may terminate a lease that was:
  - signed before the service member entered active duty; and
  - the leased/rented premises have been occupied for the above purposes by the service member or his/her dependents.

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- The service member must deliver written notice of termination to the landlord after entry on active duty or receipt of orders for active duty. The termination date for a month-to-month lease/rental is 30 days after the first date on which the next rental payment is due after the termination notice is delivered. For example, if rent is due on the 1st of the month and notice is delivered to the landlord on August 5th, the next rent due is September 1st. Therefore, the lease/rental agreement will terminate on October 1<sup>st</sup>.
  - For all other lease/rental agreements, the termination date will be the last day of the month after the month in which the notice was given. For example, if the term of the lease/rental agreement is yearly and notice was given August 5th, then the termination date will be September 30<sup>th</sup>.
  - If the rent has been paid in advance, then the landlord must return any unearned portion. The landlord may not withhold the refund of a service member's security deposit for early termination of the lease/rental agreement. However, the landlord may withhold return of the security deposit for damages, repairs, and other lawful provisions of the lease/rental agreement.

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## Evictions From Leased Housing

A service member may seek protection from eviction under SSCRA. The rented/leased property must be occupied by the service member or his/her dependents for the purpose of housing and the rent can not exceed \$1,200. The service member or dependent who has received notice of an eviction must submit a request to the court for protection under the SSCRA. If the court finds that the service member's military duties have materially affected his ability to pay his rent timely, the judge may order a stay, postponement of the eviction proceeding for up to 3 months or make any other "just" order.

## 6% Interest Rate

- If a service member's military obligation has affected his/her ability to pay on financial obligations such as credit cards, loans, mortgages, etc., the service member can have his/her interest rate capped at 6% for the duration of the service member's military obligation.
- Qualifying debts:
  - Debts that were incurred prior to the service member coming on active duty;
  - The service member must be on active duty at the time of the request;
  - The service member's military career must have materially affected the service member's ability to pay on the debt;

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- This provision does not apply to federally guaranteed student loans.
  - How to implement the 6% cap. The service member should contact his/her creditor and request that his/her interest rate be reduced to 6% according to the provisions of the SSCRA. The creditor may request a copy of the service member's orders. The burden is on the creditor to seek relief in court if the creditor believes that the service member's military career does not materially affect his/her ability to pay.

### **Court Proceedings**

- A service member who is either the plaintiff or the defendant in a civil lawsuit may request a stay or postponement of a court proceeding in which he/she is a party. A service member may request a stay at any point in the proceedings. However, courts are reluctant to grant stays at the pre-trial phase of a lawsuit, such as discovery, depositions, etc. If a judgment is entered against a service member who is unavailable due to military orders, the service member may be able to have that judgment voided.
- Criteria:
  - The service member must actually be a party to the suit.
  - The provision only applies to civil lawsuits, suits for paternity, child custody suits, and bankruptcy debtor/creditor meetings.

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- The provision does not apply to:
- administrative hearings;
  - criminal proceedings;
  - child support determination;
  - proceedings in which the service member is merely a material witness to the lawsuit, but not an actual party; or
  - the service member has leave available and has made no attempt to use his/her leave to attend the proceedings.
- How to invoke a stay. A service member should have his commander write a letter to the court and the opposing party's attorney stating that the service member is unable to attend the proceedings. The soldier **should not** have an attorney draft such a letter to the court. A letter by an attorney could be considered an appearance by the service member and could subject the service member to the jurisdiction of the court.

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## **Installment Contracts and Auto Leases**

A service member or spouse may request protection under the SSCRA for pre-service debts incurred under installment contracts and auto leases. The service member or the spouse must prove that the service member's military obligations have materially affected his/her ability to pay on the debts. Also, at least one deposit or installment payment must have been made on the contract **prior to** entering active duty. If the contract falls under the protection of the SSCRA, the creditor is thereafter prohibited from exercising any right or option under the contract, such as to rescind or terminate the contract or to repossess the property, unless authorized by a court order.

## **Enforcement of Obligations, Liabilities, Taxes**

A service member or dependent may, at any time during his/her military service, or within 6 months thereafter, apply to a court for relief of any obligation or liability incurred by the service member or dependent prior to active duty or in respect to any tax or assessment whether falling during or prior to the service member's active military service. The court may grant stays of enforcement during which time no fine or penalty can accrue.

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# **FAMILY AND MEDICAL LEAVE ACT (FMLA)**

## **WHAT IS THE FAMILY AND MEDICAL LEAVE ACT?**

FMLA is a Federal law that provides "qualifying" employees of a covered employer the right to take up to 12 weeks of unpaid, job-protected leave, during any 12 months, for the birth and care of a newborn, adoption or foster care, or a serious health condition of the employee or certain family members. An "eligible" employee is one who meets certain requirements specified in the statute. FMLA was enacted in 1993 and is codified at 29 U.S.C. § 2601 to § 2645 and 5 U.S.C. § 6381 to § 6387, relating to Federal civil service employees.

## **WHAT ARE THE LEAVE ELIGIBILITY PROVISIONS OF THE FMLA?**

In order to be eligible for leave under the FMLA, employees must meet several eligibility criteria. Two of these criteria affected by USERRA are:

- 1) the person must have been employed by the employer for at least 12 months; and
- 2) the person must have worked at least 1250 hours for that employer during the 12 month period preceding the start of the leave. The requirement of 1250 hours worked applies to persons employed by private employers, state and local governments, and the Postal Service.



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## **WHAT EFFECT DOES USERRA HAVE ON THESE REQUIREMENTS?**

USERRA requires that the service members who conclude their tours of duty and who are reemployed by their civilian employers receive all benefits of employment that they would have obtained if they had been continuously employed, except those benefits that are considered a form of short-term compensation, such as accrued paid vacation. If a service member had been continuously employed, one such benefit to which he or she might have been entitled is leave under the FMLA. The service member's eligibility will depend upon whether the service member would have met the eligibility requirements outlined above had he or she not performed military service.

## **HOW SHOULD THE 12-MONTH FMLA REQUIREMENT BE CALCULATED FOR RETURNING SERVICE MEMBERS?**

USERRA requires that a person reemployed under its provisions be given credit for any months he or she would have been employed but for the military service in determining eligibility for FMLA leave. A person reemployed following military service should be given credit for the period of military service towards the months-of-employment eligibility requirement. Each month served performing military service counts as a month actively employed by the employer. For example, someone who has been employed by an employer for 9 months and is ordered to active military service for 9 months after which he or she is reemployed. Upon reemployment, the person must be considered to have been employed by the employer for more than the required 12 months (9 months actually employed plus 9 months while serving in the military service) for purposes of FMLA eligibility. It should be noted that the 12 months of employment do not have to be consecutive to meet this FMLA requirement.

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## HOW SHOULD THE 1250 HOURS-OF-SERVICE REQUIREMENT BE CALCULATED FOR RETURNING SERVICE MEMBERS?

An employee returning after military service should be credited with the hours-of-service that would have been performed but for the period of military service in determining FMLA eligibility. Accordingly, a person reemployed following military service has the hours that would have been worked for the employer added to any hours actually worked during the previous 12-month period to meet the 1250 hour requirement. In order to determine the hours that would have been worked during the period of military service, the employee's pre-service work schedule can generally be used for calculations. For example, an employee who works 40 hours per week for the employer returns to employment following 20 weeks of military service and requests leave under the FMLA. To determine the person's eligibility, the hours he or she worked during the period of military service ( $20 \times 40 = 800$  hours) must be added to the hours actually worked during the 12-month period prior to the start of the leave to determine if the 1250-hour requirement is met.

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## USERRA - A QUICK LOOK

Know Who Is Affected	Military reserve personnel are required to give employers advanced notification of their service status either verbally or in writing. There is no requirement for how far in advance such notice must be provided. It is wise to canvas your employee base to be certain you are aware of all military reservists in the company.
Know Your Obligations	Become familiar with all aspects of USERRA provisions. Consult with all benefits providers including the tools made available for this purpose.
Educate Employees	Communicate with employees to be sure they fully understand all their rights and their options. Also, consider communicating with all employees so they understand what will happen in an employee's absence and upon their return.
Provide Flexible Options	Many military reservists will not have the luxury of time to put all affairs in order before going into active duty. Furthermore, they may need to make provisions for themselves and their families even after they leave. Be sure they have options available to them allowing for personal business to be conducted even after the commencement of their military duties.
Provide a Smooth Transition Into Military Service	This can be a very hectic time for these employees, often with little planning time available. Providing this guide and advice from other benefits providers can help to ensure that employees understand all their options before they go into active duty.
Provide a Smooth Transition Back to a Civilian Livelihood	USERRA provides for the specific - yet flexible - timeframe in which reemployment must occur. Employers who lay the groundwork before an employee leaves for active duty will help to ensure his or her smooth return to civilian work life. Consult with all benefits providers.
<b>NOTE: To qualify for USERRA, the employee must be honorably discharged.</b>	

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## REEMPLOYMENT TIMING

USERRA addresses the timeframe to which employees must adhere when reporting back to work or submitting reemployment applications with their civilian employers. Normally, this is dependent upon the duration of your military service.

Less Than 31 Days	Employees should return to work the first day following completion of their service period.
30 - 180 Days	Employees must submit reemployment applications within 14 days following completion of their service period.
Over 180 Days	Employees must submit reemployment applications within 90 days of completing their military service.

Upon receipt of reemployment applications, the employer must promptly reemploy these individuals.

USERRA further provides specific guidelines for the position(s) that employers must offer, including requirements if the employee suffers a disability as a result of their military duty. It also includes "escalator" provisions that allow the returning service member to return to the same level of seniority they had previous to the service period. Employers may not terminate these employees after reemployment, except for cause.

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## GOING ABOVE AND BEYOND

Certainly, the nation's uniformed services personnel go above and beyond the call of duty to their country. It is urged that all plan sponsors examine their ability - even during difficult economic times - to go beyond USERRA provisions to continue providing uninterrupted benefits to these employees. Military pay and benefits are minimal at best. Many of these reservists must still provide for their families even as they are away from home.

## RETIREMENT PLAN PARTICIPANT PRACTICAL CHECKLIST

Of course, you will want to communicate with your employer regarding your status as a military service person. It is important to take appropriate steps to prepare for your leave of absence if you have the ability to do so.

### Before you go ...

Know All Your Rights	USERRA and SBJPA offer protection for your employee benefits, including reemployment. Consult the USERRA provisions included in this guide and ask your employer for information relevant to all your benefits, including healthcare and life insurance coverage, vacation time, compensation and seniority status.
Establish or Update Your Will	No one likes to think about this, but it is very important to take care of all that you have worked for and to provide for those you love. Military lawyers are available to help with Will preparation, but you should consider that they might be busy with many other duties. If you can utilize your own attorney before you go, it is highly recommended, particularly if you have a spouse, children and/or a sizeable estate. You should also see if your attorney suggests a Power of Attorney for your situation.

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Review Beneficiary Designations	Carefully review the list of beneficiaries you have named for your retirement plan and other pertinent plans with survivors benefits. Be sure to provide any updates including change in marital status, the birth of a child, or changes of address. It is important to note that beneficiary designations are not governed by terms of a Will. Each plan or insurance policy is considered to be "outside" the Will and as such requires that specific beneficiaries be named with separate documentation.
Examine the Asset Allocation of Your Retirement Plan	Diversified asset allocation is a sound investing strategy in any climate. The circumstances you now face demand even more prudent investing. Because you may not have the same accessibility to your retirement plan assets after the commencement of military duty, we encourage you to look at your current allocation. Consider an allocation that you would be comfortable with for the next two years ... with no adjustments to your portfolio. A "Timing the Market" strategy is never a good policy, especially during periods of uncertainty that include a restriction of access to your account.

### While on military duty ...

It is understandable that you may have many critical things on your mind as you prepare for active duty. If you do not have the opportunity or the time to make the changes you'd like *before* you go, you do have other options even *after* you've gone into military service.

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<p>Know All Your Options</p>	<p>If you have taken the appropriate steps, you can still conduct your personal business while you are in the service. Should you find it necessary to reallocate your retirement plan asset allocation during this time, a designated person can utilize your PIN or Power of Attorney on your behalf.</p>
<p>You Still Have Access to Your Account</p>	<p>You may or may not have Internet access while you are on your leave of absence for military duty. If you do not have Internet access, a person you designate can look in on your account and make any reallocations for you (e.g., a spouse or trusted adviser).</p>
<p>You Still Receive Statements</p>	<p>During your leave of absence, quarterly retirement plan statements will continue to be sent to your home. Particularly during times of market volatility, you may wish to have someone monitor your account and its asset allocation on your behalf.</p>
<p>You Still Have Access to a Loan From Your Account</p>	<p><u>Some</u> retirement plans allow for participant loans. Taking out a loan against your retirement plan is only a good idea as a last resort, but you may need to have access to your funds for the short term. Should this become necessary during your military service, you will likely still have the ability to take out a loan if this is a provision of your company plan. Consult your plan sponsor for proper procedures and required documentation. Remember, this should only be used as a last resort: retirement planning is a long-term proposition and time out of the market could hurt your ability to reach your retirement goals.</p>

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## When you return ...

<p>Contact Your Employer</p>	<p>You are required to contact your employer within a specific period of time as defined by your length of service during the military leave of absence. You must also apply for reemployment within the following timeframe after your service has ended:</p> <p>Service less than 31 days: the next day, plus at least 8 hours within returning to your residence</p> <p>Service 31 - 180 days: within 14 days</p> <p>Service more than 180 days: within 90 days</p>
<p>Examine Your Retirement Plan Account</p>	<p>Whether or not you had access to your retirement account during your absence, it is a good idea to reevaluate your situation and make a proper asset allocation. Remember, you always have access to your information.</p>
<p>Consider Your Ability to Make Up Any Contributions</p>	<p>If your plan permits employee contributions, it may be that you were not contributing to your retirement account while you were on duty unless your employer continued your compensation through this period. You have the right to immediately begin making new contributions to your plan. You also have the option of making up the contributions you missed while on military leave. In fact, you have three times the period of service (not to exceed five years) to make up the employee portion of your contributions that were missed. If your plan provides for matching contributions, your employer is required to also make any matching contributions on any of your make-up contributions. This does not count toward the maximum amount you and your employer are permitted to contribute for the tax year when these contributions commence. Rather, they are applied to the tax year for which the contributions were missed.</p>



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<p>Note Provisions for Repaying Loans From the Plan</p>	<p>If you took out a new or pre-existing loan from your 401(k) or other retirement plan before or during your service, it is likely that your plan sponsor suspended the loan payment requirement while you were on military leave. Check with your plan sponsor to find out when payments must commence.</p>
<p>Know Your Rights for All Other Benefits You Have</p>	<p>USERRA protects other benefits you have including life insurance and health coverage, vacation, seniority status, etc. Check with your plan sponsor about specific details concerning these employee benefits.</p>

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## USERRA COMPLAINTS

The Department of Labor is the enforcement authority for USERRA, and it processes all formal complaints of violations of the law.

USERRA authorizes the U.S. Office of Special Counsel (“OSC”) to investigate alleged violations of the act by **Federal Executive Agencies**, and to prosecute meritorious claims before the Merit Systems Protection Board (“MSPB”) on behalf of the aggrieved person.

Ref: 38 U.S.C. § 4301, et. seq.

### WHAT DO I DO IF I BELIEVE MY VETERANS' PREFERENCE RIGHTS WERE VIOLATED?

You should file a complaint with the U.S. Department of Labor, Veterans Employment and Training Service.

The Veterans Employment Opportunities Act of 1998 (VEOA), 5 U.S.C. § 3330 et seq., created a new avenue of administrative redress specifically for a preference eligible who alleges that a federal agency violated such individual's rights under any statute or regulation relating to a veteran's preference eligibility.

Under the VEOA, in order to seek corrective action, a preference eligible is to file a written complaint with the U.S. Department of Labor, Veterans Employment and Training Service (VETS), within 60 days of the alleged violation. VEOA requires the Secretary of Labor, through VETS, to investigate the complaint and, upon determining that a violation occurred, to attempt to resolve the complaint by making reasonable efforts to ensure that the agency complies with the statute or regulation relating to veteran's' preference.

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If the Secretary is unable to resolve a complaint **within 60 days**, the Secretary is to provide notification of an unsuccessful effort to resolve the complaint to the complainant.

Because of the VEOA, OSC does not investigate allegations of violations of veterans' preference rights for corrective action purposes. (OSC still investigates such allegations for possible disciplinary action, however.) Thus, you should file a complaint alleging a violation of a veterans' preference rights with VETS, not OSC.

## **FILING A USERRA COMPLAINT WITH OSC**

OSC is not authorized to receive a USERRA complaint directly from the claimant.

- First, claimant must file a complaint with the Department of Labor's Veterans' Employment and Training Service (VETS).
- If VETS is unsuccessful in resolving the complaint, the claimant may request that VETS refer the complaint to OSC.
- If the Special Counsel believes there is merit to the complaint, OSC will initiate an action before the MSPB and appear on behalf of the claimant. The successful claimant is entitled to receive the employment benefits that he/she was denied as the result of the agency's violation of USERRA. Additionally, a prevailing claimant is entitled to attorney's fees, expert witness fees, and other litigation expenses.

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The OSC is an independent federal investigative and prosecutorial agency. Their basic authorities come from three federal statutes, the Civil Service Reform Act, the Whistleblower Protection Act, and the Hatch Act.

## **DISCLOSURE UNIT**

OSC provides a secure channel through its Disclosure Unit for federal workers to disclose information about various workplace improprieties, including a violation of law, rule or regulation, gross mismanagement and waste of funds, abuse of authority, or a substantial danger to public health or safety.

## **UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT (VETERANS' RIGHTS)**

OSC protects the reemployment rights of federal employees, military veterans and reservists under the Uniformed Services Employment and Reemployment Rights Act (USERRA).

## **CORRECTIVE ACTION**

The OSC may enter into discussions with an agency at any stage of a pending matter in pursuit of a resolution acceptable to all parties. The OSC follows a policy of early and firm negotiation to obtain appropriate corrective action (and/or disciplinary action) for apparent violations.

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## **INTERVENTION**

The Special Counsel may intervene as a matter of right, or otherwise participate in most proceedings before the MSPB. The Special Counsel may not intervene in certain proceedings (individual rights of action brought under 5 U.S.C. §1221, or matters otherwise appealable to the MSPB under 5 U.S.C. § 7701) without the consent of the person initiating the proceeding.

Ref: 5 U.S.C. § 1212(c)

## **HOW CAN A PERSON FILE A COMPLAINT OF PROHIBITED PERSONNEL PRACTICES OR OTHER PROHIBITED EMPLOYMENT ACTIVITY WITH THE OSC?**

Filers must use Form OSC-11 (Complaint of Possible Prohibited Personnel Practice or Other Prohibited Activity) to submit allegations of prohibited personnel practices or other prohibited employment activity to OSC. Form OSC-11 may be printed from the Web site. The OSC will not process a complaint submitted in any format other than a completed Form OSC-11 (except for a complaint alleging *only* a Hatch Act violation).

If a person uses any other format to file a complaint, the material received will be returned to the filer with a blank Form OSC-11 to complete and return to the OSC. The complaint will be considered to be filed on the date on which the OSC receives the completed Form OSC-11.

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Complaints of prohibited personnel practices or other prohibited employment activities within the investigative authority of the OSC should be sent to the U.S. Office of Special Counsel, Complaints Examining Unit, 1730 M Street, NW, Suite 201, Washington, DC 20036-4505.

Ref: 5 C.F.R. § 1800.1

## **ARE FEDERAL EMPLOYEES REQUIRED TO COOPERATE WITH OSC INVESTIGATIONS?**

Title 5 of the U.S. Code authorizes the OSC to issue subpoenas for documents or the attendance and testimony of witnesses. During an investigation, the OSC may require employees and others to testify under oath, sign written statements, or respond formally to written questions.

Federal employees are also required to provide to the OSC any information, testimony, documents, and material, the disclosure of which is not otherwise prohibited by law or regulation, in investigations of matters under civil service law, rule, or regulation. The same rule requires federal agencies to make employees available to testify, on official time, and to provide pertinent records to the OSC.

Ref: 5 U.S.C. § 1212(b); Civil Service Rule 5.4

## **WHAT LEGAL RESPONSIBILITIES DO FEDERAL AGENCIES HAVE TO PREVENT PROHIBITED PERSONNEL PRACTICES?**

Section 2302(c) of title 5 requires federal agency heads, and officials with delegated authority for any aspect of personnel management, to:

- prevent prohibited personnel practices, including reprisal for whistle blowing;

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- comply with and enforce civil service laws, rules and regulations; and
  - ensure (in consultation with the OSC) that federal employees are informed of their rights and remedies.

## **ANSWERS TO FREQUENTLY ASKED QUESTIONS ABOUT THE 2302(C) PROGRAM**

### **Question: Is the program voluntary?**

The program itself is voluntary but the requirement to inform agency employees of the rights and remedies available to them under the PPP and whistleblower provisions of Title 5 is a statutory obligation. The program provides a mechanism to meet this obligation. Moreover, the Office of Personnel Management recently announced that 2302(c) certification is a "suggested performance indicator" for "getting to green" on the Strategic Management of Human Capital element of the President's Management Agenda.

### **Question: What are the consequences of failing to comply with the statutory obligation?**

OSC will report annually to Congress federal agencies' participation with the 2302(c) program.

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**Question: How do I know if my agency is currently in compliance with 5 U.S.C. §2302(c)?**

Call the OSC Director of Outreach at 202-653-8962 to discuss what outreach activities your agency is currently engaged in. He/She will inform you if your agency is in compliance.

**Question: Once I register for the program, how will I know that my agency is in compliance with 5 U.S.C. §2302(c)?**

If you have registered for the program, after completing the five requirements of the program, you will be asked to fill out a certificate of compliance form on the OSC web site. After OSC reviews the form, OSC will grant you a certificate of compliance indicating your conformity with 5 U.S.C. §2302(c).

**Question: How often will agencies need to be certified as being in compliance with 5 U.S.C. §2302(c)?**

Agencies need to be certified every three years.

**Question: How often does an agency need to train supervisors on PPP's and the WPA?**

Supervisors need to be trained every three years.



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**Question: How often do employees need to get notification of their rights and remedies under the WPA?**

Employees need to get annual notification.

**Question: Will this program generate frivolous complaints?**

Agency-wide education programs have not resulted in a substantial increase in the number of complaints filed by employees of that agency.

**Question: If an agency has employees that are not covered by all Title 5 provisions, will they need to comply with 5 U.S.C. §2302(c)?**

Some agencies have federal employees that are only covered by a limited number of Title 5 provisions. If any provisions of the WPA cover these employees, the agency is responsible for informing the employees of their rights and responsibilities under the statute.

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## **RESOURCES**

U.S. Department of Labor:

<http://www.dol.gov>

U.S. Department of Labor Veterans Employment and Training Service (VETS):

<http://www.dol.gov>

Employer Support of the Guard and Reserve:

1-800-336-4590 / 703-696-1400

<http://www.esgr.org>

U.S. Office of Personnel Management:

<http://www.opm.gov>

U.S. Office of Special Council:

<http://www.osc.gov>

Invesmart:

<http://www.invesmart.com>

Service Members Opportunity Colleges:

1-800-368-5622

Federal Retirement Thrift Investment Board:

202-942-1460

<http://www.tsp.gov>



*Issued By:*

*United States Attorney's Office, Eastern District of North Carolina*

*310 New Bern Avenue*

*Suite 800*

*Raleigh, North Carolina 27601*

*(919) 856-4530*

## Marsy Law side 2 (2).pdf



**Attorney General  
State of California**

**Victims' Bill of Rights Act of  
2008 Marsy's Law**

The California Constitution, Article 1, section 28(b), confers certain rights to victims of crime as they are defined by law. Those rights include:

1. To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment, and abuse, throughout the criminal or juvenile justice process.
2. To be reasonably protected from the defendant and persons acting on behalf of the defendant.

3. To have the safety of the victim and the victim's family considered in fixing the amount of bail and release conditions for the defendant.

4. To prevent the disclosure of confidential information or records to the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, which could be used to locate or harass the victim or the victim's family or which disclose confidential communications made in the course of medical or counseling treatment, or which are otherwise privileged or confidential by law.

5. To refuse an interview, deposition, or discovery request by the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, and to set reasonable conditions on the conduct of any such interview to which the victim consents.

6. To reasonable notice of and to reasonably confer with the prosecuting agency, upon request, regarding, the arrest of the defendant if known by the prosecutor, the charges filed, the determination whether to extradite the defendant, and, upon request, to be notified of and informed before any pretrial disposition of the case.

7. To reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other post-conviction release proceedings, and to be present at all such proceedings.

8. To be heard, upon request, at any proceeding, including any delinquency proceeding, involving a post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceeding in which a right of the victim is at issue.

9. To a speedy trial and a prompt and final conclusion of the case and any related post-judgment proceedings.

10. To provide information to a probation department official conducting a pre-sentence investigation concerning the impact of the offense on the victim and the victim's family and any sentencing recommendations before the sentencing of the defendant.

11. To receive, upon request, the pre-sentence report when available to the defendant, except for those portions made confidential by law.

12. To be informed, upon request, of the conviction, sentence, place and time of incarceration, or other disposition of the defendant, the scheduled release date of the defendant, and the release of or the escape by the defendant from custody.

13. To restitution.

- A. It is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to seek and secure restitution from the persons convicted of the crimes causing the losses they suffer.

- B. Restitution shall be ordered from the convicted wrongdoer in every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss.

- C. All monetary payments, monies, and property collected from any person who has been ordered to make restitution shall be first applied to pay the amounts ordered as restitution to the victim.

14. To the prompt return of property when no longer needed as evidence.

15. To be informed of all parole procedures, to participate in the parole process, to provide information to the parole authority to be considered before the parole of the offender, and to be notified, upon request, of the parole or other release of the offender.

16. To have the safety of the victim, the victim's family, and the general public considered before any parole or other post-judgment release decision is made.

17. To be informed of the rights enumerated in paragraphs (1) through (16).

For more information on Marsy's Law, visit the Attorney General's website: [www.ag.ca.gov/victimservices](http://www.ag.ca.gov/victimservices)

Your local Victim Witness Assistance Center can provide advocacy and specific information on local resources, the Victim Compensation Program, non-profit victim's rights group and support groups. To obtain information on the Victim Witness Assistance Center nearest to you, contact: Attorney General's Victim Services Unit (877) 433-9069.

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A 'victim' is defined under the California Constitution as "a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act. The term 'victim' also includes the person's spouse, parents, children, siblings, or guardian, and includes a lawful representative of a crime victim who is deceased, a minor, or physically or psychologically incapacitated. The term 'victim' does not include a person in custody for an offense, the accused, or a person whom the court finds would not act in the best interests of a minor victim." (Cal. Const., art. 1, § 28(e).)

A victim, the retained attorney of a victim, a lawful representative of the victim, or the prosecuting attorney upon request of the victim, may enforce the above rights in any trial or appellate court with jurisdiction over the case as a matter of right. The court shall act promptly on such a request. (Cal. Const., art. 1, § 28(c)(1).)

*Funding is made possible through the United States Department of Justice, Victims of Crime Act, 2016-VA-GX-0057*

**2679\_001 DUI FINANCIAL  
RECOVERY FORM SIDE 2.pdf**

## INSTRUCTIONS FOR DRUNK DRIVING REIMBURSEMENT FORM

**DATE-** Date incident occurred.

**DEFENDANT-** Suspect's first, middle and last name.

**DOB-** Suspect date of birth.

**FILE NUMBER-** Indio Police Department incident Number for case.

**PARENT'S NAME-** If suspect is a juvenile, list parents/legal guardian name here.

**ALCOHOL TEST-** Which chemical test, if any, suspect agreed to take.

### POLICE DEPARTMENT PERSONNEL

**NAME-** Names of officers present at traffic collision scene who assisted in investigation (i.e, traffic control, witness interviews, etc.)

**TIME @ SCENE-** The amount of time in minutes the Officer spent at the scene.

**TIME SPENT INTERVIEWING & BOOKING-** Time in minutes spent on booking and interviewing process.

**REPORT WRITING TIME-** Total time in minutes spent writing report (may be estimated).

**TOTAL TIME-** Total of all time in minutes.

### POLICE DEPARTMENT EQUIPMENT USED

**TYPE-** Police Car, PAS Devise, First AID Equipment, Flares, etc.

**NUMBER-** Number/Amount of items used.

**COST PER ITEM-** Dollar amount of each item used, refer to Sgt./W.C. list.

**TOTAL COST-** Multiply # of items by cost of each item.

### TOTAL EXPENSES

Officers only need to circle YES/NO if a nurse was called for a blood draw or YES/NO if the person was booked at RSO Jail. The City of Indio Finance Department will complete the rest of the form and calculate the total cost to be reimbursed by the suspect.

**marsy\_pocket\_en\_res.pdf**





Contact Name: \_\_\_\_\_

Phone No.: \_\_\_\_\_

Police Report / Case No.: \_\_\_\_\_

Notes: \_\_\_\_\_

Marsy's Card and Resources

The California Constitution, Article 1, Section 28(b), confers certain rights to victims of crime. Those rights include:

- 1. Fairness and Respect - To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment, and abuse, throughout the criminal or juvenile justice process.
2. Protection from the Defendant - To be reasonably protected from the defendant and persons acting on behalf of the defendant.
3. Victim Safety Considerations in Setting Bail and Release Conditions - To have the safety of the victim and the victim's family considered in fixing the amount of bail and release conditions for the defendant.
4. The Prevention of the Disclosure of Confidential Information - To prevent the disclosure of confidential information or records to the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, which could be used to locate or harass the victim or the victim's family or which disclose confidential communications made in the course of medical or counseling treatment, or which are otherwise privileged or confidential by law.
5. Refusal to be Interviewed by the Defense - To refuse an interview, deposition, or discovery request by the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, and to set reasonable conditions on the conduct of any such interview to which the victim consents.
6. Conference with the Prosecution and Notice of Pretrial Disposition - To reasonable notice of and to reasonably confer with the prosecuting agency, upon request, regarding, the arrest of the defendant if known by the prosecutor, the charges filed, the determination whether to extradite the defendant, and, upon request, to be notified of and informed before any pretrial disposition of the case.
7. Notice of and Presence at Public Proceedings - To reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other post-conviction release proceedings, and to be present at all such proceedings.
8. Appearance at Court Proceedings and Expression of Views - To be heard, upon request, at any proceeding, including any delinquency proceeding, involving a post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceeding in which a right of the victim is at issue.
9. Speedy Trial and Prompt Conclusion of the Case - To a speedy trial and a prompt and final conclusion of the case and any related post-judgment proceedings.
10. Provision of Information to the Probation Department - To provide information to a probation department official conducting a pre-sentence investigation concerning the impact of the offense on the victim and the victim's family and any sentencing recommendations before the sentencing of the defendant.
11. Receipt of Pre-Sentence Report - To receive, upon request, the pre-sentence report when available to the defendant, except for those portions made confidential by law.
12. Information About Conviction, Sentence, Incarceration, Release, and Escape - To be informed, upon request, of the conviction, sentence, place and time of incarceration, or other disposition of the defendant, the scheduled release date of the defendant, and the release of or the escape by the defendant from custody.
13. Restitution
A. It is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to seek and secure restitution from the persons convicted of the crimes causing the losses they suffer.
B. Restitution shall be ordered from the convicted wrongdoer in every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss.
C. All monetary payments, monies, and property collected from any person who has been ordered to make restitution shall be first applied to pay the amounts ordered as restitution to the victim.



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6. Conference with the Prosecution and Notice of Pretrial Disposition - To reasonable notice of and to reasonably confer with the prosecuting agency, upon request, regarding, the arrest of the defendant if known by the prosecutor, the charges filed, the determination whether to extradite the defendant, and, upon request, to be notified of and informed before any pretrial disposition of the case.
7. Notice of and Presence at Public Proceedings - To reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other post-conviction release proceedings, and to be present at all such proceedings.
8. Appearance at Court Proceedings and Expression of Views - To be heard, upon request, at any proceeding, including any delinquency proceeding, involving a post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceeding in which a right of the victim is at issue.
9. Speedy Trial and Prompt Conclusion of the Case - To a speedy trial and a prompt and final conclusion of the case and any related post-judgment proceedings.
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- 14. The Prompt Return of Property** – To the prompt return of property when no longer needed as evidence.
- 15. Notice of Parole Procedures and Release on Parole** – To be informed of all parole procedures, to participate in the parole process, to provide information to the parole authority to be considered before the parole of the offender, and to be notified, upon request, of the parole or other release of the offender.
- 16. Safety of Victim and Public are Factors in Parole Release** – To have the safety of the victim, the victim's family, and the general public considered before any parole or other post-judgment release decision is made.
- 17. Information About These 16 Rights** – To be informed of the rights enumerated in paragraphs (1) through (16).

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### Additional Resources

*The Attorney General does not endorse, have any responsibility for, or exercise control over these organizations' and agencies' views, services, and information.*

**Victim Compensation Board** – Can help victims pay for: mental health counseling, funeral costs, loss of income, crime scene cleanup, relocation, medical and dental bills. **1-800-777-9229** [www.victims.ca.gov](http://www.victims.ca.gov)

**CA Dept. of Corrections and Rehabilitation, OVSRS** – Provides information on offender release, restitution, parole conditions and parole hearings when the offender is incarcerated in prison. **1-877-256-6877** [www.cdcr.ca.gov/victim\\_services](http://www.cdcr.ca.gov/victim_services)

**McGeorge School of Law** – Victims of Crime Resource Center - Provides resources for victims by their geographic area along with information on victims' rights. **1-800-Victims (1-800-842-8467)** [www.1800victims.org](http://www.1800victims.org)

**National Domestic Violence Hotline** – **1-800-799-7233** [www.thehotline.org](http://www.thehotline.org)

**Adult Protective Services County Information** – (Elder abuse) 24 hour hotline numbers by county in California. [www.cdss.ca.gov/inforesources/County-APS-Offices](http://www.cdss.ca.gov/inforesources/County-APS-Offices)

**National Child Abuse Hotline** – Treatment and prevention of child abuse. **1-800-422-4453** [www.childhelp.org](http://www.childhelp.org)

**Rape, Abuse & Incest National Network** – **1-800-656-4673** [www.rainn.org](http://www.rainn.org)

**National Human Trafficking Resource Center Hotline** – 24-hour hotline: **1-888-373-7888** [www.humantraffickinghotline.org](http://www.humantraffickinghotline.org)

**The California Relay Service: For speech impaired, deaf or hard-of-hearing callers: Dial 711. TTY/HCO/VCO to Voice for English: 1-800-735-2929 and for Spanish: 1-800-855-3000. Voice to TTY/VCO/HCO for English: 1-800-735-2922 and for Spanish: 1-800-855-3000. Speech to Speech – English and Spanish: 1-800-854-7784.**

**Attorney General's Victims' Services Unit** – Provides local victim/witness information, geographic resource information and appeal status to victims of crime. For more information, call **1-877-433-9069** or visit: [www.oag.ca.gov/victimservices](http://www.oag.ca.gov/victimservices) For local Human Trafficking information, visit: [www.oag.ca.gov/human-trafficking](http://www.oag.ca.gov/human-trafficking)

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**Attorney General's Victims' Services Unit** – Provides local victim/witness information, geographic resource information and appeal status to victims of crime. For more information, call **1-877-433-9069** or visit: [www.oag.ca.gov/victimservices](http://www.oag.ca.gov/victimservices) For local Human Trafficking information, visit: [www.oag.ca.gov/human-trafficking](http://www.oag.ca.gov/human-trafficking)

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*A 'victim' is defined under the California Constitution as "a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act. The term 'victim' also includes the person's spouse, parents, children, siblings, or guardian, and includes a lawful representative of a crime victim who is deceased, a minor, or physically or psychologically incapacitated. The term 'victim' does not include a person in custody for an offense, the accused, or a person whom the court finds would not act in the best interests of a minor victim." (Cal. Const., art. I, § 28(e).)*

*A victim, the retained attorney of a victim, a lawful representative of the victim, or the prosecuting attorney upon request of the victim, may enforce the above rights in any trial or appellate court with jurisdiction over the case as a matter of right. The court shall act promptly on such a request. (Cal. Const., art. I, § 28(c)(1).)*



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**State of California**

**GOVERNMENT CODE**

**Section 6254**

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6254. Except as provided in Sections 6254.7 and 6254.13, this chapter does not require the disclosure of any of the following records:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, if the public interest in withholding those records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Records contained in or related to any of the following:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(4) Information received in confidence by any state agency referred to in paragraph (1).

(e) Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, that are obtained in confidence from any person.

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, the Office of Emergency Services and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes. However, state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an

authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (b) of Section 13951, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, this subdivision does not require the disclosure of that portion of those investigative files that reflects the analysis or conclusions of the investigating officer.

Customer lists provided to a state or local police agency by an alarm or security company at the request of the agency shall be construed to be records subject to this subdivision.

Notwithstanding any other provision of this subdivision, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2) (A) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name and age of the victim, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3, 288.4, 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined in any of the sections of the Penal Code set forth in this subdivision may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(B) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the names and images of a victim of human trafficking, as defined in Section 236.1 of

the Penal Code, and of that victim's immediate family, other than a family member who is charged with a criminal offense arising from the same incident, may be withheld at the victim's request until the investigation or any subsequent prosecution is complete. For purposes of this subdivision, "immediate family" shall have the same meaning as that provided in paragraph (3) of subdivision (b) of Section 422.4 of the Penal Code.

(3) Subject to the restrictions of Section 841.5 of the Penal Code and this subdivision, the current address of every individual arrested by the agency and the current address of the victim of a crime, if the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator as described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code. However, the address of the victim of any crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3, 288.4, 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph shall not be used directly or indirectly, or furnished to another, to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury. This paragraph shall not be construed to prohibit or limit a scholarly, journalistic, political, or government use of address information obtained pursuant to this paragraph.

(4) Notwithstanding any other provision of this subdivision, commencing July 1, 2019, a video or audio recording that relates to a critical incident, as defined in subparagraph (C), may be withheld only as follows:

(A) (i) During an active criminal or administrative investigation, disclosure of a recording related to a critical incident may be delayed for no longer than 45 calendar days after the date the agency knew or reasonably should have known about the incident, if, based on the facts and circumstances depicted in the recording, disclosure would substantially interfere with the investigation, such as by endangering the safety of a witness or a confidential source. If an agency delays disclosure pursuant to this paragraph, the agency shall provide in writing to the requester the specific basis for the agency's determination that disclosure would substantially interfere with the investigation and the estimated date for disclosure.

(ii) After 45 days from the date the agency knew or reasonably should have known about the incident, and up to one year from that date, the agency may continue to delay disclosure of a recording if the agency demonstrates that disclosure would substantially interfere with the investigation. After one year from the date the agency knew or reasonably should have known about the incident, the agency may continue to delay disclosure of a recording only if the agency demonstrates by clear and convincing evidence that disclosure would substantially interfere with the investigation. If an agency delays disclosure pursuant to this clause, the agency shall promptly provide in writing to the requester the specific basis for the agency's determination that the interest in preventing interference with an active investigation outweighs the

public interest in disclosure and provide the estimated date for the disclosure. The agency shall reassess withholding and notify the requester every 30 days. A recording withheld by the agency shall be disclosed promptly when the specific basis for withholding is resolved.

(B) (i) If the agency demonstrates, on the facts of the particular case, that the public interest in withholding a video or audio recording clearly outweighs the public interest in disclosure because the release of the recording would, based on the facts and circumstances depicted in the recording, violate the reasonable expectation of privacy of a subject depicted in the recording, the agency shall provide in writing to the requester the specific basis for the expectation of privacy and the public interest served by withholding the recording and may use redaction technology, including blurring or distorting images or audio, to obscure those specific portions of the recording that protect that interest. However, the redaction shall not interfere with the viewer's ability to fully, completely, and accurately comprehend the events captured in the recording and the recording shall not otherwise be edited or altered.

(ii) Except as provided in clause (iii), if the agency demonstrates that the reasonable expectation of privacy of a subject depicted in the recording cannot adequately be protected through redaction as described in clause (i) and that interest outweighs the public interest in disclosure, the agency may withhold the recording from the public, except that the recording, either redacted as provided in clause (i) or unredacted, shall be disclosed promptly, upon request, to any of the following:

(I) The subject of the recording whose privacy is to be protected, or their authorized representative.

(II) If the subject is a minor, the parent or legal guardian of the subject whose privacy is to be protected.

(III) If the subject whose privacy is to be protected is deceased, an heir, beneficiary, designated immediate family member, or authorized legal representative of the deceased subject whose privacy is to be protected.

(iii) If disclosure pursuant to clause (ii) would substantially interfere with an active criminal or administrative investigation, the agency shall provide in writing to the requester the specific basis for the agency's determination that disclosure would substantially interfere with the investigation, and provide the estimated date for the disclosure of the video or audio recording. Thereafter, the recording may be withheld by the agency for 45 calendar days, subject to extensions as set forth in clause (ii) of subparagraph (A).

**(C) For purposes of this paragraph, a video or audio recording relates to a critical incident if it depicts any of the following incidents:**

(i) An incident involving the **discharge of a firearm** at a person by a peace officer or custodial officer.

(ii) An incident in which the **use of force** by a peace officer or custodial officer against a person resulted in death or **in great bodily injury**.

(D) An agency may provide greater public access to video or audio recordings than the minimum standards set forth in this paragraph.

(E) This paragraph does not alter, limit, or negate any other rights, remedies, or obligations with respect to public records regarding an incident other than a critical incident as described in subparagraph (C).

(F) For purposes of this paragraph, a peace officer does not include any peace officer employed by the Department of Corrections and Rehabilitation.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of Division 14 of Title 3 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.

(k) Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(l) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's Legal Affairs Secretary. However, public records shall not be transferred to the custody of the Governor's Legal Affairs Secretary to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel, except those records in the public database maintained by the Legislative Counsel that are described in Section 10248.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish their personal qualification for the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, if an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application that are subject to disclosure under this chapter.



(p) (1) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), and Chapter 12 (commencing with Section 3560) of Division 4, and Article 19.5 (commencing with Section 8430) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code, that reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under these chapters. This paragraph shall not be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this paragraph.

(2) Records of local agencies related to activities governed by Chapter 10 (commencing with Section 3500) of Division 4, that reveal a local agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under that chapter. This paragraph shall not be construed to limit the disclosure duties of a local agency with respect to any other records relating to the activities governed by the employee relations act referred to in this paragraph.

(q) (1) Records of state agencies related to activities governed by Article 2.6 (commencing with Section 14081), Article 2.8 (commencing with Section 14087.5), and Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, that reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or that provide instruction, advice, or training to employees.

(2) Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. If a contract for inpatient services that is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

(3) Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee and the Legislative Analyst's Office. The committee and that office shall maintain the confidentiality of the contracts and amendments until the time a contract or amendment is fully open to inspection by the public.

(r) Records of Native American graves, cemeteries, and sacred places and records of Native American places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code maintained by, or in the possession of, the Native American Heritage Commission, another state agency, or a local agency.

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals that has been transmitted to the State Department of Health Care Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, or the records of a municipal hospital, formed pursuant to Article 7 (commencing with Section 37600) or Article 8 (commencing with Section 37650) of Chapter 5 of Part 2 of Division 3 of Title 4 of this code, that relate to any contract with an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 of the Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.

(u) (1) Information contained in applications for licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department that indicates when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of members of their family.

(2) The home address and telephone number of prosecutors, public defenders, peace officers, judges, court commissioners, and magistrates that are set forth in applications for licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(3) The home address and telephone number of prosecutors, public defenders, peace officers, judges, court commissioners, and magistrates that are set forth in licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(v) (1) Records of the Managed Risk Medical Insurance Board and the State Department of Health Care Services related to activities governed by former Part 6.3 (commencing with Section 12695), former Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code, or Chapter 2 (commencing with Section 15810) or Chapter 4 (commencing with Section 15870) of Part 3.3 of Division 9 of the Welfare and Institutions Code, and that reveal any of the following:

(A) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board or the department, entities with which the board or the department is considering a contract, or entities with which the board or department is considering or enters into any other arrangement under which the board or the department provides, receives, or arranges services or reimbursement.

(B) The impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff or the department or its staff, or records that provide instructions, advice, or training to their employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to former Part 6.3 (commencing with Section 12695), former Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code, or Chapter 2 (commencing with Section 15810) or Chapter 4 (commencing with Section 15870) of Part 3.3 of Division 9 of the Welfare and Institutions Code, on or after July 1, 1991, shall be open to inspection one year after their effective dates.

(B) If a contract that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after the effective date of the amendment.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contracts or amendments to the contracts are open to inspection pursuant to paragraph (3).

(w) (1) Records of the Managed Risk Medical Insurance Board related to activities governed by Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, on or after January 1, 1993, shall be open to inspection one year after they have been fully executed.

(3) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contracts or amendments to the contracts are open to inspection pursuant to paragraph (2).

(x) Financial data contained in applications for registration, or registration renewal, as a service contractor filed with the Director of Consumer Affairs pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code, for the purpose of establishing the service contractor's net worth, or financial data regarding the funded accounts held in escrow for service contracts held in force in this state by a service contractor.

(y) (1) Records of the Managed Risk Medical Insurance Board and the State Department of Health Care Services related to activities governed by Part 6.2 (commencing with Section 12693) or former Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code or Sections 14005.26 and 14005.27 of, or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of, the Welfare and Institutions Code, if the records reveal any of the following:

(A) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board or the department, entities with which the board or department is considering a contract, or entities with which the board or department is considering or enters into any other arrangement under which the board or department provides, receives, or arranges services or reimbursement.

(B) The impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or the department or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 6.2 (commencing with Section 12693) or former Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, on or after January 1, 1998, or Sections 14005.26 and 14005.27 of, or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of, the Welfare and Institutions Code shall be open to inspection one year after their effective dates.

(B) If a contract entered into pursuant to Part 6.2 (commencing with Section 12693) or former Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code or Sections 14005.26 and 14005.27 of, or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of, the Welfare and Institutions Code, is amended, the amendment shall be open to inspection one year after the effective date of the amendment.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to paragraph (2) or (3).

(5) The exemption from disclosure provided pursuant to this subdivision for the contracts, deliberative processes, discussions, communications, negotiations, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or the department or its staff, shall also apply to the contracts, deliberative processes, discussions, communications, negotiations, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of applicants pursuant to former Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code or Chapter

3 (commencing with Section 15850) of Part 3.3 of Division 9 of the Welfare and Institutions Code.

(z) Records obtained pursuant to paragraph (2) of subdivision (f) of Section 2891.1 of the Public Utilities Code.

(aa) A document prepared by or for a state or local agency that assesses its vulnerability to terrorist attack or other criminal acts intended to disrupt the public agency's operations and that is for distribution or consideration in a closed session.

(ab) Critical infrastructure information, as defined in Section 131(3) of Title 6 of the United States Code, that is voluntarily submitted to the Office of Emergency Services for use by that office, including the identity of the person who or entity that voluntarily submitted the information. As used in this subdivision, "voluntarily submitted" means submitted in the absence of the office exercising any legal authority to compel access to or submission of critical infrastructure information. This subdivision shall not affect the status of information in the possession of any other state or local governmental agency.

(ac) All information provided to the Secretary of State by a person for the purpose of registration in the Advance Health Care Directive Registry, except that those records shall be released at the request of a health care provider, a public guardian, or the registrant's legal representative.

(ad) The following records of the State Compensation Insurance Fund:

(1) Records related to claims pursuant to Chapter 1 (commencing with Section 3200) of Division 4 of the Labor Code, to the extent that confidential medical information or other individually identifiable information would be disclosed.

(2) Records related to the discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the fund, and any related deliberations.

(3) Records related to the impressions, opinions, recommendations, meeting minutes of meetings or sessions that are lawfully closed to the public, research, work product, theories, or strategy of the fund or its staff, on the development of rates, contracting strategy, underwriting, or competitive strategy pursuant to the powers granted to the fund in Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code.

(4) Records obtained to provide workers' compensation insurance under Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, including, but not limited to, any medical claims information, policyholder information provided that nothing in this paragraph shall be interpreted to prevent an insurance agent or broker from obtaining proprietary information or other information authorized by law to be obtained by the agent or broker, and information on rates, pricing, and claims handling received from brokers.

(5) (A) Records that are trade secrets pursuant to Section 6276.44, or Article 11 (commencing with Section 1060) of Chapter 4 of Division 8 of the Evidence Code, including, without limitation, instructions, advice, or training provided by the State Compensation Insurance Fund to its board members, officers, and employees regarding

the fund's special investigation unit, internal audit unit, and informational security, marketing, rating, pricing, underwriting, claims handling, audits, and collections.

(B) Notwithstanding subparagraph (A), the portions of records containing trade secrets shall be available for review by the Joint Legislative Audit Committee, California State Auditor's Office, Division of Workers' Compensation, and the Department of Insurance to ensure compliance with applicable law.

(6) (A) Internal audits containing proprietary information and the following records that are related to an internal audit:

(i) Personal papers and correspondence of any person providing assistance to the fund when that person has requested in writing that their papers and correspondence be kept private and confidential. Those papers and correspondence shall become public records if the written request is withdrawn, or upon order of the fund.

(ii) Papers, correspondence, memoranda, or any substantive information pertaining to any audit not completed or an internal audit that contains proprietary information.

(B) Notwithstanding subparagraph (A), the portions of records containing proprietary information, or any information specified in subparagraph (A) shall be available for review by the Joint Legislative Audit Committee, California State Auditor's Office, Division of Workers' Compensation, and the Department of Insurance to ensure compliance with applicable law.

(7) (A) Except as provided in subparagraph (C), contracts entered into pursuant to Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code shall be open to inspection one year after the contract has been fully executed.

(B) If a contract entered into pursuant to Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the amendment has been fully executed.

(C) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(D) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to this paragraph.

(E) This paragraph is not intended to apply to documents related to contracts with public entities that are not otherwise expressly confidential as to that public entity.

(F) For purposes of this paragraph, "fully executed" means the point in time when all of the necessary parties to the contract have signed the contract.

This section does not prevent any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

This section does not prevent any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act (29 U.S.C. Sec. 158).

(Amended by Stats. 2019, Ch. 385, Sec. 29. (AB 378) Effective January 1, 2020.)

**Missing Unidentified Persons Resources  
- DOJ Reporting Reference Chart.pdf**



## Missing & Unidentified Persons Investigations Requirements, Tips, & Resources

### Missing Persons Reporting Requirements

#### CA Penal Code 14211(a)

All local police and sheriffs' departments shall accept any report, by any party, including telephonic report, of a missing person, including runaways, without delay and shall give priority to the handling of these reports over the handling of reports relating to crimes involving property.

#### CA Penal Code 14211(e)

If the person reported missing is under 21 years of age, or if there is evidence that the person is at risk, the law enforcement agency receiving the report shall, within two hours after the receipt of the report, electronically transmit the report to the Department of Justice via the California Law Enforcement Telecommunications System for inclusion in the Violent Crime Information Center and the National Crime Information Center databases.

#### CA Penal Code 14212(f)

If the missing person has not been found within 30 days and is also determined to be "at-risk", the lead investigating agency shall execute a written declaration, stating that an active investigation seeking the location of the missing person is being conducted and that dental or skeletal X-rays, or both, and treatment notes, are necessary for the exclusive purpose of furthering the investigation. This declaration shall be taken to the dentist, physician, and surgeon, or medical facility in order to obtain the release of such records. Applicable records shall be submitted to the Attorney General's office for entry into the National Crime Information Center.

#### CA Penal Code 14213(c)

In the event that a missing person is found alive or dead in less than 24 hours and the local police or sheriff's department has reason to believe that the person had been abducted, the department shall submit a report to the center in a format established by the Attorney General. In the event that a missing person has been found before he or she has been reported missing to the center, the information related to the incident shall be submitted to the center.

#### CA Penal Code 14214(a)

The Legislature finds and declares that it is the duty of all law enforcement agencies to immediately assist any person who is attempting to make a report of a missing person or runaway.

#### CA Penal Code 14215(b)

As used in this title, "at-risk" means there is evidence of, or there are indications of, any of the following:

- (1) The person missing is the victim of a crime or foul play.
- (2) The person missing is in need of medical attention.
- (3) The person missing has no pattern of running away or disappearing.
- (4) The person missing may be the victim of parental abduction.
- (5) The person missing is mentally impaired, including cognitively impaired or developmentally disabled.

#### CA Education Code 49068.6

(a) Any law enforcement agency responsible for the investigation of a missing child shall inform the school district, other local educational agency, or private school, in which the child is enrolled, that the child is missing. The notice shall be in writing, shall include a photograph of the child if a photograph is available, and shall be given within 10 days of the child's disappearance.



## Unidentified Deceased Persons Reporting Requirements

### CA Govt. Code 27521(j)

If the coroner, medical examiner, or other agency performing a postmortem examination or autopsy with the aid of the dental examination and any other identifying findings is unable to establish the identity of the body or human remains, the coroner, medical examiner, or other agency shall submit dental charts and dental X-rays of the unidentified deceased person to the Department of Justice on forms supplied by the Department of Justice within 45 days of the date the body or human remains were discovered.

### CA Govt. Code 27521(k)

If the coroner, medical examiner, or other agency performing a postmortem examination or autopsy with the aid of the dental examination and other identifying findings is unable to establish the identity of the body or human remains, the coroner, medical examiner, or other agency shall submit the final report of investigation to the Department of Justice within 180 days of the date the body or human remains were discovered. The final report of investigation shall list or describe the information collected pursuant to the postmortem examination or autopsy and any anthropology report, fingerprints, photographs, and autopsy report.

### CA Govt. Code 27521.1

The law enforcement agency investigating the death of an unidentified person shall report the death to the Department of Justice, in a format acceptable to the Department of Justice, no later than 10 calendar days after the date the body or human remains were discovered.

## Tips for Missing Persons Cases

**Report types cannot** be modified. Occasionally more information will come in at a later date that may prompt you to want to change the report type. This means a new record will need to be entered with the proper report type and the previous record canceled. The new record will have a new FCN and NIC number. If the original record had dental and/or DNA information, contact MUPS so that dental information can be added to the new record. Contact the MPDP Unit to have the DNA added. To avoid the incorrect report type see the helpful examples below:

**Stranger Abduction:** a 30-year old woman is reported missing when she fails to come home from work and a co-worker reports seeing her being physically forced into a truck

**Suspicious Circumstances:** a pregnant woman is reported missing when she does not return home from a shopping trip and was last seen getting into a vehicle with two unknown men (please describe circumstances in the miscellaneous field)

**Voluntary:** a man who is otherwise very dependable was reported missing by his employer after failing to come to work for 3 days, a welfare check showed he had moved out of his apartment without leaving a forwarding address

**Unknown:** a man is reported missing after he failed to return home in a reasonable amount of time after taking the family dog out for a walk (please describe details in the miscellaneous field)

**Dependent Adult:** an elderly man with dementia who resides at a care facility is reported missing after having been seen boarding a city bus

**Lost:** a woman is reported missing after she left a group of friends at their campsite to hike in a nearby wooded area and has failed to return before dark

**Catastrophe:** a man was swept away from a beach by a tidal wave and witnesses did not see him resurface

### **Do Not:**

Remove MPS entry due to a warrant being found in NCIC or other criminal database

Cancel the record solely because of the NCIC Emancipation Notification teletype.

Remove MPS entry simply because it is "too old"

Remove MPS entry because you cannot move forward in the investigation

Remove MPS entry when any kind of partial remains have been linked to your MP

Remove MPS entry just because the family has had the MP declared legally deceased

\*If an out-of-state locate is put on your NCIC record this will automatically cancel the NCIC record, but you have to cancel the CJIS record.

### Tips for Handling Living Doe Cases

- Make an entry via the California Law Enforcement Telecommunication System (CLETS) into the California Unidentified Person System (UPS) using "L" for the Report Type Code (Unidentified Living Person). An Unidentified Living Person is defined as a person who is living and unable to ascertain his/her identity (e.g. dementia, amnesia victim, infant, etc.). Obtain the most complete and accurate physical descriptor information as soon as possible. Document any scar, marks, or tattoos, any jewelry and/or clothing at the time of Date Body Found (DBF), and the exact location where the Living Doe was found. Pack the UP entry. The UP entry will generate an automatic National Crime Information Center (NCIC) cross-match search to the Missing Persons System (MPS) database. Any possible matches will be sent in the form of a \$.M message. Do not enter your Living Doe into the MPS.
- It's a good idea to take photographs of the Living Doe. Ask for hospital assistance with this as they are usually willing to help. Photographs are great for flyers (if you don't already utilize Critical Reach flyers, you may wish to consider looking into it as a future resource: <http://www.apbnet.net/>, media releases, and comparing and excluding possible matches. You may also forward the photo to MUPS for placement on the California Attorney General's website by emailing [missing\\_persons@doj.ca.gov](mailto:missing_persons@doj.ca.gov) or sending via U.S. mail to:

California Department of Justice  
Missing & Unidentified Persons Section  
P.O. Box 160968  
Sacramento, CA 95816-0968

- You may also want to ask the hospital to locate the "Ambulance Run Sheet". Sometimes there is additional information (such as a witness statement mentioning a moniker, clothing, cross streets, etc.), that may be helpful when searching for possible matches.
- If there are no matching missing person records, fingerprints are often the quickest way to identify a Living Doe. Attempt to fingerprint the Living Doe and, if you do not receive a hit, forward the prints to MUPS.
- Off-line NCIC searches can be requested based on physical descriptors and/or any possible names provided for or by the Living Doe. NCIC can be reached at [ioau@fbi.gov](mailto:ioau@fbi.gov) or 304-625-3000. Depending on the circumstance, it might be useful to ask for both active and inactive MP records. If there is not a matching active record, an inactive record can provide identifying information and reporting party/next-of-kin information. You may also request inactive UP records with a "Living" report type. Living Doe's often have previous inactive MP and UP records that can be quite helpful.
- After other efforts are utilized, you may wish to consider sending DOJ MUPS dental X-rays and charts.
- DNA is also an option. Collection kits may be requested from [DNAMissingpersons@doj.ca.gov](mailto:DNAMissingpersons@doj.ca.gov) and submitted to the DOJ Richmond Lab.
- At any time during the course of the investigation you may contact MUPS for additional assistance, or if you have any questions, at (916) 210-3119.
- Once you have identified your Living Doe, please update the miscellaneous field before canceling the UP record. Update with the name, date of birth, and any other pertinent next-of-kin or identifying information that might be helpful for future NCIC off-line searches in case the individual should become a Living Doe again.
- For more information on Safely Surrendered Babies, please visit: <https://www.cdss.ca.gov/inforesources/safely-surrendered-baby>

## Resources

### **APBnet**

[www.apbnet.net](http://www.apbnet.net)

650-558-8081

\*The APBnet Law Enforcement Alert System enables any officer to build a color photo bulletin & electronically distribute

\*MUPS can create and distribute flyers for your cases

### **California Attorney General**

<https://oag.ca.gov/missing>

### **California Child Abduction Task Force**

<https://cirinc.org/abduction/about.html>

\*Provides free multi-disciplinary trainings

### **California Department of Justice Missing Persons DNA Program (MPDP)**

Main line: 510-620-3300/ spring of 2021 number will be changed to 510-255-8700

Main email: [DNAMissingpersons@doj.ca.gov](mailto:DNAMissingpersons@doj.ca.gov)

### **California Department of Justice Missing & Unidentified Persons Section (MUPS)**

Main line: 916-210-3119

Hotline: 1-800-222-3463

eFAX: 916-731-3617

Main email: [missing.persons@doj.ca.gov](mailto:missing.persons@doj.ca.gov)

### **California Highway Patrol Amber Alert/ENTAC**

Main line: 916-843-4199

Main email: [entac@chp.ca.gov](mailto:entac@chp.ca.gov)

### **CLEW**

<https://clew.doj.ca.gov/>

### **Missing Persons Investigations Guidelines & Curriculum**

<https://www.post.ca.gov/missing-persons.aspx>

### **NamUs**

<https://namus.gov/>

Allison O'Neal

Cell: 817-375-2164

Main Line: 855-626-7600

Email: [Allison.oneal@unthsc.edu](mailto:Allison.oneal@unthsc.edu)

### **NCIC Off-line Searches**

NCIC Analysts: 304-625-3000

Email: [joau@fbi.gov](mailto:joau@fbi.gov)

\*You can also contact MUPS for Off-line search request assistance

**NCIC Validation Questions: 916-210-3208**

### **Nevada Child Seekers**

<http://nevadachildseekers.org/>

### **Polly Klaas Foundation**

<http://www.pollyklaas.org/>

**US State Department: 1-888-407-4747**



California Department of Justice  
Missing and Unidentified Persons Section

**Reporting Reference Chart**


All local police and sheriffs' departments shall accept any report of a missing person (MP) without delay, per Penal Code (PC) § 14211(a). Additional requirements/guidelines are below. As you read the chart from left to right, report types are listed by age group, and note the applicable code section: PC, Education Code (EC), or federal statute (U.S.C.).

Required Action MP Age	“Be On the Look-Out” Bulletin	Initial Entry into the DOJ Missing Person System (MPS)	Copy of MP Report Forwarded to Appropriate Jurisdiction	Obtain Dental and/or Skeletal X-Rays and Treatment Notes	Initial Coroner Check	MP Report with Photograph and X-rays Submitted to DOJ <sup>2</sup>	Written Notice Submitted to School	DNA - Advise Family of Right to Submit Sample <sup>3</sup>	Validate and Update MPS Record
<b>At Risk<sup>1</sup> (Any Age)</b>	Without Delay <i>PC § 14211(d)</i>	Within 2 Hours <i>PC § 14211(e)</i>	Within 24 Hours <i>PC § 14211(g)</i>	At 30 days <i>PC § 14212(d)</i>	Recommended Within 30 days <i>PC § 14212(g)</i>	Recommended Within 30 days <i>PC § 14212(g)</i>	If a child, within 10 Days <i>EC § 49068.6</i>	Within 30 Days <i>PC § 14250(c)(2)</i>	Within 60 days <i>NCIC Guidelines</i>
<b>Ages 0 to 15</b>	Without Delay <i>PC § 14211(d)</i>	Within 2 Hours <i>PC § 14211(e)</i>	Within 24 Hours <i>PC § 14211(g)</i>	Within 60 Days <i>PC § 14211(f)</i>	Recommended Within 30 days <i>PC § 14212(g)</i>	Recommended Within 30 days <i>PC § 14212(g)</i>	Within 10 Days <i>EC § 49068.6</i>	Recommended After 30 days	Within 60 days <i>NCIC Guidelines</i>
<b>Ages 16 to 17</b>	Without Delay <i>PC § 14211(d)</i>	Within 2 Hours <i>PC § 14211(e)</i>	Within 24 Hours <i>PC § 14211(g)</i>	Within 60 Days <i>PC § 14211(f)</i>	Recommended Within 30 days <i>PC § 14212(g)</i>	Recommended Within 30 days <i>PC § 14212(g)</i>	Within 10 Days <i>EC § 49068.6</i>	Recommended After 30 days	Within 60 days <i>NCIC Guidelines</i>
<b>Ages 18 to 20</b>	Without Delay <i>PC § 14211(d)</i>	Within 2 Hours <i>PC § 14211(e)</i>	Within 24 Hours <i>PC § 14211(g)</i>	Within 60 Days <i>PC § 14211(f)</i>	Recommended Within 30 days <i>PC § 14212(g)</i>	Recommended Within 30 days <i>PC § 14212(g)</i>	Not Applicable	Recommended After 30 days	Within 60 days <i>NCIC Guidelines</i>
<b>Ages 21 and over</b>	Law Enforcement Discretion	Without Unreasonable Delay	Within 24 Hours <i>PC § 14211(g)</i>	Within 60 Days <i>PC § 14211(f)</i>	Recommended Within 30 days <i>PC § 14212(g)</i>	Recommended Within 30 days <i>PC § 14212(g)</i>	Not Applicable	Recommended After 30 days	Within 60 days <i>NCIC Guidelines</i>

<sup>1</sup> Per PC § 14215(b), “at risk” means there is evidence of, or there are indications of, any of the following: (1) is a victim of a crime or foul play, (2) is in need of medical attention, (3) has no pattern of running away or disappearing, (4) may be the victim of a parental abduction, or (5) is mentally impaired, including cognitively impaired or developmentally disabled.

<sup>2</sup> Per Health & Safety Code § 102870, the DOJ shall act as a repository for dental examination records of missing and unidentified person and will compare the records for the purposes of identification.

<sup>3</sup> Per PC § 14250(a)(4), for the purpose of DNA collection, a high-risk missing person is anyone missing as a result of a stranger abduction, suspicious circumstances, unknown circumstances, there is reason to assume the person is in danger or deceased, and that the person has been missing for more than 30 days or less in the discretion of the investigating agency.

<p>California Department of Justice CALIFORNIA JUSTICE INFORMATION SERVICES DIVISION Joe Dominic, Chief</p> 	<h1>INFORMATION BULLETIN</h1>	
<p><i>Subject:</i> Senate Bill (SB) 388: Missing persons: reports: local agencies – Effective Date January 1, 2021</p>	<p><i>No.</i> 20-10-CJIS</p> <p><i>Date:</i> 01-08-2021</p>	<p><i>Contact for information:</i> Missing &amp; Unidentified Persons Section <a href="mailto:missing.persons@doj.ca.gov">missing.persons@doj.ca.gov</a></p>

**TO: ALL CALIFORNIA LAW ENFORCEMENT AGENCIES**

Senate Bill (SB) 388 (Stats. 2020, ch. 288) mandates that if a missing person has not been found within 30 days and is also determined to be at-risk pursuant to Penal Code (PC) section 14215(b), and if the missing person's dental and/or skeletal X-rays and treatment notes have not otherwise been obtained by investigators, the lead investigating agency shall execute a written declaration, stating that an active investigation seeking the location of the missing person is being conducted and that the dental or skeletal X-rays, or both, and treatment notes, are necessary for the exclusive purpose of furthering the investigation.

This declaration shall be taken to the dentist, physician, and surgeon, or medical facility in order to obtain the release of the dental or skeletal X-rays, or both, and treatment notes, to secure those records. Applicable records shall be submitted to the Attorney General's office to code and enter the dental or skeletal X-rays, or both, into the center's database, which shall serve as the statewide database for those X-rays, and shall forward the information to the National Crime Information Center pursuant to PC section 14212(f).

This mandate will go into effect on **January 1, 2021**.

The California Department of Justice *Authorization to Release Dental/Skeletal X-Rays/Treatment Notes/Photograph of Missing Person* (BCIA 4048) form is included for reference.

For questions about this bulletin, or any other Missing Person Investigation related concerns, contact the Missing & Unidentified Persons Section at [missing.persons@doj.ca.gov](mailto:missing.persons@doj.ca.gov).

Sincerely,



JOE DOMINIC, Chief  
California Justice Information Services Division

For XAVIER BECERRA  
Attorney General



## AUTHORIZATION TO RELEASE DENTAL/SKELETAL X-RAYS/TREATMENT NOTES/PHOTOGRAPH OF MISSING JUVENILE

NAME OF MISSING JUVENILE	
REPORTING AGENCY AND CASE NUMBER	REPORTING PARTY

Under California Penal Code Section 14212, the family or next-of-kin of any person under the age of 18 years who is reported missing and has not been located within thirty (30) days may authorize the release of the dental or skeletal X-rays, or both, and treatment notes and a recent photograph of the missing juvenile. This release form **shall** be taken to the dentist, physician and surgeon, or medical facility of the missing person to obtain the release of the dental or skeletal X-rays and treatment notes. The dental or skeletal X-rays, or both, **shall** be released to the person presenting this request. The person to whom the records are released **shall**, within ten (10) days, bring those records to the police or sheriff's department or other law enforcement agency having jurisdiction over the investigation.

If your missing juvenile is found, please notify the law enforcement agency **immediately**.

### AUTHORIZATION

I am a family member, next-of-kin, or law enforcement official investigating the disappearance of the above-named missing juvenile and I hereby authorize the release of all dental or skeletal X-rays and treatment notes to assist law enforcement agencies in locating the above-named missing juvenile. I also consent to the release of the above-named missing juvenile's photograph, physical description, and circumstances surrounding the disappearance. This information may be used by the Department of Justice for inclusion in missing children bulletins and posters which will be distributed throughout California to law enforcement agencies, elementary and secondary schools, state buildings, appropriate roadside rest areas, and other parties determined appropriate by the Department of Justice to assist in locating the missing juvenile, including the Attorney General's Website at <https://oag.ca.gov/>.

NAME OF DENTIST			
ADDRESS			
CITY	STATE	ZIP	TELEPHONE NUMBER
NAME OF PHYSICIAN, SURGEON OR MEDICAL FACILITY			
ADDRESS			
CITY	STATE	ZIP	TELEPHONE NUMBER
SIGNATURE OF FAMILY MEMBER OR LAW ENFORCEMENT OFFICIAL			
PRINTED NAME OF FAMILY MEMBER OR LAW ENFORCEMENT OFFICIAL			
RELATIONSHIP TO MISSING JUVENILE		DATE	
ADDRESS			
CITY	STATE	ZIP	TELEPHONE NUMBER



## AUTHORIZATION TO RELEASE DENTAL/SKELETAL X-RAYS AND TREATMENT NOTES OF MISSING ADULT

NAME OF MISSING ADULT	
REPORTING AGENCY AND CASE NUMBER	REPORTING PARTY

Under California Penal Code Section 14212, the family or next-of-kin of any person reported missing and has not been located within thirty (30) days may authorize the release of the dental or skeletal X-rays, or both, and treatment notes of the person reported missing. This release form **shall** be taken to the dentist, physician and surgeon, or medical facility of the missing person to obtain the release of the dental or skeletal X-rays and treatment notes. The dental or skeletal X-rays, or both, and treatment notes **shall** be released to the person presenting this request. The person to whom the records are released **shall**, within ten (10) days, bring those records to the police or sheriff's department or other law enforcement agency having jurisdiction over the investigation.

If your missing adult is found, please notify the law enforcement agency **immediately**.

### AUTHORIZATION

I am a family member, next-of-kin, or law enforcement official investigating the disappearance of the above-named missing adult and I hereby authorize the release of all dental or skeletal X-rays and treatment notes to assist law enforcement agencies in locating the above-named missing adult. I also consent to the release of the above-named missing adult's photograph, physical description, and circumstances surrounding the disappearance. This information may be used by the Department of Justice for inclusion in missing person bulletins and posters which will be distributed throughout California to law enforcement agencies, state buildings, appropriate roadside rest areas, and other parties determined appropriate by the Department of Justice to assist in locating the missing person, including the Attorney General's Website at <https://oag.ca.gov/>.

NAME OF DENTIST			
ADDRESS			
CITY	STATE	ZIP	TELEPHONE NUMBER
NAME OF PHYSICIAN, SURGEON OR MEDICAL FACILITY			
ADDRESS			
CITY	STATE	ZIP	TELEPHONE NUMBER
SIGNATURE OF FAMILY MEMBER OR LAW ENFORCEMENT OFFICIAL			
PRINTED NAME OF FAMILY MEMBER OR LAW ENFORCEMENT OFFICIAL			
RELATIONSHIP TO MISSING ADULT		DATE	
ADDRESS			
CITY	STATE	ZIP	TELEPHONE NUMBER

**20190SB388\_96 (3) SB 388.pdf**



## Senate Bill No. 388

### CHAPTER 228

An act to amend Sections 14211 and 14212 of the Penal Code, relating to missing persons.

[Approved by Governor September 28, 2020. Filed with Secretary of State September 28, 2020.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 388, Galgiani. Missing persons: reports: local agencies.

Existing law requires all local police and sheriffs' departments to accept reports of missing persons without delay and to use a specified form in order to obtain the release of dental or skeletal X-ray records, as provided. If the missing person is under 21 years of age, or the person is determined to be at risk, existing law requires the police department or sheriff's department to broadcast a "Be On the Lookout" bulletin and to transmit the report to the Department of Justice, as provided.

Under existing law, these requirements are not operative in a local jurisdiction if the governing body of a local agency adopts a resolution expressly making these requirements inoperative.

This bill would delete the authorization to make the reporting requirements inoperative in a local jurisdiction by resolution, thereby making those requirements mandatory and imposing a state-mandated local program.

If a missing person is determined to be an at-risk person and has not been found within 30 days, existing law allows a law enforcement agency to execute a written declaration in order to facilitate the release of dental or skeletal X-rays, or both, and treatment notes.

This bill would make the execution of a written declaration by the law enforcement agency mandatory if those records have not otherwise been obtained. By imposing new duties on local law enforcement, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

*The people of the State of California do enact as follows:*

SECTION 1. Section 14211 of the Penal Code is amended to read:

14211. (a) All local police and sheriffs' departments shall accept any report, by any party, including any telephonic report, of a missing person, including runaways, without delay and shall give priority to the handling of these reports over the handling of reports relating to crimes involving property.

(b) If the person making a report of a missing person or runaway, contacts, including by telephone, the Department of the California Highway Patrol, the Department of the California Highway Patrol may take the report, and shall immediately advise the person making the report of the name and telephone number of the police or sheriff's department having jurisdiction of the residence address of the missing person and of the name and telephone number of the police or sheriff's department having jurisdiction of the place where the person was last seen.

(c) In cases of reports involving missing persons, including, but not limited to, runaways, the local police or sheriff's department shall immediately take the report and make an assessment of reasonable steps to be taken to locate the person by using the report forms, checklists, and guidelines required under Section 13519.07.

(d) If the missing person is under 21 years of age, or there is evidence that the person is at risk, the police department or sheriff's department shall broadcast a "Be On the Lookout" bulletin, without delay, within its jurisdiction.

(e) If the person reported missing is under 21 years of age, or if there is evidence that the person is at risk, the law enforcement agency receiving the report shall, within two hours after the receipt of the report, electronically transmit the report to the Department of Justice via the California Law Enforcement Telecommunications System for inclusion in the Violent Crime Information Center and the National Crime Information Center databases.

(f) Information not immediately available for electronic transmission to the department shall be obtained by the investigating agency and provided as a supplement to the original entry as soon as possible, but in no event later than 60 days after the original electronic entry. Supplemental information may include, but is not limited to, the following:

- (1) Dental records and treatment notes.
- (2) Fingerprints.
- (3) Photographs.
- (4) Description of physical characteristics.
- (5) Description of clothing the person was wearing when last seen.
- (6) Vehicle information.
- (7) Other information describing any person or vehicle believed to be involved in taking, abducting, or retaining the missing person.

(g) If the report is taken by a department, other than that of the city or county of residence of the missing person or runaway, the department, or division of the Department of the California Highway Patrol taking the report shall, without delay, and, in the case of persons under 21 years of age or if there was evidence that the missing person was at risk, within no more than 24 hours, notify, and forward a copy of the report to the police

or sheriff's department or departments having jurisdiction of the residence address of the missing person or runaway and of the place where the person was last seen. The report shall also be submitted by the department or division of the Department of the California Highway Patrol which took the report to the center. The initial California Law Enforcement Telecommunications System record may only be removed after the receiving agency has accepted the report.

SEC. 2. Section 14212 of the Penal Code is amended to read:

14212. (a) If any person makes a report of a missing person to a police department, sheriff's department, district attorney's office, Department of the California Highway Patrol, or other law enforcement agency, the agency shall use the Attorney General's form as required under Section 13519.07. That form shall include a statement authorizing the release of the dental or skeletal X-rays, or both, and treatment notes, of the person reported missing and authorizing the release of a recent photograph of a person reported missing who is under 18 years of age.

(b) Included with the form shall be instructions that state that if the person reported missing is still missing 30 days after the report is made, the release form signed by a member of the family or next of kin of the missing person shall be taken by the family member or next of kin to the dentist, physician and surgeon, or medical facility in order to obtain the release of the dental or skeletal X-rays, or both, and treatment notes, of that person or may be taken by a peace officer, if others fail to take action, to secure those X-rays and treatment notes.

(c) Notwithstanding any other law, dental or skeletal X-rays, or both, and treatment notes, shall be released by the dentist, physician and surgeon, or medical facility to the person presenting the request and shall be submitted within 10 days by that person to the police or sheriff's department or other law enforcement agency having jurisdiction over the investigation.

(d) If the person reported missing has been determined by the agency to be an at-risk person, has not been found within 30 days, and the dental or skeletal X-rays, or both, and treatment notes have not been released pursuant to subdivision (b) or otherwise obtained, the law enforcement agency shall execute a written declaration, stating that an active investigation seeking the location of the missing person is being conducted, and that the dental or skeletal X-rays, or both, and treatment notes, are necessary for the exclusive purpose of furthering the investigation.

(e) Notwithstanding any other law, the written declaration, signed by a peace officer, is sufficient authority for the dentist, physician and surgeon, or medical facility to immediately release the missing person's dental or skeletal X-rays, or both, or treatment notes.

(f) The Attorney General's office shall code and enter the dental or skeletal X-rays, or both, into the center's database, which shall serve as the statewide database for those X-rays, and shall forward the information to the National Crime Information Center.

(g) If a person reported missing has not been found within 30 days, the sheriff, chief of police, or other law enforcement agency conducting the

investigation for the missing person may confer with the coroner or medical examiner prior to the preparation of a missing person report. The coroner or medical examiner shall cooperate with the law enforcement agency. After conferring with the coroner or medical examiner, the sheriff, chief of police, or other law enforcement agency initiating and conducting the investigation for the missing person may submit a missing person report and the dental or skeletal X-rays, or both, and photograph received pursuant to subdivision (a) to the Attorney General's office in a format acceptable to the Attorney General.

(h) Nothing in this section prohibits a parent or guardian of a child, reported to a law enforcement agency as missing, from voluntarily submitting fingerprints, and other documents, to the law enforcement agency accepting the report for inclusion in the report which is submitted to the Attorney General.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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*The Indio Police Department does not endorse, have any responsibility for, or exercise control over these organizations' and agencies' views, services, and information.*

**District Attorney Victim-Witness Assistance Program:** If you are the victim of a crime, you may be eligible for reimbursement from the State for certain expenses (medical, lost wages, etc.). 760-863-8408, Monday-Friday, 7:30a.m.-5:00 p.m.  
[www.rivcodca.org/openens/victimwitness](http://www.rivcodca.org/openens/victimwitness)

**Valley Crime Stoppers:** Rewards up to \$1,000 may be paid for anonymous tips leading up to the arrest and indictment of felons and fugitives. 760-341-STOP (760-341-7876), 24/7.  
[www.341stop.com](http://www.341stop.com)

**Domestic Violence Services:** Shelter From The Storm provides comprehensive services to victims of domestic violence. 760-328-7233, 24/7.  
[www.shelterfromthestorm.com](http://www.shelterfromthestorm.com)

**Sexual Assault Services:** Support and Services for survivors of sexual assault and domestic violence. 760-568-9071, 24/7.  
[www.sbsas.org](http://www.sbsas.org)

### Additional Resources

**Victim Compensation Board:** Can help victims pay for: mental health counseling, funeral costs, loss of income, crime scene cleanup, relocation, medical and dental bills. 1-800-777-9229  
[www.victims.ca.gov](http://www.victims.ca.gov)

**CA Dept. of Corrections and Rehabilitation, OVSRS:** Provides information on offender release, restitution, parole conditions and parole hearings when the offender is incarcerated in prison. 1-877-256-6877 [www.cdcr.ca.gov/victim\\_services](http://www.cdcr.ca.gov/victim_services)

**McGeorge School of Law: Victims of Crime Resource Center -** Provides resources for victims by their geographic area along with information on victims' rights. 1-800-VICTIMS (1-800-842-8467) [www.1800victims.org](http://www.1800victims.org)

**National Domestic Violence Hotline:** 1-800-799-7233  
[www.thehotline.org](http://www.thehotline.org)

**Adult Protective Services County Information:** (Elder abuse) 24 hour hotline numbers by county in California.  
[www.cdss.ca.gov/inforesources/County-APS-Offices](http://www.cdss.ca.gov/inforesources/County-APS-Offices)

**National Child Abuse Hotline:** Treatment and prevention of child abuse. 1-800-422-4453 [www.childhelp.org](http://www.childhelp.org)

**Rape, Abuse & Incest National Network:** 1-800-656-4673  
[www.rainn.org](http://www.rainn.org)

**Traffic Collision Reports:** To determine if a traffic collision report is available, please contact the RECORDS BUREAU at the Indio Police Department in person or by calling (760) 391-4057, Monday-Friday 8a.m.-5 p.m.. A Fee will be charged for any copies of reports. You may also purchase a copy of a traffic collision report by accessing <https://ecrash.lexisnexis.com/>.

**Crime Reports:** To determine if you are eligible to attain a crime report, please contact the RECORDS BUREAU at the Indio Police Department in person or by calling (760) 391-4057, Monday-Friday 8a.m.-5 p.m. By law some police reports may not be released.

**IF YOUR RECOVER ANY OF YOUR OWN PROPERTY, PLEASE NOTIFY THE INDIO POLICE DEPARTMENT IMMEDIATELY. ALWAYS REFER TO THE REPORT NUMBER YOU WERE GIVEN.**

(Notes)

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# INDIO POLICE

## THE VICTIMS' BILL OF RIGHTS ACT OF 2008 Marsy's Card and Resources

To provide victims with rights to justice and due process

RETAIN THIS INFORMATION for insurance purposes and/or future contact with Police concerning this incident.

Officer: \_\_\_\_\_

Report #: \_\_\_\_\_

Date/Time: \_\_\_\_\_

Type: \_\_\_\_\_

### Indio Police Department

46800 Jackson Street  
Indio, CA 92201  
(760) 391-4057  
[www.indio.org](http://www.indio.org)

*"Our Community...Our Commitment"*

**3686\_Senior\_and\_Disability\_Justice\_Act -368.6.pdf**

[West's Annotated California Codes](#)

[Penal Code \(Refs & Annos\)](#)

[Part 1. Of Crimes and Punishments \(Refs & Annos\)](#)

[Title 9. Of Crimes Against the Person Involving Sexual Assault, and Crimes Against Public Decency and Good Morals \(Refs & Annos\)](#)

[Chapter 13. Crimes Against Elders, Dependent Adults, and Persons with Disabilities \(Refs & Annos\)](#)

West's Ann.Cal.Penal Code § 368.6

## § 368.6. Senior and Disability Justice Act

Effective: January 1, 2020

[Currentness](#)

- (a) This section shall be known, and may be cited, as the Senior and Disability Justice Act.
- (b) As used in this section, the following terms have the following meanings:
- (1) "Agency protocol" means a procedure adopted by a local law enforcement agency consistent with the agency's organizational structure, and stated in a policy adopted pursuant to this section, to effectively and accountably carry out a particular agency responsibility.
  - (2) "Caretaker" has the same meaning as defined in [Section 368](#) and includes caretakers whether or not they are paid.
  - (3) "Dependent adult" has the same meaning as defined in [Section 368](#).
  - (4) "Dependent person" has the same meaning as defined in [Section 288](#).
  - (5) "Disability" includes mental disability and physical disability as defined in [Sections 12926](#) and [12926.1 of the Government Code](#), regardless of whether those disabilities are temporary, permanent, congenital, or acquired by heredity, accident, injury, illness, or advanced age.
  - (6) "Domestic violence" has the same meaning as defined in [Section 13700](#) and includes a violation of [Section 273.5](#).
  - (7) "Elder" has the same meaning as defined in [Section 368](#).
  - (8) "Elder and dependent adult abuse" means a violation of [Section 368](#) and includes physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm, pain, or mental suffering, or the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering.
  - (9) "Hate crime" has the same meaning as set forth in [Sections 422.55](#) and [422.56](#).
  - (10) "Human trafficking" means a violation of [Section 236.1](#).
  - (11) "Local law enforcement agency" means every municipal police department and county sheriffs' department.
  - (12) "Mandated reporting requirements" means any of the following:
    - (A) The requirements of Article 2.5 (commencing with [Section 11164](#)) of Chapter 2 of Title 1 of Part 4.



(B) The requirements of [Sections 15630 and 15630.1](#) and subdivision (d) of [Section 15640](#) of the [Welfare and Institutions Code](#) concerning reporting of elder and dependent adult abuse.

(C) The prohibitions on inhibiting or impeding reporting pursuant to the requirements in subparagraph (A) or (B).

(13) “Senior and disability victimization” means any of the following:

(A) Elder and dependent adult abuse.

(B) Unlawful interference with a mandated report.

(C) Homicide of an elder, dependent adult, or other adult or child with a disability.

(D) Sex crimes against elders, dependent adults, or other adults and children with disabilities.

(E) Child abuse of children with disabilities.

(F) Violation of relevant protective orders.

(G) Hate crimes against persons with actual or perceived disabilities, including, but not limited to, disabilities caused by advanced age, or those associated with them.

(H) Domestic violence against elders, dependent adults, and adults and children with disabilities, including disabilities caused by advanced age.

(14) “Relevant protective order” means an order by a California or out-of-state court, including, but not limited to, a tribal, federal, United States territorial, or United States military court, protecting an elder, dependent adult, dependent person, or other adult or child with a disability.

(15) “Responsible agency” means a local, state, or federal agency with responsibilities concerning senior and disability victimization. This includes, but is not limited to, law enforcement agencies, adult protective services agencies, child protective services agencies, the Office of the State Long-Term Care Ombudsman and its designated local agencies, fire and emergency medical services, regional centers pursuant to the Lanterman Developmental Disabilities Services Act, elder and disability service agencies, sexual assault and domestic violence agencies, elder and dependent adult death review teams, local government human relations commissions, coroners, probate court investigators, public administrators, public guardians, public conservators, district attorney’s offices, city attorney’s offices or other prosecutors with jurisdiction, the Bureau of Medi-Cal Fraud and Elder Abuse, state licensing agencies, the United States Attorney’s offices, and the Federal Bureau of Investigation.

(16) “Sex crime” means (A) an offense requiring registration pursuant to the Sex Offender Registration Act or (B) a violation of [Section 729 of the Business and Professions Code](#).

(17) “State protection and advocacy agency” means the agency designated pursuant to [Division 4.7 \(commencing with Section 4900\) of the Welfare and Institutions Code](#).

(18) “Unlawful interference in a mandated report” includes, but is not limited to, inhibiting or impeding reporting in violation of the mandated reporting requirements or a violation of [Section 136.1](#) that concerns the mandated reporting requirements.

(c) Each local law enforcement agency may adopt a policy regarding senior and disability victimization. A municipal police department or county sheriffs’ department that adopts or revises a policy regarding elder and dependent adult abuse or senior and disability victimization on or after April 13, 2021, shall include, but not be limited to, all of the following items:

(1) Information on the wide prevalence of elder and dependent adult abuse, sexual assault, other sex crimes, hate crimes, domestic violence, human trafficking, and homicide against adults and children with disabilities, including disabilities caused by advanced age, and including those crimes often committed by caretakers.

(2) A statement of the agency’s commitment to providing equal protection and demonstrating respect for all persons

regardless of age or disabilities, and to conscientiously enforcing all criminal laws protecting elders, and adults and children with disabilities, regardless of whether these crimes also carry civil penalties.

(3) The definitions and elements of the offenses specified in [paragraph \(2\) of subdivision \(b\) of Section 288](#) and in [subdivisions \(c\) and \(f\) of Section 368](#), noting that they protect many persons with disabilities regardless of the fact they live independently.

(4)(A) The fact that elder and dependent adult abuse, sex crimes, child abuse, domestic violence, and any other criminal act, when committed in whole or in part because of the victim's actual or perceived disability, including disability caused by advanced age, is also a hate crime.

(B) In recognizing suspected disability-bias hate crimes, the policy shall instruct officers to consider whether there is any indication that the perpetrator committed the criminal act because of bias, including, but not limited to, the bias motivations described in [subparagraphs \(B\) and \(C\) of paragraph \(3\) of subdivision \(a\) of Section 422.87](#).

**(5) An agency protocol and schedule for training officers** with both of the following:

(A) The training materials made available by the Commission on Peace Officer Standards and Training pursuant to [Sections 13515, 13515.25, 13515.27, 13515.28, 13515.29, 13515.295, 13515.30, 13515.35, and 13519.2](#). In the case of the training materials identified in each of these sections, the agency protocol shall require the training for, at a minimum, the category of officers for whom that section states that the training is intended or required or, if the section does not state for whom the training material is required or intended, those officers identified pursuant to paragraph (16).

(B) The agency's policy pursuant to this section.

(6) A requirement that when an officer intends to interview a victim or witness to an alleged crime and the victim or witness reports or demonstrates deafness or hearing loss, the officer first secure the services of an interpreter as defined in [Section 754 of the Evidence Code](#). The agency shall have a protocol for securing the services of the interpreter to ensure accurate interpretation.

(7) An agency protocol for providing appropriate training concerning the agency's policy to dispatchers, community services officers, front desk personnel, and other civilian personnel who interact with the public.

(8)(A) The fact that the agency requires officers to investigate every report of senior and disability victimization, and does not dismiss any reports as merely civil matters or for any other reason without an investigation.

**(B) An appendix to the policy describing the requirements for these investigations, including, but not limited to, all of the following:**

**(i) An agency protocol or protocols for cooperating and collaborating whenever possible with the Bureau of Medi-Cal Fraud and Elder Abuse, other state law enforcement agencies with jurisdiction, adult and child protective services, local long-term care ombudsman programs, and, when appropriate, other responsible agencies.**

**(ii) Appropriate techniques for interviewing potential victims and witnesses with cognitive or communication disabilities, including, but not limited to, avoiding repeated interviews when possible.**

**(iii) The elements of the investigation, including, but not limited to, all of the following:**

**(I) Checking prior reports received by adult or child protective services agencies, local long-term care ombudsman programs, except as provided in [Section 9725 of the Welfare and Institutions Code](#), and any other responsible agencies.**

**(II) Interviewing each alleged victim, each witness, and each suspect who is available.**

**(III) Viewing all body-worn camera videos and all other films.**

(IV) Listening to all calls from mandated reports or other callers.

(V) Making reasonable efforts to determine whether any person committed unlawful interference in a mandated report.

(iv) An agency protocol for transmitting the crime report to the appropriate prosecution office if the law enforcement agency recommends prosecution.

(v) If the agency deems it appropriate, the Investigation Response section and Addendum B of the San Diego County Elder and Dependent Adult Abuse Blueprint or the Elder Abuse Guide for Law Enforcement of the National Center on Elder Abuse at the University of Southern California.

(9)(A) A statement that it is the agency's policy to make arrests or to seek arrest warrants, in accordance with [Section 836](#), and, in the case of domestic violence, as allowed by [Section 13701](#). The policy shall also state the agency protocol for seeking those arrest warrants.

(B) The agency protocol for arrests for senior and disability victimization other than domestic violence, which shall include, but not be limited to, the following requirements:

(i) In the case of a senior and disability victimization committed in an officer's presence, including, but not limited to, a violation of a relevant protective order, the officer shall make a warrantless arrest based on probable cause when necessary or advisable to protect the safety of the victim or others.

(ii) In the case of a felony not committed in an officer's presence, the officer shall make a warrantless arrest based on probable cause when necessary or advisable to protect the safety of the victim or others.

(iii) In the case of a misdemeanor not committed in the officer's presence, including, but not limited to, misdemeanor unlawful interference with a mandated report or a misdemeanor violation of a relevant protective order, or when necessary or advisable to protect the safety of the victim or others, the agency shall seek an arrest warrant based on probable cause.

(iv) The policy shall state the agency protocol for seeking arrest warrants based on probable cause for crimes for which no arrest has been made.

(10) The fact that senior and disability victimization crimes are also domestic violence subject to the mandatory arrest requirements of [Section 836](#) if they meet the elements described in [Section 273.5](#), including, but not limited to, a violation by a caretaker or other person who is or was a cohabitant of the victim, regardless of whether the cohabitant is or was a relative of, or in an intimate personal relationship with, the victim.

(11)(A) The fact that many victims of sexual assault and other sex crimes delay disclosing the crimes for reasons including, but not limited to, shame, embarrassment, self-doubt, fear of being disbelieved, and fear of retaliation by the perpetrator or others.

(B) An instruction pursuant to [Sections 264.2](#) and [679.04](#) to notify potential victims of sex crimes that they have a right to have a support person of their choice present at all times.

(12) The agency's cross-reporting requirements, including, but not limited to, those pursuant to [Section 15640 of the Welfare and Institutions Code](#), and an agency protocol for carrying out these cross-reporting requirements.

(13) Mandated reporting requirements, including, but not limited to, officers' mandated reporting responsibilities and an agency protocol for carrying out the officers' mandated reporting responsibilities.

(14) The fact that victims and witnesses with disabilities, including cognitive and communication disabilities, can be highly credible witnesses when interviewed appropriately by trained officers or other trained persons.

(15) A procedure for first-responding officers to follow when interviewing persons with cognitive and communication disabilities until officers, or staff of other responsible agencies, with more advanced training, are available. The procedure

shall include an instruction to avoid repeated interviews whenever possible.

(16) The unit or office, or multiple units or offices of the agency, or the title or titles of an officer or officers, tasked with the following responsibilities:

(A) Receiving advanced officer training on senior and disability victimization, available from the Commission on Peace Officer Standards and Training, the United States Department of Justice, the Disability and Abuse Project of the Spectrum Institute, or other sources.

(B) Acting as a liaison to other responsible agencies to increase cooperation and collaboration among them while retaining the law enforcement agency's exclusive responsibility for criminal investigations.

(C) Reaching out to the senior and disability communities and to the public to encourage prevention and reporting of senior and disability victimization.

(17) An agency protocol for seeking emergency protective orders by phone from a court at any time of the day or night pursuant to subdivision (d) of Section 6250 of the Family Code, including the court system telephone number for an officer to call, and a requirement that an officer utilize the agency protocol whenever necessary or advisable to protect a victim's safety.

(18) A requirement that all officers treat an unexplained or suspicious death of an elder, dependent adult, or other adult or child with a disability as a potential homicide until a complete investigation, including an autopsy, is completed, and not to assume that the death of an elder or person with a disability is natural simply because of the age or disability of the deceased.

(19) A requirement that, whenever an officer verifies that a relevant protective order has been issued, the officer shall make reasonable efforts to determine if the order prohibits the possession of firearms or requires the relinquishment of firearms, and if the order does so, a requirement that the officer shall make reasonable efforts to do each of the following:

(A) Inquire whether the restrained person possesses firearms. The officer may make this effort by asking the restrained person and the protected person.

(B) Query through the California Law Enforcement Telecommunications System to determine if any firearms are registered to the restrained person.

(C) Receive or seize prohibited firearms located in plain view or pursuant to a consensual or other lawful search, in compliance with Division 4 (commencing with Section 18250) of Title 2 of Part 6.

(20) Civil remedies and resources available to victims, including, but not limited to, the program administered by the California Victim Compensation Board.

(21) The complete contents of any model policy on senior and disability victimization that the Commission on Peace Officer Standards and Training may develop based on this section, regardless of whether that model policy includes items in addition to those listed in this section.

(22) Use of the full term "elder and dependent adult abuse" in every reference to that crime, with no shorthand terms, including, but not limited to, "elder abuse" or "adult abuse."

(23) A detailed checklist of first-responding officers' responsibilities, including, but not limited to, all of the following:

(A) Taking responsibility for the safety and well-being of the potential victims and witnesses and treating all potential victims, witnesses, and suspects with dignity and respect.

(B) Complying with the provisions of the agency's policy requirements for arrests and mandatory seeking of arrest warrants pursuant to paragraph (9) and the requirements for seeking emergency protective orders pursuant to paragraph (17).

(C) Following the policy's guidelines for interviewing persons with cognitive or communication disabilities pursuant to paragraph (15).

(D) Recognizing that some elders and adults and children with cognitive or communication disabilities may have difficulty narrating events, appear to be poor historians, or lack short-term memory, which adds to their vulnerability and therefore requires officers to make special efforts to provide them with equal protection.

(E) Documenting the scene.

(F) Obtaining a signed medical release from potential victims.

(G) Interviewing caretakers separately, recognizing that in some cases, the caretaker is the perpetrator.

(H) Recognizing that victim cooperation is sometimes unnecessary for prosecution, and that in some cases allowing victims the option of preventing prosecution creates an opportunity for the perpetrators to obstruct justice by pressuring or threatening the victims. Each dispatch call or case should be investigated on its own evidential merits.

(I) Taking other actions necessary to comply with the provisions of the law enforcement agency's policy pursuant to this section.

(24) The relevant content of any memoranda of understanding or similar agreements or procedures for cooperating with other responsible agencies, consistent with [Section 368.5](#).

(25) A statement of the agency chief executive's responsibilities, including, but not limited to, all of the following:

(A) Taking leadership within the agency and in the community, including by speaking out publicly in major cases of senior and disability victimization, to assure the community of the agency's support for the victims and their families and for others in the community who are terrorized and traumatized by the crimes, and to encourage victims and witnesses to the crimes or similar past or future crimes to report those crimes to help bring the perpetrators to justice and prevent further crimes.

(B) Carrying out specific responsibilities pursuant to this subdivision, including, but not limited to, developing and including agency protocols in this policy.

(C) Ensuring that all officers and staff carry out their responsibilities under the policy.

(26) An agency protocol for transmitting and periodically retransmitting the policy and any related orders to all officers, including a simple and immediate way for officers to access the policy in the field when needed.

(27)(A) A requirement that all officers be familiar with the policy and carry out the policy at all times except in the case of unusual compelling circumstances as determined by the agency's chief executive or by another supervisory or command-level officer designated by the chief executive.

(B) A responsible officer who makes a determination allowing a deviation from the policy shall produce a report to the agency's chief executive stating the unusual compelling circumstances. The policy shall include an agency protocol for providing copies of those reports to the alleged victims and reporting parties. The chief executive shall retain the report for a minimum of five years and shall make it available to the state protection and advocacy agency upon request.

(28) For each agency protocol, either a specific title-by-title list of officers' responsibilities, or a specific office or unit in the law enforcement agency responsible for implementing the protocol.

(d) If a law enforcement agency adopts or revises a policy regarding senior and disability victimization on or after April 13, 2021, the chief executive shall make it available to the state protection and advocacy agency upon request.

### Credits

(Added by [Stats.2019, c. 641 \(S.B.338\)](#), § 3, eff. Jan. 1, 2020.)

**§ 368.6. Senior and Disability Justice Act, CA PENAL § 368.6**

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West's Ann. Cal. Penal Code § 368.6, CA PENAL § 368.6  
Current with urgency legislation through Ch. 12 of 2021 Reg.Sess

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**AB 748.pdf**

## Assembly Bill No. 748

### CHAPTER 960

An act to amend Section 6254 of the Government Code, relating to peace officers.

[Approved by Governor September 30, 2018. Filed with  
Secretary of State September 30, 2018.]

#### LEGISLATIVE COUNSEL'S DIGEST

**AB 748, Ting, Peace officers: video and audio recordings: disclosure.**

Existing law, the California Public Records Act, requires that public records, as defined, be available to the public for inspection and made promptly available to any person. Existing law makes records of investigations conducted by any state or local police agency exempt from these requirements. Existing law requires specified information regarding the investigation of crimes to be disclosed to the public unless disclosure would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation.

This bill would, notwithstanding the above provisions, commencing July 1, 2019, allow a video or audio recording that relates to a critical incident, as defined, to be withheld for 45 calendar days if disclosure would substantially interfere with an active investigation, subject to extensions, as specified. The bill would allow the recording to be withheld if the public interest in withholding video or audio recording clearly outweighs the public interest in disclosure because the release of the recording would, based on the facts and circumstances depicted in the recording, violate the reasonable expectation of privacy of a subject depicted in the recording, in which case the bill would allow the recording to be redacted to protect that interest. If the agency demonstrates that the reasonable expectation of privacy of a subject depicted in the recording cannot adequately be protected through redaction, the bill would require that the recording be promptly disclosed to a subject of the recording, his or her parent, guardian, or representative, as applicable, or his or her heir, beneficiary, immediate family member, or authorized legal representative, if deceased.

By requiring local agencies to make these recordings available, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.



*The people of the State of California do enact as follows:*

SECTION 1. Section 6254 of the Government Code, as amended by Section 1 of Chapter 560 of the Statutes of 2017, is amended to read:

6254. Except as provided in Sections 6254.7 and 6254.13, this chapter does not require the disclosure of any of the following records:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, if the public interest in withholding those records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Records contained in or related to any of the following:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(4) Information received in confidence by any state agency referred to in paragraph (1).

(e) Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, that are obtained in confidence from any person.

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, the Office of Emergency Services and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes. However, state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism,

vehicle theft, or a crime as defined by subdivision (b) of Section 13951, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, this subdivision does not require the disclosure of that portion of those investigative files that reflects the analysis or conclusions of the investigating officer.

Customer lists provided to a state or local police agency by an alarm or security company at the request of the agency shall be construed to be records subject to this subdivision.

Notwithstanding any other provision of this subdivision, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2) (A) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name and age of the victim, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3, 288.4, 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined in any of the sections of the Penal Code set forth in this subdivision may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(B) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the names and images of a victim of human trafficking, as defined in Section 236.1 of the Penal Code, and of that victim's immediate family,

other than a family member who is charged with a criminal offense arising from the same incident, may be withheld at the victim's request until the investigation or any subsequent prosecution is complete. For purposes of this subdivision, "immediate family" shall have the same meaning as that provided in paragraph (3) of subdivision (b) of Section 422.4 of the Penal Code.

(3) Subject to the restrictions of Section 841.5 of the Penal Code and this subdivision, the current address of every individual arrested by the agency and the current address of the victim of a crime, if the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator as described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code. However, the address of the victim of any crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3, 288.4, 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph shall not be used directly or indirectly, or furnished to another, to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury. This paragraph shall not be construed to prohibit or limit a scholarly, journalistic, political, or government use of address information obtained pursuant to this paragraph.

(4) Notwithstanding any other provision of this subdivision, commencing July 1, 2019, a video or audio recording that relates to a critical incident, as defined in subparagraph (C), may be withheld only as follows:

(A) (i) During an active criminal or administrative investigation, disclosure of a recording related to a critical incident may be delayed for no longer than 45 calendar days after the date the agency knew or reasonably should have known about the incident, if, based on the facts and circumstances depicted in the recording, disclosure would substantially interfere with the investigation, such as by endangering the safety of a witness or a confidential source. If an agency delays disclosure pursuant to this paragraph, the agency shall provide in writing to the requester the specific basis for the agency's determination that disclosure would substantially interfere with the investigation and the estimated date for disclosure.

(ii) After 45 days from the date the agency knew or reasonably should have known about the incident, and up to one year from that date, the agency may continue to delay disclosure of a recording if the agency demonstrates that disclosure would substantially interfere with the investigation. After one year from the date the agency knew or reasonably should have known about the incident, the agency may continue to delay disclosure of a recording only if the agency demonstrates by clear and convincing evidence that disclosure would substantially interfere with the investigation. If an agency delays disclosure pursuant to this clause, the agency shall promptly

provide in writing to the requester the specific basis for the agency's determination that the interest in preventing interference with an active investigation outweighs the public interest in disclosure and provide the estimated date for the disclosure. The agency shall reassess withholding and notify the requester every 30 days. A recording withheld by the agency shall be disclosed promptly when the specific basis for withholding is resolved.

(B) (i) If the agency demonstrates, on the facts of the particular case, that the public interest in withholding a video or audio recording clearly outweighs the public interest in disclosure because the release of the recording would, based on the facts and circumstances depicted in the recording, violate the reasonable expectation of privacy of a subject depicted in the recording, the agency shall provide in writing to the requester the specific basis for the expectation of privacy and the public interest served by withholding the recording and may use redaction technology, including blurring or distorting images or audio, to obscure those specific portions of the recording that protect that interest. However, the redaction shall not interfere with the viewer's ability to fully, completely, and accurately comprehend the events captured in the recording and the recording shall not otherwise be edited or altered.

(ii) Except as provided in clause (iii), if the agency demonstrates that the reasonable expectation of privacy of a subject depicted in the recording cannot adequately be protected through redaction as described in clause (i) and that interest outweighs the public interest in disclosure, the agency may withhold the recording from the public, except that the recording, either redacted as provided in clause (i) or unredacted, shall be disclosed promptly, upon request, to any of the following:

(I) The subject of the recording whose privacy is to be protected, or his or her authorized representative.

(II) If the subject is a minor, the parent or legal guardian of the subject whose privacy is to be protected.

(III) If the subject whose privacy is to be protected is deceased, an heir, beneficiary, designated immediate family member, or authorized legal representative of the deceased subject whose privacy is to be protected.

(iii) If disclosure pursuant to clause (ii) would substantially interfere with an active criminal or administrative investigation, the agency shall provide in writing to the requester the specific basis for the agency's determination that disclosure would substantially interfere with the investigation, and provide the video or audio recording. Thereafter, the recording may be withheld by the agency for 45 calendar days, subject to extensions as set forth in clause (ii) of subparagraph (A).

(C) For purposes of this paragraph, a video or audio recording relates to a critical incident if it depicts any of the following incidents:

(i) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer.

(ii) An incident in which the use of force by a peace officer or custodial officer against a person resulted in death or in great bodily injury.

(D) An agency may provide greater public access to video or audio recordings than the minimum standards set forth in this paragraph.

(E) This paragraph does not alter, limit, or negate any other rights, remedies, or obligations with respect to public records regarding an incident other than a critical incident as described in subparagraph (C).

(F) For purposes of this paragraph, a peace officer does not include any peace officer employed by the Department of Corrections and Rehabilitation.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of Division 14 of Title 3 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.

(k) Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(l) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's Legal Affairs Secretary. However, public records shall not be transferred to the custody of the Governor's Legal Affairs Secretary to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel, except those records in the public database maintained by the Legislative Counsel that are described in Section 10248.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualification for the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, if an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain

guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application that are subject to disclosure under this chapter.

(p) (1) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), and Chapter 12 (commencing with Section 3560) of Division 4, that reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under these chapters. This paragraph shall not be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this paragraph.

(2) Records of local agencies related to activities governed by Chapter 10 (commencing with Section 3500) of Division 4, that reveal a local agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under that chapter. This paragraph shall not be construed to limit the disclosure duties of a local agency with respect to any other records relating to the activities governed by the employee relations act referred to in this paragraph.

(q) (1) Records of state agencies related to activities governed by Article 2.6 (commencing with Section 14081), Article 2.8 (commencing with Section 14087.5), and Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, that reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or that provide instruction, advice, or training to employees.

(2) Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. If a contract for inpatient services that is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

(3) Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee and the Legislative Analyst's Office. The committee and that office shall maintain the confidentiality of the contracts and amendments until the time a contract or amendment is fully open to inspection by the public.

(r) Records of Native American graves, cemeteries, and sacred places and records of Native American places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code maintained by, or in the possession of, the Native American Heritage Commission, another state agency, or a local agency.

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals that has been transmitted to the State Department of Health Care Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, or the records of a municipal hospital, formed pursuant to Article 7 (commencing with Section 37600) or Article 8 (commencing with Section 37650) of Chapter 5 of Part 2 of Division 3 of Title 4 of this code, that relate to any contract with an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 of the Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.

(u) (1) Information contained in applications for licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department that indicates when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of members of his or her family.

(2) The home address and telephone number of prosecutors, public defenders, peace officers, judges, court commissioners, and magistrates that are set forth in applications for licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(3) The home address and telephone number of prosecutors, public defenders, peace officers, judges, court commissioners, and magistrates that are set forth in licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(v) (1) Records of the Managed Risk Medical Insurance Board and the State Department of Health Care Services related to activities governed by former Part 6.3 (commencing with Section 12695), former Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code, or Chapter 2 (commencing with Section 15810) or Chapter 4 (commencing with Section 15870) of Part 3.3 of Division 9 of the Welfare and Institutions Code, and that reveal any of the following:

(A) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board or the department, entities with which the board or the department is considering a contract, or entities with which the board or department is considering or enters into any other arrangement under which the board or the department provides, receives, or arranges services or reimbursement.

(B) The impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff or the department or its staff, or records that provide instructions, advice, or training to their employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to former Part 6.3 (commencing with Section 12695), former Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code, or Chapter 2 (commencing with Section 15810) or Chapter 4 (commencing with Section 15870) of Part 3.3 of Division 9 of the Welfare and Institutions Code, on or after July 1, 1991, shall be open to inspection one year after their effective dates.

(B) If a contract that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after the effective date of the amendment.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contracts or amendments to the contracts are open to inspection pursuant to paragraph (3).

(w) (1) Records of the Managed Risk Medical Insurance Board related to activities governed by Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, on or after January 1, 1993, shall be open to inspection one year after they have been fully executed.

(3) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit



Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contracts or amendments to the contracts are open to inspection pursuant to paragraph (2).

(x) Financial data contained in applications for registration, or registration renewal, as a service contractor filed with the Director of Consumer Affairs pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code, for the purpose of establishing the service contractor's net worth, or financial data regarding the funded accounts held in escrow for service contracts held in force in this state by a service contractor.

(y) (1) Records of the Managed Risk Medical Insurance Board and the State Department of Health Care Services related to activities governed by Part 6.2 (commencing with Section 12693) or former Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code or Sections 14005.26 and 14005.27 of, or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of, the Welfare and Institutions Code, if the records reveal any of the following:

(A) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board or the department, entities with which the board or department is considering a contract, or entities with which the board or department is considering or enters into any other arrangement under which the board or department provides, receives, or arranges services or reimbursement.

(B) The impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or the department or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 6.2 (commencing with Section 12693) or former Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, on or after January 1, 1998, or Sections 14005.26 and 14005.27 of, or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of, the Welfare and Institutions Code shall be open to inspection one year after their effective dates.

(B) If a contract entered into pursuant to Part 6.2 (commencing with Section 12693) or former Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code or Sections 14005.26 and 14005.27 of, or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of, the Welfare and Institutions Code, is amended, the amendment shall be open to inspection one year after the effective date of the amendment.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts

and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to paragraph (2) or (3).

(5) The exemption from disclosure provided pursuant to this subdivision for the contracts, deliberative processes, discussions, communications, negotiations, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or the department or its staff, shall also apply to the contracts, deliberative processes, discussions, communications, negotiations, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of applicants pursuant to Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of the Welfare and Institutions Code.

(z) Records obtained pursuant to paragraph (2) of subdivision (f) of Section 2891.1 of the Public Utilities Code.

(aa) A document prepared by or for a state or local agency that assesses its vulnerability to terrorist attack or other criminal acts intended to disrupt the public agency's operations and that is for distribution or consideration in a closed session.

(ab) Critical infrastructure information, as defined in Section 131(3) of Title 6 of the United States Code, that is voluntarily submitted to the Office of Emergency Services for use by that office, including the identity of the person who or entity that voluntarily submitted the information. As used in this subdivision, "voluntarily submitted" means submitted in the absence of the office exercising any legal authority to compel access to or submission of critical infrastructure information. This subdivision shall not affect the status of information in the possession of any other state or local governmental agency.

(ac) All information provided to the Secretary of State by a person for the purpose of registration in the Advance Health Care Directive Registry, except that those records shall be released at the request of a health care provider, a public guardian, or the registrant's legal representative.

(ad) The following records of the State Compensation Insurance Fund:

(1) Records related to claims pursuant to Chapter 1 (commencing with Section 3200) of Division 4 of the Labor Code, to the extent that confidential medical information or other individually identifiable information would be disclosed.

(2) Records related to the discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the fund, and any related deliberations.

(3) Records related to the impressions, opinions, recommendations, meeting minutes of meetings or sessions that are lawfully closed to the public, research, work product, theories, or strategy of the fund or its staff, on the development of rates, contracting strategy, underwriting, or competitive strategy pursuant to the powers granted to the fund in Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code.

(4) Records obtained to provide workers' compensation insurance under Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, including, but not limited to, any medical claims information, policyholder information provided that nothing in this paragraph shall be interpreted to prevent an insurance agent or broker from obtaining proprietary information or other information authorized by law to be obtained by the agent or broker, and information on rates, pricing, and claims handling received from brokers.

(5) (A) Records that are trade secrets pursuant to Section 6276.44, or Article 11 (commencing with Section 1060) of Chapter 4 of Division 8 of the Evidence Code, including, without limitation, instructions, advice, or training provided by the State Compensation Insurance Fund to its board members, officers, and employees regarding the fund's special investigation unit, internal audit unit, and informational security, marketing, rating, pricing, underwriting, claims handling, audits, and collections.

(B) Notwithstanding subparagraph (A), the portions of records containing trade secrets shall be available for review by the Joint Legislative Audit Committee, California State Auditor's Office, Division of Workers' Compensation, and the Department of Insurance to ensure compliance with applicable law.

(6) (A) Internal audits containing proprietary information and the following records that are related to an internal audit:

(i) Personal papers and correspondence of any person providing assistance to the fund when that person has requested in writing that his or her papers and correspondence be kept private and confidential. Those papers and correspondence shall become public records if the written request is withdrawn, or upon order of the fund.

(ii) Papers, correspondence, memoranda, or any substantive information pertaining to any audit not completed or an internal audit that contains proprietary information.

(B) Notwithstanding subparagraph (A), the portions of records containing proprietary information, or any information specified in subparagraph (A) shall be available for review by the Joint Legislative Audit Committee, California State Auditor's Office, Division of Workers' Compensation, and the Department of Insurance to ensure compliance with applicable law.

(7) (A) Except as provided in subparagraph (C), contracts entered into pursuant to Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code shall be open to inspection one year after the contract has been fully executed.

(B) If a contract entered into pursuant to Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the amendment has been fully executed.

(C) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(D) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to this paragraph.

(E) This paragraph is not intended to apply to documents related to contracts with public entities that are not otherwise expressly confidential as to that public entity.

(F) For purposes of this paragraph, “fully executed” means the point in time when all of the necessary parties to the contract have signed the contract.

This section does not prevent any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

This section does not prevent any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act (29 U.S.C. Sec. 158).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.

**SB 1421.pdf**

## Senate Bill No. 1421

### CHAPTER 988

An act to amend Sections 832.7 and 832.8 of the Penal Code, relating to peace officer records.

[Approved by Governor September 30, 2018. Filed with Secretary of State September 30, 2018.]

#### LEGISLATIVE COUNSEL'S DIGEST

##### SB 1421, Skinner. Peace officers: release of records.

The California Public Records Act requires a state or local agency, as defined, to make public records available for inspection, subject to certain exceptions. Existing law requires any peace officer or custodial officer personnel records, as defined, and any records maintained by any state or local agency relating to complaints against peace officers and custodial officers, or any information obtained from these records, to be confidential and prohibits the disclosure of those records in any criminal or civil proceeding, except by discovery. Existing law describes exceptions to this requirement for investigations or proceedings concerning the conduct of peace officers or custodial officers, and for an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, or the Attorney General's office.

This bill would require, notwithstanding any other law, certain peace officer or custodial officer personnel records and records relating to specified incidents, complaints, and investigations involving peace officers and custodial officers to be made available for public inspection pursuant to the California Public Records Act. The bill would define the scope of disclosable records. The bill would require records disclosed pursuant to this provision to be redacted only to remove personal data or information, such as a home address, telephone number, or identities of family members, other than the names and work-related information of peace officers and custodial officers, to preserve the anonymity of complainants and witnesses, or to protect confidential medical, financial, or other information in which disclosure would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct by peace officers and custodial officers, or where there is a specific, particularized reason to believe that disclosure would pose a significant danger to the physical safety of the peace officer, custodial officer, or others. Additionally the bill would authorize redaction where, on the facts of the particular case, the public interest served by nondisclosure clearly outweighs the public interest served by disclosure. The bill would allow the delay of disclosure, as specified, for records relating to an open investigation or court proceeding, subject to certain limitations.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) Peace officers help to provide one of our state's most fundamental government services. To empower peace officers to fulfill their mission, the people of California vest them with extraordinary authority — the powers to detain, search, arrest, and use deadly force. Our society depends on peace officers' faithful exercise of that authority. Misuse of that authority can lead to grave constitutional violations, harms to liberty and the inherent sanctity of human life, as well as significant public unrest.

(b) The public has a right to know all about serious police misconduct, as well as about **officer-involved shootings and other serious uses of force**. Concealing crucial public safety matters such as officer violations of civilians' rights, or inquiries into deadly use of force incidents, undercuts the public's faith in the legitimacy of law enforcement, makes it harder for tens of thousands of hardworking peace officers to do their jobs, and endangers public safety.

SEC. 2. Section 832.7 of the Penal Code is amended to read:

832.7. (a) Except as provided in subdivision (b), the personnel records of peace officers and custodial officers and records maintained by any state or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This section shall not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, or the Attorney General's office.

(b) (1) Notwithstanding subdivision (a), subdivision (f) of Section 6254 of the Government Code, or any other law, the following peace officer or custodial officer personnel records and records maintained by any state or local agency shall not be confidential and shall be made available for public inspection pursuant to the California Public Records Act (Chapter 3.5

(commencing with Section 6250) of Division 7 of Title 1 of the Government Code):

(A) A record relating to the report, investigation, or findings of any of the following:

(i) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer.

(ii) An incident in which the use of force by a peace officer or custodial officer against a person resulted in death, or in great bodily injury.

(B) (i) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public.

(ii) As used in this subparagraph, “sexual assault” means the commission or attempted initiation of a sexual act with a member of the public by means of force, threat, coercion, extortion, offer of leniency or other official favor, or under the color of authority. For purposes of this definition, the propositioning for or commission of any sexual act while on duty is considered a sexual assault.

(iii) As used in this subparagraph, “member of the public” means any person not employed by the officer’s employing agency and includes any participant in a cadet, explorer, or other youth program affiliated with the agency.

(C) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency of dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

(2) Records that shall be released pursuant to this subdivision include all investigative reports; photographic, audio, and video evidence; transcripts or recordings of interviews; autopsy reports; all materials compiled and presented for review to the district attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, or whether the officer’s action was consistent with law and agency policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take; documents setting forth findings or recommended findings; and copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the Skelly or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action.

(3) A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure pursuant to this subdivision.



(4) If an investigation or incident involves multiple officers, information about allegations of misconduct by, or the analysis or disposition of an investigation of, an officer shall not be released pursuant to subparagraph (B) or (C) of paragraph (1), unless it relates to a sustained finding against that officer. However, factual information about that action of an officer during an incident, or the statements of an officer about an incident, shall be released if they are relevant to a sustained finding against another officer that is subject to release pursuant to subparagraph (B) or (C) of paragraph (1).

(5) An agency shall redact a record disclosed pursuant to this section only for any of the following purposes:

(A) To remove personal data or information, such as a home address, telephone number, or identities of family members, other than the names and work-related information of peace and custodial officers.

(B) To preserve the anonymity of complainants and witnesses.

(C) To protect confidential medical, financial, or other information of which disclosure is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct and serious use of force by peace officers and custodial officers.

(D) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the peace officer, custodial officer, or another person.

(6) Notwithstanding paragraph (5), an agency may redact a record disclosed pursuant to this section, including personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosure of the information.

(7) An agency may withhold a record of an incident described in subparagraph (A) of paragraph (1) that is the subject of an active criminal or administrative investigation, in accordance with any of the following:

(A) (i) During an active criminal investigation, disclosure may be delayed for up to 60 days from the date the use of force occurred or until the district attorney determines whether to file criminal charges related to the use of force, whichever occurs sooner. If an agency delays disclosure pursuant to this clause, the agency shall provide, in writing, the specific basis for the agency's determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. This writing shall include the estimated date for disclosure of the withheld information.

(ii) After 60 days from the use of force, the agency may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an officer who used the force. If an agency delays disclosure pursuant to this clause, the agency shall, at 180-day intervals as necessary, provide, in writing, the specific basis for the agency's determination that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding. The writing shall include the estimated date for the disclosure

of the withheld information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner.

(iii) After 60 days from the use of force, the agency may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against someone other than the officer who used the force. If an agency delays disclosure under this clause, the agency shall, at 180-day intervals, provide, in writing, the specific basis why disclosure could reasonably be expected to interfere with a criminal enforcement proceeding, and shall provide an estimated date for the disclosure of the withheld information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner, unless extraordinary circumstances warrant continued delay due to the ongoing criminal investigation or proceeding. In that case, the agency must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest in prompt disclosure of records about use of serious force by peace officers and custodial officers. The agency shall release all information subject to disclosure that does not cause substantial prejudice, including any documents that have otherwise become available.

(iv) In an action to compel disclosure brought pursuant to Section 6258 of the Government Code, an agency may justify delay by filing an application to seal the basis for withholding, in accordance with Rule 2.550 of the California Rules of Court, or any successor rule thereto, if disclosure of the written basis itself would impact a privilege or compromise a pending investigation.

(B) If criminal charges are filed related to the incident in which force was used, the agency may delay the disclosure of records or information until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to withdraw the plea pursuant to Section 1018.

(C) During an administrative investigation into an incident described in subparagraph (A) of paragraph (1), the agency may delay the disclosure of records or information until the investigating agency determines whether the use of force violated a law or agency policy, but no longer than 180 days after the date of the employing agency's discovery of the use of force, or allegation of use of force, by a person authorized to initiate an investigation, or 30 days after the close of any criminal investigation related to the peace officer or custodial officer's use of force, whichever is later.

(8) A record of a civilian complaint, or the investigations, findings, or dispositions of that complaint, shall not be released pursuant to this section if the complaint is frivolous, as defined in Section 128.5 of the Code of Civil Procedure, or if the complaint is unfounded.

(c) Notwithstanding subdivisions (a) and (b), a department or agency shall release to the complaining party a copy of his or her own statements at the time the complaint is filed.

(d) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may disseminate data regarding the number, type, or disposition of complaints (sustained, not sustained, exonerated, or unfounded) made against its officers if that information is in a form which does not identify the individuals involved.

(e) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may release factual information concerning a disciplinary investigation if the officer who is the subject of the disciplinary investigation, or the officer's agent or representative, publicly makes a statement he or she knows to be false concerning the investigation or the imposition of disciplinary action. Information may not be disclosed by the peace or custodial officer's employer unless the false statement was published by an established medium of communication, such as television, radio, or a newspaper. Disclosure of factual information by the employing agency pursuant to this subdivision is limited to facts contained in the officer's personnel file concerning the disciplinary investigation or imposition of disciplinary action that specifically refute the false statements made public by the peace or custodial officer or his or her agent or representative.

(f) (1) The department or agency shall provide written notification to the complaining party of the disposition of the complaint within 30 days of the disposition.

(2) The notification described in this subdivision shall not be conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding brought before an arbitrator, court, or judge of this state or the United States.

(g) This section does not affect the discovery or disclosure of information contained in a peace or custodial officer's personnel file pursuant to Section 1043 of the Evidence Code.

(h) This section does not supersede or affect the criminal discovery process outlined in Chapter 10 (commencing with Section 1054) of Title 6 of Part 2, or the admissibility of personnel records pursuant to subdivision (a), which codifies the court decision in *Pitchess v. Superior Court* (1974) 11 Cal.3d 531.

(i) Nothing in this chapter is intended to limit the public's right of access as provided for in *Long Beach Police Officers Association v. City of Long Beach* (2014) 59 Cal.4th 59.

SEC. 3. Section 832.8 of the Penal Code is amended to read:

832.8. As used in Section 832.7, the following words or phrases have the following meanings:

(a) "Personnel records" means any file maintained under that individual's name by his or her employing agency and containing records relating to any of the following:

(1) Personal data, including marital status, family members, educational and employment history, home addresses, or similar information.

(2) Medical history.

(3) Election of employee benefits.

(4) Employee advancement, appraisal, or discipline.

(5) Complaints, or investigations of complaints, concerning an event or transaction in which he or she participated, or which he or she perceived, and pertaining to the manner in which he or she performed his or her duties.

(6) Any other information the disclosure of which would constitute an unwarranted invasion of personal privacy.

(b) “Sustained” means a final determination by an investigating agency, commission, board, hearing officer, or arbitrator, as applicable, following an investigation and opportunity for an administrative appeal pursuant to Sections 3304 and 3304.5 of the Government Code, that the actions of the peace officer or custodial officer were found to violate law or department policy.

(c) “Unfounded” means that an investigation clearly establishes that the allegation is not true.

SEC. 4. The Legislature finds and declares that Section 2 of this act, which amends Section 832.7 of the Penal Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

The public has a strong, compelling interest in law enforcement transparency because it is essential to having a just and democratic society.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.

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## Assembly Bill No. 732

### CHAPTER 240

An act to amend Sections 11106 and 29810 of, and to add Section 29813 to, the Penal Code, relating to crimes.

[Approved by Governor September 26, 2023. Filed with Secretary of State September 26, 2023.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 732, Mike Fong. Crimes: relinquishment of firearms.

Existing law prohibits a person who has been convicted of a felony or of specified misdemeanors from owning, purchasing, receiving, or possessing a firearm for specified periods of time. Existing law, as enacted by the Safety for All Act of 2016, an initiative statute approved by voters as Proposition 63 at the November 8, 2016, statewide general election, requires any defendant subject to this prohibition to relinquish any firearm that they own or possess within 5 days of conviction if not in custody after a conviction, as specified, and provides a procedure for the verification and enforcement of this requirement. Existing law also requires that, if the defendant is in custody following a conviction, the defendant must relinquish any firearms within 14 days, as specified. Existing law also authorizes the court to shorten or enlarge the time period for relinquishment of a firearm with good cause.

Proposition 63 allows its provisions to be amended by a vote of 55% of the Legislature so long as the amendments are consistent with, and further the intent of, the act.

This bill would amend Proposition 63 by requiring a defendant not in custody to relinquish their firearms within 48 hours.

Existing law requires a court to assign a probation officer when a defendant is convicted of a crime that would prohibit them from owning, purchasing, receiving, or possessing a firearm. Existing law requires the assigned probation officer to, prior to the final disposition or sentencing in the case, report to the court whether the defendant complied with the requirement to relinquish their firearms and file the proper paperwork providing proof of relinquishment. Existing law also requires that the court make findings on whether the probation officer's report indicates compliance by the defendant. If the court finds probable cause that the defendant failed to relinquish their firearms, existing law authorizes the court to order for the search and removal of any firearms at any location where the judge has probable cause to believe the firearms are located.

This bill would require the probation officer to also provide their report on defendant compliance to the prosecuting attorney. The bill would also require the court, after a warrant request has been submitted, to order a search warrant for the search and removal of any firearms if the court finds

probable cause that the defendant failed to relinquish their firearms, as specified, or to extend the time for providing proof of relinquishment to 14 days for good cause. The bill would further require the court to refer the matter to the prosecuting attorney and set a status review within 14 days if it finds that additional investigation is needed. By placing additional requirements on county probation officers, this bill would impose a state-mandated local program.

Existing law requires a law enforcement agency to retain a firearm relinquished by a defendant after a conviction of an offense that would prohibit them from owning a firearm for 30 days. Once the 30-day period expires, existing law authorizes the agency to destroy, retain, sell, or transfer the firearm, except as specified.

This bill would remove the authorization for the law enforcement agency to sell the relinquished firearm.

Existing law requires the Attorney General to establish and maintain an online database known as the Prohibited Armed Persons File, also referred to as the Armed Prohibited Persons System (APPS), to cross-reference persons who have ownership or possession of a firearm and who, subsequent to the date of that ownership or possession of a firearm, fall within a class of persons who are prohibited from owning or possessing a firearm. Existing law requires the Attorney General to keep and properly file a complete record of, among other things, copies of fingerprints, copies of licenses to carry firearms, as specified, and dealers' records of firearms sales.

This bill would require the Department of Justice to provide local law enforcement agencies and the district attorney access through an electronic portal to information regarding individuals residing in their jurisdiction listed in the APPS who have not provided proof of relinquishment of firearms registered in their name. The bill would require each local agency to designate a person to access or receive the information and would require the agency to report to the department the steps taken to verify the individual is no longer in possession of the registered firearm. The bill would require the Attorney General to keep and properly file a complete record of reports or information provided to the department pursuant to that reporting requirement. By increasing duties on local law enforcement, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This bill would incorporate additional changes to Section 11106 of the Penal Code proposed by SB 368 to be operative only if this bill and SB 368 are enacted and this bill is enacted last.

This bill would also incorporate additional changes to Section 29810 of the Penal Code proposed by AB 733 to be operative only if this bill and AB 733 are enacted and this bill is enacted last.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) Research shows that quickly removing firearms from individuals who are prohibited from owning them reduces violence.

(b) Current law requires that, at the time a person is convicted of a new offense that prohibits firearm ownership, steps shall be taken to determine whether the person has a firearm registered in their name, and if so, to ensure relinquishment of all firearms.

(c) Despite this, the Department of Justice reports that each year, approximately 5,000 people are added to the Armed Prohibited Persons System as a result of a new criminal conviction. Each of these individuals is prohibited from owning a firearm as a result of conviction yet continues to have a firearm registered in their name.

(d) It is the intent of the Legislature that every person convicted of an offense that prohibits firearm ownership shall in fact relinquish all firearms at the time of conviction. It is the further intent of the Legislature that prosecuting attorneys and courts shall ensure relinquishment of firearms prior to the final disposition of a criminal case.

SEC. 2. Section 11106 of the Penal Code is amended to read:

11106. (a) (1) In order to assist in the investigation of crime, the prosecution of civil actions by city attorneys pursuant to paragraph (3) of subdivision (b), the arrest and prosecution of criminals, and the recovery of lost, stolen, or found property, the Attorney General shall keep and properly file a complete record of all of the following:

(A) All copies of fingerprints.

(B) Copies of licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215.

(C) Information reported to the Department of Justice pursuant to subdivision (e) of Section 18120, Section 26225, 26556, 27875, 27920, 27966, 28050, 29180, 29830, or paragraph (2) of subdivision (e) of Section 32000.

(D) Dealers' Records of Sale of firearms.

(E) Reports provided pursuant to Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6, or pursuant to any provision listed in subdivision (a) of Section 16585.

(F) Forms provided pursuant to Section 12084, as that section read prior to being repealed on January 1, 2006.

(G) Reports provided pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6, that are not Dealers' Records of Sale of firearms.



(H) Information provided pursuant to Section 28255.

(I) Reports of stolen, lost, found, pledged, or pawned property in any city or county of this state.

(J) Reports or information provided to the Department of Justice pursuant to Section 29813.

(2) The Attorney General shall, upon proper application therefor, furnish the information to the officers referred to in Section 11105.

(b) (1) The Attorney General shall permanently keep and properly file and maintain all information reported to the Department of Justice pursuant to the following provisions as to firearms and maintain a registry thereof:

(A) Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6.

(B) Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6.

(C) Chapter 5 (commencing with Section 28050) of Division 6 of Title 4 of Part 6.

(D) Any provision listed in subdivision (a) of Section 16585.

(E) Former Section 12084.

(F) Section 28255.

(G) Section 29180.

(H) Paragraph (2) of subdivision (e) of Section 32000.

(I) Any other law.

(2) The registry shall consist of all of the following:

(A) The name, address, identification of, place of birth (state or country), complete telephone number, occupation, sex, description, and all legal names and aliases ever used by the owner or person being loaned the particular firearm as listed on the information provided to the department on the Dealers' Record of Sale, the Law Enforcement Firearms Transfer (LEFT), as defined in former Section 12084, or reports made to the department pursuant to any provision listed in subdivision (a) of Section 16585, Section 28255 or 29180, or any other law.

(B) The name and address of, and other information about, any person (whether a dealer or a private party) from whom the owner acquired or the person being loaned the particular firearm and when the firearm was acquired or loaned as listed on the information provided to the department on the Dealers' Record of Sale, the LEFT, or reports made to the department pursuant to any provision listed in subdivision (a) of Section 16585 or any other law.

(C) Any waiting period exemption applicable to the transaction which resulted in the owner of or the person being loaned the particular firearm acquiring or being loaned that firearm.

(D) The manufacturer's name if stamped on the firearm, model name or number if stamped on the firearm, and, if applicable, the serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, if the firearm is new or used, barrel length, and color of the firearm, or, if the firearm is not a handgun and does not have a

serial number or any identification number or mark assigned to it, that shall be noted.

(3) Information in the registry referred to in this subdivision shall, upon proper application therefor, be furnished to the officers referred to in Section 11105, to a city attorney prosecuting a civil action, solely for use in prosecuting that civil action and not for any other purpose, or to the person listed in the registry as the owner or person who is listed as being loaned the particular firearm.

(4) If any person is listed in the registry as the owner of a firearm through a Dealers' Record of Sale prior to 1979, and the person listed in the registry requests by letter that the Attorney General store and keep the record electronically, as well as in the record's existing photographic, photostatic, or nonerasable optically stored form, the Attorney General shall do so within three working days of receipt of the request. The Attorney General shall, in writing, and as soon as practicable, notify the person requesting electronic storage of the record that the request has been honored as required by this paragraph.

(c) (1) If the conditions specified in paragraph (2) are met, any officer referred to in paragraphs (1) to (6), inclusive, of subdivision (b) of Section 11105 may disseminate the name of the subject of the record, the number of the firearms listed in the record, and the description of any firearm, including the make, model, and caliber, from the record relating to any firearm's sale, transfer, registration, or license record, or any information reported to the Department of Justice pursuant to any of the following:

(A) Section 26225, 26556, 27875, 27920, 27966, or 29180.

(B) Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6.

(C) Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6.

(D) Chapter 5 (commencing with Section 28050) of Division 6 of Title 4 of Part 6.

(E) Article 2 (commencing with Section 28150) of Chapter 6 of Division 6 of Title 4 of Part 6.

(F) Article 5 (commencing with Section 30900) of Chapter 2 of Division 10 of Title 4 of Part 6.

(G) Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6.

(H) Any provision listed in subdivision (a) of Section 16585.

(I) Paragraph (2) of subdivision (e) of Section 32000.

(2) Information may be disseminated pursuant to paragraph (1) only if all of the following conditions are satisfied:

(A) The subject of the record has been arraigned for a crime in which the victim is a person described in subdivisions (a) to (f), inclusive, of Section 6211 of the Family Code and is being prosecuted or is serving a sentence for the crime, or the subject of the record is the subject of an emergency protective order, a temporary restraining order, or an order after

hearing, which is in effect and has been issued by a family court under the Domestic Violence Prevention Act set forth in Division 10 (commencing with Section 6200) of the Family Code.

(B) The information is disseminated only to the victim of the crime or to the person who has obtained the emergency protective order, the temporary restraining order, or the order after hearing issued by the family court.

(C) Whenever a law enforcement officer disseminates the information authorized by this subdivision, that officer or another officer assigned to the case shall immediately provide the victim of the crime with a “Victims of Domestic Violence” card, as specified in subparagraph (H) of paragraph (9) of subdivision (c) of Section 13701.

(3) The victim or person to whom information is disseminated pursuant to this subdivision may disclose it as they deem necessary to protect themselves or another person from bodily harm by the person who is the subject of the record.

(d) All information collected pursuant to this section shall be maintained by the department and shall be available to researchers affiliated with the California Firearm Violence Research Center at UC Davis for academic and policy research purposes upon proper request and following approval by the center’s governing institutional review board when required. At the department’s discretion, and subject to Section 14240, information collected pursuant to this section may be provided to any other nonprofit bona fide research institution accredited by the United States Department of Education or the Council for Higher Education Accreditation for the study of the prevention of violence and following approval by the institution’s governing institutional review board or human subjects committee when required. Material identifying individuals shall only be provided for research or statistical activities and shall not be transferred, revealed, or used for purposes other than research or statistical activities, and reports or publications derived therefrom shall not identify specific individuals. Reasonable costs to the department associated with the department’s processing of such data may be billed to the researcher. If a request for data or letter of support for research using the data is denied, the department shall provide a written statement of the specific reasons for the denial.

SEC. 2.1. Section 11106 of the Penal Code is amended to read:

11106. (a) (1) In order to assist in the investigation of crime, the prosecution of civil actions by city attorneys pursuant to paragraph (3) of subdivision (b), the arrest and prosecution of criminals, and the recovery of lost, stolen, or found property, the Attorney General shall keep and properly file a complete record of all of the following:

(A) All copies of fingerprints.

(B) Copies of licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215.

(C) Information reported to the Department of Justice pursuant to subdivision (e) of Section 18120, Section 26225, 26556, 26892, 27875,

27920, 27966, 28050, 29180, 29830, or paragraph (2) of subdivision (e) of Section 32000.

(D) Dealers' Records of Sale of firearms.

(E) Reports provided pursuant to Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6, or pursuant to any provision listed in subdivision (a) of Section 16585.

(F) Forms provided pursuant to Section 12084, as that section read prior to being repealed on January 1, 2006.

(G) Reports provided pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6, that are not Dealers' Records of Sale of firearms.

(H) Information provided pursuant to Section 28255.

(I) Reports of stolen, lost, found, pledged, or pawned property in any city or county of this state.

(J) Reports or information provided to the Department of Justice pursuant to Section 29813.

(2) The Attorney General shall, upon proper application therefor, furnish the information to the officers referred to in Section 11105.

(b) (1) The Attorney General shall permanently keep and properly file and maintain all information reported to the Department of Justice pursuant to the following provisions as to firearms and maintain a registry thereof:

(A) Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6.

(B) Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6.

(C) Chapter 5 (commencing with Section 28050) of Division 6 of Title 4 of Part 6.

(D) Any provision listed in subdivision (a) of Section 16585.

(E) Former Section 12084.

(F) Section 28255.

(G) Section 29180.

(H) Paragraph (2) of subdivision (e) of Section 32000.

(I) Any other law.

(2) The registry shall consist of all of the following:

(A) The name, address, identification of, place of birth (state or country), complete telephone number, occupation, sex, description, and all legal names and aliases ever used by the owner or person being loaned the particular firearm as listed on the information provided to the department on the Dealers' Record of Sale, the Law Enforcement Firearms Transfer (LEFT), as defined in former Section 12084, or reports made to the department pursuant to any provision listed in subdivision (a) of Section 16585, Section 28255 or 29180, or any other law.

(B) The name and address of, and other information about, any person (whether a dealer or a private party) from whom the owner acquired or the person being loaned the particular firearm and when the firearm was acquired

or loaned as listed on the information provided to the department on the Dealers' Record of Sale, the LEFT, or reports made to the department pursuant to any provision listed in subdivision (a) of Section 16585 or any other law.

(C) Any waiting period exemption applicable to the transaction which resulted in the owner of or the person being loaned the particular firearm acquiring or being loaned that firearm.

(D) The manufacturer's name if stamped on the firearm, model name or number if stamped on the firearm, and, if applicable, the serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, if the firearm is new or used, barrel length, and color of the firearm, or, if the firearm is not a handgun and does not have a serial number or any identification number or mark assigned to it, that shall be noted.

(3) Information in the registry referred to in this subdivision shall, upon proper application therefor, be furnished to the officers referred to in Section 11105, to a city attorney prosecuting a civil action, solely for use in prosecuting that civil action and not for any other purpose, or to the person listed in the registry as the owner or person who is listed as being loaned the particular firearm.

(4) If any person is listed in the registry as the owner of a firearm through a Dealers' Record of Sale prior to 1979, and the person listed in the registry requests by letter that the Attorney General store and keep the record electronically, as well as in the record's existing photographic, photostatic, or nonerasable optically stored form, the Attorney General shall do so within three working days of receipt of the request. The Attorney General shall, in writing, and as soon as practicable, notify the person requesting electronic storage of the record that the request has been honored as required by this paragraph.

(c) (1) If the conditions specified in paragraph (2) are met, any officer referred to in paragraphs (1) to (6), inclusive, of subdivision (b) of Section 11105 may disseminate the name of the subject of the record, the number of the firearms listed in the record, and the description of any firearm, including the make, model, and caliber, from the record relating to any firearm's sale, transfer, registration, or license record, or any information reported to the Department of Justice pursuant to any of the following:

(A) Section 26225, 26556, 27875, 27920, 27966, or 29180.

(B) Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6.

(C) Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6.

(D) Chapter 5 (commencing with Section 28050) of Division 6 of Title 4 of Part 6.

(E) Article 2 (commencing with Section 28150) of Chapter 6 of Division 6 of Title 4 of Part 6.

(F) Article 5 (commencing with Section 30900) of Chapter 2 of Division 10 of Title 4 of Part 6.

(G) Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6.

(H) Any provision listed in subdivision (a) of Section 16585.

(I) Paragraph (2) of subdivision (e) of Section 32000.

(2) Information may be disseminated pursuant to paragraph (1) only if all of the following conditions are satisfied:

(A) The subject of the record has been arraigned for a crime in which the victim is a person described in subdivisions (a) to (f), inclusive, of Section 6211 of the Family Code and is being prosecuted or is serving a sentence for the crime, or the subject of the record is the subject of an emergency protective order, a temporary restraining order, or an order after hearing, which is in effect and has been issued by a family court under the Domestic Violence Prevention Act set forth in Division 10 (commencing with Section 6200) of the Family Code.

(B) The information is disseminated only to the victim of the crime or to the person who has obtained the emergency protective order, the temporary restraining order, or the order after hearing issued by the family court.

(C) Whenever a law enforcement officer disseminates the information authorized by this subdivision, that officer or another officer assigned to the case shall immediately provide the victim of the crime with a “Victims of Domestic Violence” card, as specified in subparagraph (H) of paragraph (9) of subdivision (c) of Section 13701.

(3) The victim or person to whom information is disseminated pursuant to this subdivision may disclose it as they deem necessary to protect themselves or another person from bodily harm by the person who is the subject of the record.

(d) All information collected pursuant to this section shall be maintained by the department and shall be available to researchers affiliated with the California Firearm Violence Research Center at UC Davis for academic and policy research purposes upon proper request and following approval by the center’s governing institutional review board when required. At the department’s discretion, and subject to Section 14240, information collected pursuant to this section may be provided to any other nonprofit bona fide research institution accredited by the United States Department of Education or the Council for Higher Education Accreditation for the study of the prevention of violence and following approval by the institution’s governing institutional review board or human subjects committee when required. Material identifying individuals shall only be provided for research or statistical activities and shall not be transferred, revealed, or used for purposes other than research or statistical activities, and reports or publications derived therefrom shall not identify specific individuals. Reasonable costs to the department associated with the department’s processing of such data may be billed to the researcher. If a request for data

or letter of support for research using the data is denied, the department shall provide a written statement of the specific reasons for the denial.

SEC. 3. Section 29810 of the Penal Code is amended to read:

29810. (a) (1) Upon conviction of any offense that renders a person subject to Section 29800, 29805, or 29815, the person shall relinquish all firearms they own, possess, or have under their custody or control in the manner provided in this section within 48 hours of the conviction if the defendant remains out of custody or within 14 days of the conviction if the defendant is in custody.

(2) The court shall, upon conviction of a defendant for an offense described in subdivision (a), instruct the defendant that they are prohibited from owning, purchasing, receiving, possessing, or having under their custody or control, any firearms, ammunition, and ammunition feeding devices, including, but not limited to, magazines, and shall order the defendant to relinquish all firearms in the manner provided in this section. The court shall also provide the defendant with a Prohibited Persons Relinquishment Form developed by the Department of Justice.

(3) Using the Prohibited Persons Relinquishment Form, the defendant shall name a designee and grant the designee power of attorney for the purpose of transferring or disposing of any firearms. The designee shall be either a local law enforcement agency or a consenting third party who is not prohibited from possessing firearms under state or federal law. The designee shall, within the time periods specified in subdivisions (d) and (e), surrender the firearms to the control of a local law enforcement agency, sell the firearms to a licensed firearms dealer, or transfer the firearms for storage to a firearms dealer pursuant to Section 29830.

(b) The Prohibited Persons Relinquishment Form shall do all of the following:

(1) Inform the defendant that they are prohibited from owning, purchasing, receiving, possessing, or having under their custody or control, any firearms, ammunition, and, if applicable, ammunition feeding devices, including, but not limited to, magazines, and that they shall relinquish all firearms through a designee within the time periods set forth in subdivision (d) or (e) by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830.

(2) Inform the defendant that any cohabitant of the defendant who owns firearms must store those firearms in accordance with Section 25135.

(3) Require the defendant to declare any firearms that they owned, possessed, or had under their custody or control at the time of their conviction, and require the defendant to describe the firearms and provide all reasonably available information about the location of the firearms to enable a designee or law enforcement officials to locate the firearms.

(4) Require the defendant to name a designee, if the defendant declares that they owned, possessed, or had under their custody or control any

firearms at the time of their conviction, and grant the designee power of attorney for the purpose of transferring or disposing of all firearms.

(5) Require the designee to indicate their consent to the designation and, except a designee that is a law enforcement agency, to declare under penalty of perjury that they are not prohibited from possessing any firearms under state or federal law.

(6) Require the designee to state the date each firearm was relinquished and the name of the party to whom it was relinquished, and to attach receipts from the law enforcement officer or licensed firearms dealer who took possession of the relinquished firearms.

(7) Inform the defendant and the designee of the obligation to submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer within the time periods specified in subdivisions (d) and (e).

(c) (1) When a defendant is convicted of an offense described in subdivision (a), the court shall immediately assign the matter to a probation officer to investigate whether the Automated Firearms System or other credible information, such as a police report, reveals that the defendant owns, possesses, or has under their custody or control any firearms. The assigned probation officer shall receive the Prohibited Persons Relinquishment Form from the defendant or the defendant's designee, as applicable, and ensure that the Automated Firearms System has been properly updated to indicate that the defendant has relinquished those firearms.

(2) Prior to final disposition or sentencing in the case, the assigned probation officer shall report to the court and the prosecuting attorney whether the defendant has properly complied with the requirements of this section by relinquishing all firearms identified by the probation officer's investigation or declared by the defendant on the Prohibited Persons Relinquishment Form, and by timely submitting a completed Prohibited Persons Relinquishment Form. The probation officer shall also report to the Department of Justice on a form to be developed by the department whether the Automated Firearms System has been updated to indicate which firearms have been relinquished by the defendant.

(3) If the report of the probation officer does not confirm relinquishment of firearms registered in the defendant's name, the court shall take one of the following actions:

(A) If the court finds probable cause, after a warrant request has been submitted pursuant to Section 1524, that the defendant has failed to relinquish any firearms as required, the court shall order a search warrant for, and removal of, any firearms at any location where the judge has probable cause to believe the defendant's firearms are located. The court shall set a court date to confirm relinquishment of all firearms. The search warrant shall be executed within 10 days pursuant to subdivision (a) of Section 1534.

(B) If the court finds good cause to extend the time for providing proof of relinquishment, the court shall set a court date within 14 days for the defendant to provide proof of relinquishment.



(C) If the court finds additional investigation is needed, the court shall refer the matter to the prosecuting attorney and set a court date within 14 days for status review.

(4) Prior to final disposition or sentencing in the case, the court shall confirm that the defendant has relinquished all firearms as required, and that the court has received a completed Prohibited Persons Relinquishment Form, along with the receipts described in paragraph (1) of subdivision (d) or paragraph (1) of subdivision (e). The court shall ensure that these findings are included in the abstract of judgment. If necessary to avoid a delay in sentencing, the court may make and enter these findings within 14 days of sentencing.

(5) Failure by a defendant to timely file the completed Prohibited Persons Relinquishment Form with the assigned probation officer shall constitute an infraction punishable by a fine not exceeding one hundred dollars (\$100).

(d) The following procedures shall apply to any defendant who is a prohibited person within the meaning of paragraph (1) of subdivision (a) who does not remain in custody at any time within the 48-hour period following conviction:

(1) The designee shall dispose of any firearms the defendant owns, possesses, or has under their custody or control within 48 hours of the conviction by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830, in accordance with the wishes of the defendant. Any proceeds from the sale of the firearms shall become the property of the defendant. The law enforcement officer or licensed dealer taking possession of any firearms pursuant to this subdivision shall issue a receipt to the designee describing the firearms and listing any serial number or other identification on the firearms at the time of surrender.

(2) If the defendant owns, possesses, or has under their custody or control any firearms to relinquish, the defendant's designee shall submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer within 48 hours following the conviction, along with the receipts described in paragraph (1) of subdivision (d) showing the defendant's firearms were surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer.

(3) If the defendant does not own, possess, or have under their custody or control any firearms to relinquish, they shall, within 48 hours following conviction, submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, with a statement affirming that they have no firearms to be relinquished.

(e) The following procedures shall apply to any defendant who is a prohibited person within the meaning of paragraph (1) of subdivision (a) who is in custody at any point within the 48-hour period following conviction:

(1) The designee shall dispose of any firearms the defendant owns, possesses, or has under their custody or control within 14 days of the

conviction by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830, in accordance with the wishes of the defendant. Any proceeds from the sale of the firearms shall become the property of the defendant. The law enforcement officer or licensed dealer taking possession of any firearms pursuant to this subdivision shall issue a receipt to the designee describing the firearms and listing any serial number or other identification on the firearms at the time of surrender.

(2) If the defendant owns, possesses, or has under their custody or control any firearms to relinquish, the defendant's designee shall submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, within 14 days following conviction, along with the receipts described in paragraph (1) of subdivision (e) showing the defendant's firearms were surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer.

(3) If the defendant does not own, possess, or have under their custody or control any firearms to relinquish, they shall, within 14 days following conviction, submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, with a statement affirming that they have no firearms to be relinquished.

(4) If the defendant is released from custody during the 14 days following conviction and a designee has not yet taken temporary possession of each firearm to be relinquished as described above, the defendant shall, within five days following their release, relinquish each firearm required to be relinquished pursuant to paragraph (1) of subdivision (d).

(f) For good cause, the court may shorten or enlarge the time periods specified in subdivisions (d) and (e), enlarge the time period specified in paragraph (3) of subdivision (c), or allow an alternative method of relinquishment.

(g) The defendant shall not be subject to prosecution for unlawful possession of any firearms declared on the Prohibited Persons Relinquishment Form if the firearms are relinquished as required.

(h) Any firearms that would otherwise be subject to relinquishment by a defendant under this section, but which are lawfully owned by a cohabitant of the defendant, shall be exempt from relinquishment, provided the defendant is notified that the cohabitant must store the firearm in accordance with Section 25135.

(i) A law enforcement agency shall update the Automated Firearms System to reflect any firearms that were relinquished to the agency pursuant to this section. A law enforcement agency shall retain a firearm that was relinquished to the agency pursuant to this section for 30 days after the date the firearm was relinquished. After the 30-day period has expired, the firearm is subject to destruction, retention, or other transfer by the agency, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention of the firearm is necessary or proper to the ends of justice, or if the defendant provides written notice of an intent to

appeal a conviction for an offense described in subdivision (a), or if the Automated Firearms System indicates that the firearm was reported lost or stolen by the lawful owner. If the firearm was reported lost or stolen, the firearm shall be restored to the lawful owner, as soon as its use as evidence has been served, upon the lawful owner's identification of the weapon and proof of ownership, and after the law enforcement agency has complied with Chapter 2 (commencing with Section 33850) of Division 11 of Title 4. The agency shall notify the Department of Justice of the disposition of relinquished firearms pursuant to Section 34010.

(j) A city, county, or city and county, or a state agency may adopt a regulation, ordinance, or resolution imposing a charge equal to its administrative costs relating to the seizure, impounding, storage, or release of a firearm pursuant to Section 33880.

SEC. 3.1. Section 29810 of the Penal Code is amended to read:

29810. (a) (1) Upon conviction of any offense that renders a person subject to Section 29800, 29805, or 29815, the person shall relinquish all firearms they own, possess, or have custody or control of, in the manner provided in this section within 48 hours of the conviction if the defendant remains out of custody or within 14 days of the conviction if the defendant is in custody.

(2) The court shall, upon conviction of a defendant for an offense described in subdivision (a), instruct the defendant that they are prohibited from owning, purchasing, receiving, possessing, or having custody or control of, any firearms, ammunition, and ammunition feeding devices, including but not limited to magazines, and shall order the defendant to relinquish all firearms in the manner provided in this section. The court shall also provide the defendant with a Prohibited Persons Relinquishment Form developed by the Department of Justice.

(3) Using the Prohibited Persons Relinquishment Form, the defendant shall name a designee and grant the designee power of attorney for the purpose of transferring or disposing of any firearms. The designee shall be either a local law enforcement agency or a consenting third party who is not prohibited from possessing firearms under state or federal law. The designee shall, within the time periods specified in subdivisions (d) and (e), surrender the firearms to the control of a local law enforcement agency, sell the firearms to a licensed firearms dealer, or transfer the firearms for storage to a firearms dealer pursuant to Section 29830.

(b) The Prohibited Persons Relinquishment Form shall do all of the following:

(1) Inform the defendant that they are prohibited from owning, purchasing, receiving, possessing, or having custody or control of, any firearms, ammunition, and, if applicable, any ammunition feeding devices, including but not limited to magazines, and that they shall relinquish all firearms through a designee within the time periods set forth in subdivision (d) or (e) by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or

transferring the firearms for storage to a firearms dealer pursuant to Section 29830.

(2) Inform the defendant that any cohabitant of the defendant who owns firearms must store those firearms in accordance with Section 25135.

(3) Require the defendant to declare any firearms that they owned, possessed, or had custody or control of at the time of conviction, and require the defendant to describe the firearms and provide all reasonably available information about the location of the firearms to enable a designee or law enforcement officials to locate the firearms.

(4) Require the defendant to name a designee, if the defendant declares that they owned, possessed, or had custody or control of any firearms at the time of conviction, and grant the designee power of attorney for the purpose of transferring or disposing of all firearms.

(5) Require the designee to indicate their consent to the designation and, except a designee that is a law enforcement agency, to declare under penalty of perjury that they are not prohibited from possessing any firearms under state or federal law.

(6) Require the designee to state the date each firearm was relinquished and the name of the party to whom it was relinquished, and to attach receipts from the law enforcement officer or licensed firearms dealer who took possession of the relinquished firearms.

(7) Inform the defendant and the designee of the obligation to submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer within the time periods specified in subdivisions (d) and (e).

(c) (1) When a defendant is convicted of an offense described in subdivision (a), the court shall immediately assign the matter to a probation officer to investigate whether the Automated Firearms System or other credible information, such as a police report, reveals that the defendant owns, possesses, or has custody or control of any firearms. The assigned probation officer shall receive the Prohibited Persons Relinquishment Form from the defendant or the defendant's designee, as applicable, and ensure that the Automated Firearms System has been properly updated to indicate that the defendant has relinquished those firearms.

(2) Prior to final disposition or sentencing in the case, the assigned probation officer shall report to the court and the prosecuting attorney whether the defendant has properly complied with the requirements of this section by relinquishing all firearms identified by the probation officer's investigation or declared by the defendant on the Prohibited Persons Relinquishment Form, and by timely submitting a completed Prohibited Persons Relinquishment Form. The probation officer shall also report to the Department of Justice on a form to be developed by the department whether the Automated Firearms System has been updated to indicate which firearms have been relinquished by the defendant.

(3) If the report of the probation officer does not confirm relinquishment of firearms registered in the defendant's name, the court shall take one of the following actions:

(A) If the court finds probable cause, after a warrant request has been submitted pursuant to Section 1524, that the defendant has failed to relinquish any firearms as required, the court shall order a search warrant for, and removal of, any firearms at any location where the judge has probable cause to believe the defendant's firearms are located. The court shall set a court date to confirm relinquishment of all firearms. The search warrant shall be executed within 10 days pursuant to subdivision (a) of Section 1534.

(B) If the court finds good cause to extend the time for providing proof of relinquishment, the court shall set a court date within 14 days for the defendant to provide proof of relinquishment.

(C) If the court finds additional investigation is needed, the court shall refer the matter to the prosecuting attorney and set a court date within 14 days for status review.

(4) Prior to final disposition or sentencing in the case, the court shall confirm that the defendant has relinquished all firearms as required, and that the court has received a completed Prohibited Persons Relinquishment Form, along with the receipts described in paragraph (1) of subdivision (d) or paragraph (1) of subdivision (e). The court shall ensure that these findings are included in the abstract of judgment. If necessary to avoid a delay in sentencing, the court may make and enter these findings within 14 days of sentencing.

(5) Failure by a defendant to timely file the completed Prohibited Persons Relinquishment Form with the assigned probation officer shall constitute an infraction punishable by a fine not exceeding one hundred dollars (\$100).

(d) The following procedures shall apply to any defendant who is a prohibited person within the meaning of paragraph (1) of subdivision (a) who does not remain in custody at any time within the 48-hour period following conviction:

(1) The designee shall dispose of any firearms the defendant owns, possesses, or has custody or control of, within 48 hours following the conviction by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830, in accordance with the wishes of the defendant. Any proceeds from the sale of the firearms shall become the property of the defendant. The law enforcement officer or licensed dealer taking possession of any firearms pursuant to this subdivision shall issue a receipt to the designee describing the firearms and listing any serial number or other identification on the firearms at the time of surrender.

(2) If the defendant owns, possesses, or has custody or control of any firearms to relinquish, the defendant's designee shall submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer within 48 hours following the conviction, along with the receipts described in paragraph (1) of subdivision (d) showing the defendant's firearms were surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer.

(3) If the defendant does not own, possess, or have custody or control of any firearms to relinquish, they shall, within 48 hours following conviction, submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, with a statement affirming that they have no firearms to be relinquished.

(e) The following procedures shall apply to any defendant who is a prohibited person within the meaning of paragraph (1) of subdivision (a) who is in custody at any point within the 48-hour period following conviction:

(1) The designee shall dispose of any firearms the defendant owns, possesses, or has custody or control of, within 14 days following the conviction by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830, in accordance with the wishes of the defendant. Any proceeds from the sale of the firearms shall become the property of the defendant. The law enforcement officer or licensed dealer taking possession of any firearms pursuant to this subdivision shall issue a receipt to the designee describing the firearms and listing any serial number or other identification on the firearms at the time of surrender.

(2) If the defendant owns, possesses, or has custody or control of any firearms to relinquish, the defendant's designee shall submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, within 14 days following conviction, along with the receipts described in paragraph (1) of subdivision (e) showing the defendant's firearms were surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer.

(3) If the defendant does not own, possess, or have custody or control of any firearms to relinquish, they shall, within 14 days following conviction, submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, with a statement affirming that they have no firearms to be relinquished.

(4) If the defendant is released from custody during the 14 days following conviction and a designee has not yet taken temporary possession of each firearm to be relinquished as described above, the defendant shall, within five days following their release, relinquish each firearm required to be relinquished pursuant to paragraph (1) of subdivision (d).

(f) For good cause, the court may shorten or enlarge the time periods specified in subdivisions (d) and (e), enlarge the time period specified in paragraph (3) of subdivision (c), or allow an alternative method of relinquishment.

(g) The defendant shall not be subject to prosecution for unlawful possession of any firearms declared on the Prohibited Persons Relinquishment Form if the firearms are relinquished as required.

(h) Any firearms that would otherwise be subject to relinquishment by a defendant under this section, but which are lawfully owned by a cohabitant of the defendant, shall be exempt from relinquishment, provided the

defendant is notified that the cohabitant must store the firearm in accordance with Section 25135.

(i) A law enforcement agency shall update the Automated Firearms System to reflect any firearms that were relinquished to the agency pursuant to this section. A law enforcement agency shall retain a firearm that was relinquished to the agency pursuant to this section for 30 days after the date the firearm was relinquished. After the 30-day period has expired, the firearm is subject to destruction, retention, or other transfer by the agency, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention of the firearm is necessary or proper to the ends of justice, or if the defendant provides written notice of an intent to appeal a conviction for an offense described in subdivision (a), or if the Automated Firearms System indicates that the firearm was reported lost or stolen by the lawful owner. If the firearm was reported lost or stolen, the firearm shall be restored to the lawful owner, as soon as its use as evidence has been served, upon the lawful owner's identification of the weapon and proof of ownership, and after the law enforcement agency has complied with Chapter 2 (commencing with Section 33850) of Division 11 of Title 4. The agency shall notify the Department of Justice of the disposition of relinquished firearms pursuant to Section 34010.

(j) A city, county, or city and county, or a state agency may adopt a regulation, ordinance, or resolution imposing a charge equal to its administrative costs relating to the seizure, impounding, storage, or release of a firearm pursuant to Section 33880.

SEC. 4. Section 29813 is added to the Penal Code, to read:

29813. The Department of Justice shall provide local law enforcement agencies and the district attorney access through an electronic portal to information regarding individuals residing in their jurisdiction listed in the Armed Prohibited Persons System who have not provided proof of relinquishment of firearms registered in their name. Each local law enforcement agency shall designate a person to access or receive the information and shall report to the Department of Justice quarterly regarding steps taken to verify that the individuals are no longer in possession of firearms. Law enforcement agencies operating in the same jurisdiction may agree to designate one lead agency for their jurisdiction to report on the steps taken to verify individuals are no longer in possession of firearms.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 6. (a) Section 2.1 of this bill incorporates amendments to Section 11106 of the Penal Code proposed by both this bill and Senate Bill 368. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2024, (2) each bill amends Section 11106 of the Penal Code, and (3) this bill is enacted after Senate Bill 368, in which case Section 2 of this bill shall not become operative.

(b) Section 3.1 of this bill incorporates amendments to Section 29810 of the Penal Code proposed by both this bill and Assembly Bill 733. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2024, (2) each bill amends Section 29810 of the Penal Code, and (3) this bill is enacted after Assembly Bill 733, in which case Section 3 of this bill shall not become operative.

O



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