CHIEF'S PREFACE

This Policy Manual contains our Mission, Vision, and Values Statements as well as policies and procedures. Please familiarize yourself with the contents of this Policy Manual, as this will help guide you in your successful career with one of the finest law enforcement agencies in the country.

By the authority vested in the Chief of Police by the Laws of the State of California and Ordinances of the City of Clayton, I, Elise Warren, adopt these revised polices for the administration and operation of the Clayton Police Department. I reserve the right to alter, amend, revoke, or make additions to any of these polices; which is a constant updating process. As this Policy Manual is the most updated version, all previous policy sections have been rescinded.

The Policy Manual is designed to guide employees of the Clayton Police Department in carrying out duties and responsibilities imposed upon them by law or necessarily assumed in carrying out the department's objectives.

It is important to understand that this Policy Manual is a guideline. No rules or procedures can be established that encompass all situations; some things must be left to the discretion of the individual employee. Our community style of policing encourages officers and employees to initiate problem-solving strategies and address community concerns. Employees must always balance this high level of responsibility with the expectation that they adhere to the Department's written policies. Deviation from our policies and procedures requires demonstration that the action was necessary.

Any violation of this Policy Manual may be made the subject of discipline against employees responsible for such violations. When there is doubt as to the meaning or intent of a policy section, the employee should seek an interpretation from their immediate supervisor.

The Clayton Police Department has adopted a Community Policing Model as a strategy for our style of law enforcement. Community Policing encourages a partnership and collaboration between the community, the Police Department, private, and public agencies. In support of Community Policing, our Mission, Vision & Values Statements, and this Police Manual serve as your guiding lights and are to be considered road maps in accomplishing your tasks. Your willingness to adopt this strategy as your personal and professional code of behavior will be critical components of your success as an employee with the Clayton Police Department.

Sincerely,

Elise Warren

Chief of Police
February 20, 2018

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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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CLAYTON POLICE DEPARTMENT MISSION, VISION AND VALUES STATEMENTS

Mission

The mission of the Clayton Police Department is to provide excellent, efficient, and effective public safety services to all persons, with the highest regard for human dignity through professional and ethical law enforcement practices. The Clayton Police Department will carry out its responsibilities with integrity, and in a manner which enhances the quality of life in Clayton.

Vision

The vision of the Clayton Police Department is a community protected and served by a quality police force; prepared and expertly trained to protect life and property; working as a cohesive team of proud professionals who have earned the respect of our citizens and other law enforcement agencies.

Values

We value the sanctity and protection of human life and adherence to constitutional principles as our highest priority.

We value the oath we took to uphold the constitution and enforce the law with integrity and professionalism in all aspects of our service.

We value our community, its residents and natural resources and our role in preserving a safe environment.

We value the citizens of our community and encourage their involvement in matters that directly affect the safety and quality of their neighborhood and their lives.

We value professional and personal conduct which is both honest and ethical.

We value the opportunity to grow and advance with the support and encouragement of our agency to improve in an atmosphere free from harassment or discrimination.

We value a work environment that is free of harassment and unlawful discrimination.

We value open communication, innovation, diversity and accountability.

We value employee involvement in decision making.

We value our fellow employees, recognizing that the human resource is our greatest asset.

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Chapter 1 - Law Enforcement Role and Authority

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Law Enforcement Authority

100.1 PURPOSE AND SCOPE

The purpose of this policy is to affirm the authority of the members of the Clayton 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 INSIDE THE JURISDICTION OF THE CLAYTON POLICE DEPARTMENT

The arrest authority within the jurisdiction of the Clayton 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.

100.2.3 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE CLAYTON POLICE DEPARTMENT

The arrest authority outside the jurisdiction of the Clayton 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.

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(c) When the officer has probable cause to believe the person has committed a misdemeanor for which an arrest is authorized even if not committed in the presence of the officer such as certain domestic violence offenses and there is immediate danger to person or property or of escape or the arrest is mandated by statute.

(d) When authorized by a cross jurisdictional agreement with the jurisdiction in which the arrest is made.

(e) In compliance with an arrest warrant.

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

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

100.2.4 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.

100.2.5 OREGON AUTHORITY

Sworn members of this department who enter the state of Oregon in order to provide or attempt to provide law enforcement assistance have Oregon peace officer authority within 50 miles from the California-Oregon border (ORS 133.405). Such authority shall only apply when officers are acting:

(a) In response to a request for law enforcement assistance initiated by an Oregon sheriff, constable, marshal, municipal police officer or member of the Oregon State Police.

(b) In response to a reasonable belief that emergency law enforcement assistance is necessary to preserve life, and circumstances make it impractical for Oregon law enforcement officials to formally request assistance.

(c) For the purpose of assisting Oregon law enforcement officials with emergency assistance in response to criminal activity, traffic accidents, emergency incidents or other similar public safety situations, regardless of whether an Oregon law enforcement official is present at the scene of the incident.

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Clayton Police Department officers have no authority to enforce Oregon traffic or motor vehicle laws.

Whenever practicable, officers should seek permission from a department supervisor before entering Oregon to provide law enforcement services. As soon as practicable, officers exercising law enforcement authority in Oregon shall submit any appropriate written reports concerning the incident to the Oregon agency having primary jurisdiction over the area in which the incident occurred.

100.3 POLICY

It is the policy of the Clayton 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.

(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.

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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).

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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 Clayton 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).

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Policy Manual

106.1 PURPOSE AND SCOPE

The manual of the Clayton 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 Clayton 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 Clayton 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 Memorandums, which shall modify those provisions of the manual to which they pertain. Memorandums 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 Clayton.

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

Department/CPD - The Clayton 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 Clayton Police Department Policy Manual.

May - Indicates a permissive, discretionary or conditional action.

Member - Any person employed or appointed by the Clayton 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 Clayton 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. 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 Memorandums. Members shall seek clarification as needed from an appropriate supervisor for any provisions that they do not fully understand.

106.6 PERIODIC REVIEW OF THE POLICY MANUAL

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

106.7 REVISIONS TO POLICIES

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

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

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

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

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Chapter 2 - Organization and Administration

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Organizational Structure and Responsibility

200.1 PURPOSE AND SCOPE

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

200.2 DIVISIONS

The Chief of Police is responsible for administering and managing the Clayton Police Department. There aredivisions in the Police Department as follows:

- Administration Division
- Patrol Division
-

200.2.1 ADMINISTRATION DIVISION ADMINISTRATIONS DIVISION

The Administration Division is commanded by a Chief of Police, whose primary responsibility is to provide general management direction and control for the Administration Division. TheDivision consists of the Chief, the Administrative Sergeant, and all Civilian staff.

200.2.2 PATROL DIVISION

The Patrol Division is commanded by a Chief of Police, whose primary responsibility is to provide general management direction and control for the Patrol Division. The Patrol Division consists of Uniformed Patrol and Special Operations, which includes Reserve Officers and Police Explorers..

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 Sergeant 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) Administrative Sergeant

(b) Operations Sergeant

(c)

(d) Senior Officer

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

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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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Clayton Organization Chart

201.1

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Interim Directive

204.1 PURPOSE AND SCOPE

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

204.1.1 INTERIM DIRECTIVE PROTOCOL

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

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

Any Interim 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, 08-01 signifies the first Interim Directive for the year 2008.

204.2 RESPONSIBILITIES

204.2.1 STAFF

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

204.2.2 CHIEF OF POLICE

The Chief of Police shall issue all Memorandums.

204.3 ACCEPTANCE OF INTERIM DIRECTIVES

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

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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 Clayton Police Department are subject to immediate recall. Employees may also be subject to recall during extraordinary circumstances as deemed necessary by the Chief of Police or the authorized designee.

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

206.3 LOCATION OF THE PLAN

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

206.4 UPDATING OF MANUALS

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

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Training Policy

208.1 PURPOSE AND SCOPE

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

208.2 PHILOSOPHY

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

208.3 OBJECTIVES

The objectives of the Training Program are to:

(a) Enhance the level of law enforcement service to the public

(b) Increase the technical expertise and overall effectiveness of our personnel

(c) Provide for continued professional development of department personnel

208.4 TRAINING PROCEDURES

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

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

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

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

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208.5 DAILY TRAINING BULLETINS

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

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

Employees who are assigned to participate in the DTB program should complete each DTB at the beginning of their shift or as otherwise directed by their supervisor. Employees should not allow uncompleted DTBs to build up over time. If you are going to be on days off/or time off prior to the end of the month you must complete your DTB's before leaving. 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.

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Electronic Mail

212.1 PURPOSE AND SCOPE

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

212.1.1 NETWORK POLICIES

The Clayton Police Department contracts with the City of Concord and Concord Police Department to provide computer networking, terminal access, CLETS/CORI database access and maintenance, report writing, email and data storage. All employees using the network or any related computer system should be familiar with and follow the Concord Police Department and City of Concord network and computer access policies.

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.

212.3 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 Chief of Police. Personal advertisements are not acceptable.

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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

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

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

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Administrative Communications

214.1 PURPOSE AND SCOPE
Administrative communications of this department are governed by the following policies.

214.2 DEPARTMENT E-MAIL
Department E-mail may be issued periodically by the Chief of Police to announce and document all promotions, transfers, hiring of new personnel, separations, personnel and group commendations, or other changes in status.

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

214.4 SURVEYS
All surveys made in the name of the Department shall be authorized by the Chief of Police or a Sergeant.

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Staffing Levels

216.1 PURPOSE AND SCOPE

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

216.2 MINIMUM STAFFING LEVELS

Minimum staffing levels should result in the scheduling of at least one supervisor and one patrol officer on duty whenever possible. When a supervisor is not on-duty, two patrol officers should be on-duty. A minimum of one patrol officer will be on-duty at all times.

The Chief of Police may elect to work as the on-duty supervisor when a Sergeant is not available.

Mandatory overtime assignments may be used to maintain minimum staffing levels.

216.2.1 SUPERVISION DEPLOYMENTS

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

With prior authorization from the Chief of Police, an officer may act as the Shift Supervisorfor a limited period of time .

Officer's working as acting supervisors shall be compensated in accordance with the current MOU agreement regarding working in a higher class.

216.2.2 ACTING SERGEANT QUALIFICATIONS

Officers qualified to be designated as acting sergeants should meet the following requirements:

- Possess a POST Intermediate Certificate.
- Minimum of two years of service with the Clayton Police Department.
- Completion of a POST FTO course or other supervisory level training as approved by the Chief of Police.
- No formal disciplinary action within the last 12 months. Discipline in this case shall mean any sanction at the level of Formal Written Reprimand or higher.

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

218.3 QUALIFIED APPLICANTS

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

(a) Be a resident of the City of Clayton (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.

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

(j) Complete required training (Penal Code § 26165).

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218.4 APPLICATION PROCESS

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

218.4.1 PHASE ONE (TO BE COMPLETED BY ALL APPLICANTS)

(a) Any individual applying for a license to carry a firearm shall first fully complete a California Department of Justice (DOJ) application to be signed under penalty of perjury. Any applicant who provides false information or statements on the application will be removed from further consideration and may be prosecuted for a criminal offense (Penal Code § 26180).

1. In the event of any discrepancies in the application or background investigation, the applicant may be required to undergo a polygraph examination, at no cost to the applicant.

2. If an incomplete application package is received, the Chief of Police or authorized designee may do any of the following:

(a) Require the applicant to complete the package before any further processing.

(b) Advance the incomplete package to phase two for conditional processing pending completion of all mandatory conditions.

(c) Issue a denial if the materials submitted at the time demonstrate that the applicant would not qualify for a license to carry a firearm even if the package was completed (e.g., not a resident, disqualifying criminal conviction, absence of good cause).

(b) At the time the completed application is submitted, the applicant shall submit a check made payable to the California Department of Justice for the required California DOJ application fee, along with a separate check made payable to the City of Clayton for a nonrefundable 20 percent of the application fee to cover the cost of processing the application (Penal Code § 26190). Clayton Police only collect fee's if applicant is approved to advance to phase two.

1. Additional fees may be required for fingerprinting, training or psychological testing, in addition to the application fee.

2. Full payment of the remainder of the application fee will be required upon issuance of a license.

3. Payment of related fees may be waived if the applicant is a duly appointed reserve peace officer as defined in Penal Code § 830.6 (a) or (b) (Penal Code § 26170).

(c) The applicant shall be required to submit to fingerprinting and a complete criminal background check by the California DOJ. A second set of fingerprints may be required for retention in department files. Two recent passport-size photos (2 inches by 2 inches) of the applicant shall be submitted for department use. No person determined to fall within a prohibited class described in Penal Code § 29800, Penal Code § 29900,

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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 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).

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(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 Clayton (Penal Code § 26150).

(b) Such a license will be valid for a period not to exceed 90 days from the date of issuance (Penal Code § 26220).

(c) The applicant shall provide a copy of the license to the licensing authority of the city or county in which the applicant resides (Penal Code § 26220).

(d) Any application for renewal or reissuance of such a license may be granted only upon concurrence of the original issuing authority and the licensing authority of the city or county in which the applicant resides (Penal Code § 26220).

218.6 ISSUED FIREARMS PERMITS

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

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(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.

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.

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5. Being under the influence of any medication or drug while armed.
6. Interfering with any law enforcement officer's duties.
7. Refusing to display his/her license or firearm for inspection upon demand of any peace officer.
8. Loading the permitted firearm with illegal ammunition.

(b) The Chief of Police reserves the right to inspect any license or licensed firearm at any time.

(c) The alteration of any previously approved firearm including, but not limited to adjusting the trigger pull, adding laser sights or modifications shall void any license and serve as grounds for revocation.

218.6.2 AMENDMENTS TO LICENSES

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

(a) Add or delete authority to carry a firearm listed on the license.

(b) Change restrictions or conditions previously placed on the license.

(c) Change the address or other personal information of the licensee (Penal Code § 26210).

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

218.6.3 REVOCATION OF LICENSES

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

(a) The licensee has violated any of the restrictions or conditions placed upon the license.

(b) The licensee becomes psychologically unsuitable to carry a firearm.

(c) The licensee is determined to be within a prohibited class described in Penal Code § 29800, Penal Code § 29900, Welfare and Institutions Code § 8100, Welfare and Institutions Code § 8103 or any state or federal law.

(d) The licensee engages in any conduct which involves a lack of good moral character or that might otherwise remove the good cause for the original issuance of the license.

(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).

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

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

218.6.4 LICENSE RENEWAL

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

(a) Verifying all information submitted in the original application under penalty of perjury.

(b) Completing a department-approved training course pursuant to Penal Code § 26165. The applicant shall not be required to pay for a training course prior to the determination of good cause (Penal Code § 26165).

(c) Submitting any firearm to be considered for a license renewal to the Rangemaster for a full safety inspection. The Chief of Police reserves the right to deny a license for any firearm that has been altered from the manufacturer's specifications or that is unsafe (Penal Code § 31910).

(d) Paying a non-refundable renewal application fee.

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

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

218.7 DEPARTMENT REPORTING AND RECORDS

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

(a) The denial of a license

(b) The denial of an amendment to a license

(c) The issuance of a license

(d) The amendment of a license

(e) The revocation of a license

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

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218.8 CONFIDENTIAL RECORDS

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

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 his/her family shall not be considered public record (Government Code § 6254(u)(1)).

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Retiree Concealed Firearms

220.1 PURPOSE AND SCOPE

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

220.2 POLICY

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

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 Clayton 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:

(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

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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.”

220.4.2 QUALIFIED RETIREES FROM INCORPORATED JURISDICTION

The Clayton 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):

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(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 FORMER OFFICER RESPONSIBILITIES

A former officer with a card issued under this policy shall immediately notify the Shift Supervisor of his/her arrest or conviction in any jurisdiction, or that he/she is the subject of a court order, in accordance with the Reporting of Employee Convictions policy.

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.

(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 bi-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

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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 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 Shift Supervisor when the conduct of a retired peace officer compromises public safety (Penal Code § 25470).

(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, 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 Shift Supervisor as soon as practicable. The Shift Supervisor 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).

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2. The Shift Supervisor 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 Shift Supervisor 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 Shift Supervisor 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.

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Chapter 3 - General Operations

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Use of Force

300.1 PURPOSE AND SCOPE

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

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).

Feasible - 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 (Government Code § 7286(a)).

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.

Serious bodily injury - A serious impairment of physical condition, including but not limited to the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement (Penal Code § 243(f)(4)).

Totality of the circumstances - All facts known to the officer at the time, including the conduct of the officer and the subject leading up to the use of force (Penal Code § 835a).

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.

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300.2.1 DUTY TO INTERCEDE AND REPORT
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 to prevent the use of unreasonable 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 promptly report these observations to a supervisor as soon as feasible (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 PERSPECTIVE
When observing or reporting 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)).

300.3 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.

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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 (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.

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(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:

(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 POLICY SECTION REMOVED

300.3.5 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Officers are encouraged to use techniques and methods taught by the Clayton Police Department for this specific purpose.

300.3.6 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.

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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.

300.4 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); Government Code § 7286(b)).

The use of deadly force is only justified when the officer reasonably believe 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 may involve additional considerations and risks. 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 use sound discretion when drawing a firearm in public by considering the following guidelines (Government Code § 7286(b)):

(a) If the officer does not perceive an imminent threat but reasonably believes that the potential for such threat exists (e.g., building search), firearms should generally be kept in the low-ready or other position not directed toward an individual.

(b) If the officer reasonably believes that an imminent 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. See the Report Preparation Policy for additional circumstances that may require documentation.

300.5.1 NOTIFICATION TO SUPERVISORS

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

(a) The application caused a visible injury.

(b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.

(c) The individual subjected to the force complained of injury or continuing pain.

(d) The individual indicates intent to pursue litigation.

(e) Any application of a TASER 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.

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.

300.6 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 (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.

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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.

300.7.1 SHIFT SUPERVISOR RESPONSIBILITY

The Shift Supervisor shall review each use of force by any personnel within his/her command to ensure compliance with this policy.

300.8 TRAINING

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

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Subject to available resources, the Training Sergeant should ensure that officers receive periodic training on de-escalation tactics, including alternatives to force.

Training should also include (Government Code § 7286(b)):

(a) Guidelines regarding vulnerable populations, including but not limited to children, elderly persons, pregnant individuals, and individuals with physical, mental, and developmental disabilities.

(b) Training courses required by and consistent with POST guidelines set forth in Penal Code § 13519.10.

300.9 USE OF FORCE ANALYSIS

Annually, the Administrative Sergeant 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.

300.10 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)).

300.11 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)).

300.12 POLICY AVAILABILITY

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

300.13 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, Personnel Complaints, and Records Maintenance and Release policies (Government Code § 7286(b)).

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BODY WORN CAMERAS AND IN-CAR CAMERA OPERATIONS

301.1 SECTION TITLE
Body Worn Camera and In-car camera Policy

A. Purpose and scope

1. The purpose of this General Order is to govern the use of Body Worn Cameras ("BWC") and the preservation of the video/audio digital evidence. The Clayton Police Department will issue a BWC to Sworn Employees for use during the performance of their duties. Employees of the Clayton Police Department, while in uniform, who have been issued a BWC, shall wear it at all times the employee may become involved in an enforcement situation while on-duty.

2. The Clayton Police Department recognizes recordings between employees and the public enhances the employee's ability to protect and serve. Recordings can enhance criminal prosecutions and limit civil liability. Recordings will also provide opportunities to enhance and further police training and professional service.

3. A recording from a BWC can provide an objective record of events; it is understood, however, that video and audio recordings do not necessarily reflect the experience or state of mind of the individual employee in a given incident. A recording from a BWC has limitations and may depict events differently than the events recalled by the involved employee. It is understood that the recordings may capture information that may not have been heard or seen by the involved employee and the involved employee may hear or see things that may not be captured on the BWC. Digital evidence may capture and represent a less broad and less detailed image or footage than the totality of the human senses.

4. All video recordings made while working as an employee of the Clayton Police Department in any capacity are property of the City of Clayton and subject to review by the Clayton Police Department, pursuant to this policy. Personally owned video recording devices are prohibited.

B. DEFINITIONS

1. **Body Worn Camera (BWC) –** A camera worn on an individual employee/employee's person that records and stores audio and video.

2. **Digital Evidence –** Video footage, photographs and audio recordings captured by a BWC, in-car camera or department issued hand held device and stored digitally.

3. **Evidence.com –** An on-line, web-based media storage facility, which stores digitally encrypted evidence, accessible to authorized personnel, based on their need to access, which also maintains an audit trail of user activity.

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4. **Activate** – Any process that causes the BWC system to transmit or store video or audio data in an active mode.

5. **Docking Station** – A server with built-in docking stations physically installed at the police department. The docking station simultaneously recharges the device while uploading all digitally encrypted data. The docking station then transfers the data to EVIDENCE.COM.

6. **Media or Data** – Includes photographs, audio recordings and video footage. The media is stored digitally.

C. PROCEDURES

1. Officer Responsibilities

(a) Officers shall test BWC equipment prior to going in service.

(b) Officers shall position the camera on their uniform to facilitate optimum recording field of view.

(c) Officers shall dock their issued camera for automated upload of BWC 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. This does not prohibit officers from uploading video more frequently if needed or desired. (Penal Code § 832.18)

(d) Officers shall immediately report unresolved equipment malfunctions and/or problems to their supervisor and BWC Administrator.

(e) Monitoring system effectiveness and making recommendations for operational improvement and policy revision.

(f) Officers should be aware of surroundings when operating the BWC, such as in a hospital emergency room where privacy of patients should be considered when operating the BWC.

(g) Personnel will use only the BWC system issued and approved by the Department and only for official police duties. The wearing of any other personal video recorder for the same purpose is not authorized without permission of the Chief of Police.

(h) Personnel shall not remove, dismantle or tamper with any hardware and/or software component or part of the BWC.

2. Activation and Use of the BWC.

The BWC system is designed to constantly buffer 30 seconds of video. This pre-event buffer is added as soon as the officer switches to event mode. The system actively records until it is turned off manually. An officer may activate the system any time the officer believes it would be appropriate or valuable to document an incident. In some circumstances it is not possible to

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capture images of the incident due to conditions or the location of the camera. However, the audio portion can be valuable evidence and is subject to the same activation requirements as the BWC. Unless it is unsafe or impractical to do so, or mechanical issues that impede the use of the device are present, officers who are required to wear the BWC shall activate their BWCs, prior to making contact, and record during, but not limited to, the following circumstances:

.01 All enforcement contacts, detentions and arrests to include pedestrian stops (including consensual encounters) and traffic stops.

.02 Consensual contacts initiated by the employee where there may be a desire to search or develop a reasonable suspicion to detain/search, or learn of probation or parole status.

.03 Vehicle and foot pursuits.

.04 Searches (vehicle, consensual, probation, parole, PRCS, and ‘knock and talks’)

.05 Service of search and/or arrest warrants - The cameras will be activated prior to execution of the warrant and the supervisor or officer in charge on-scene will determine when the scene is secure and when the involved employees can turn off the cameras.

.06 All public contacts that become adversarial or hostile after the initial contact in a situation that would not otherwise require recording.

.07 Calls for service – All CFS; those generated by dispatch via CAD or on-viewed or initiated by the employee.

.08 During Prisoner or Courtesy Transports

.09 Code 3/emergency driving

.10 Any use of force case

.11 During any PWT’s (Park-Walk-Talk) or self-initiated Security Checks where the officer believes that a recording of the incident would be appropriate, when a crime is discovered to have occurred or be occurring, or when an otherwise innocuous situation becomes adversarial or confrontational.

.12 Assisting other employees or outside agencies involved in any of the aforementioned circumstances

.13 An officer or employee shall activate his or her BWC while en-route to a call-for-service and before arriving at the aforementioned event (s) when the officer is dispatched by radio or MDC. If an employee on-views or initiates an event, the employee shall activate the BWC before getting out of the car or making contact. Officers or employees should not jeopardize their safety, or the safety of any other employee, employee, or member of the public, in order to activate the BWC. If the BWC is not activated as outlined in this policy, or activation is delayed, the employee shall document the reason for not activating the BWC as required in the police report, or CAD notes (if a report is not taken)

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.14 Any other circumstance where the officer believes that a recording of an incident would be appropriate.

3. Activation and Use of BWC's During Suspect Interviews/Interrogations.

1. Employees shall record interviews and interrogations with suspects and do not have an obligation to advise the suspect that he or she is being recorded.

2. During custody, employees should not record conversations with Citizen Informants.

4. Activation and Use of BWC's During Witness and/or Victim Interviews/Statements.

01. Employees should record interviews with witnesses and crime victims.

02. When a victim or witness requests that he or she not be recorded, employees may consider that request, and the employees have discretion not to record pursuant to such a request. The employee shall weigh the victim or witness' request against the purposes of the BWC program. If the employee is not going to record the interview, the employee should state the reason why, while being recorded, before turning off the BWC. Additionally, the employee shall document the reason and his or her actions in the police report.

03. Employees do not have an obligation to advise a victim or witness they are being recorded, but may do so at their discretion.

5. Activation and Use of BWC's During Informal Community Interactions

01. Employees of all ranks are not required to activate their BWC during informal, incidental, non-enforcement interactions with members of the community, such as a person asking for directions or general conversations during a meal-break. However, if this contact evolves into a contact described in Section C 1-4 above, the employee shall activate the BWC as required in this General Order.

6. Prohibited activation and Use of the BWC

1. BWCs are not for personal use and shall not be used to record non-work related personal activity.

2. Employees shall not activate the BWCs: for any non-work related activity, conversations, actions or interactions. BWC's are for official-use only. BWC's shall not be activated to intentionally record the conversations of fellow employees without their knowledge. Only the department issued BWC will be used. Personally owned or non-issued BWC's are forbidden. The following are instances when employees shall not activate their BWC's:

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3. During regular administrative or non-field work inside police headquarters, where employees have a reasonable expectation of privacy, such as squad meetings, briefings, private or personal conversations, break rooms, locker rooms, bath rooms, etc.

4. During tactical or operational briefings where there is discussion of safety and security or police procedures and tactics.

5. During strip searches.

6. During medical or psychological evaluations of patients while under the care of a medical professional, at a medical facility. This does not include employees detaining and evaluating subjects under 5150 W&I in the field, or employees who are called to medical facilities for in-progress crimes or criminal investigations.

7. Employees will exercise reasonable judgment with the use of the BWC's. At no time will a recording device be activated to record the conversations of fellow employees without their knowledge.

8. The installation, activation, or use of biometric surveillance systems, including facial recognition, in connection with a BWC or in-car camera is prohibited. This prohibition does not include the use of an automated or semi-automated process for the purpose of redacting a recording for release or disclosure outside the law enforcement agency to protect the privacy of a subject depicted in the recording, if the process does not generate or result in the retention of any biometric data or surveillance information (Penal Code § 832.19).

7. Muting BWC audio

01. There may be occasions to mute the audio of the BWC or the In-Car Camera during recording in order to have private conversations outside the purview of the public, and where there would be no evidentiary value to that particular conversation. This would normally be when the employees are not directly in contact with the public. Before muting the audio, employees will give a verbal explanation as to why they are muting, prior to doing so. Such occasions for muting audio may be:

a. Planning or debriefing police tactics.

b. Providing training such as a Supervisor to a subordinate or an FTO to a recruit.

c. Discussing confidential or personal information with another in person or by phone.

d. Matters pertaining to personnel issues.

8. De-activation of the BWC

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01. After activation, as required in the aforementioned Section C 1-5, employees may turn off their BWC at the conclusion of the event, as detailed below:

(a) The end of the event when the contact or call has concluded

(b) At the conclusion of a courtesy transport

(c) At the conclusion of the arrest transport when the employee arrives securely inside of the CPD Sally Port or MDF Sally Port; while in the CPD Sally Port or in the CPD Jail, the employee shall activate the BWC if the contact with an arrestee turns adversarial or if the arrestee becomes threatening, combative, or uncooperative or if there is an evidentiary need.

(d) When interacting with an undercover police officer and there is no urgency to record that would override the confidentiality of the officer.

(e) When interviewing a citizen informant and there is no urgency to record that would override the confidentiality of the citizen

(f) When the officer is simply waiting for a tow truck or a family member to arrive, or in other similar situations.

9. Operating Procedures

01. Only employees who have received approved training will be issued a BWC. Employees should only use the BWC that is assigned to them. In the event that an employee mistakenly uses a BWC that is not assigned to them, that employee should notify their supervisor as soon as possible. It is the employee's responsibility to make sure they are deployed with a properly functioning BWC and a fully charged battery. Employees are responsible for inspecting their BWC prior to shift or deployment to ensure the BWC is operating properly. If the device is not operating properly at the beginning of deployment inspection or at any time during the shift, the employee will notify their supervisor immediately.

02. Employees shall position the camera to facilitate optimum recording field of view; high or low on the chest or upper torso, on the front of the uniform. Employees should check the position of the camera and its position on their uniform throughout their shift to make sure the position of the camera is maintained for the optimum view and recording. The BWC may be temporarily moved from the primary location to facilitate recording in furtherance of a police objective. However, upon completion of the objective, the BWC shall be returned to the primary recording location as soon as practical. Officers may utilize the Axon View app or the in-car Axon View XL program to check the field-of-view of the BWC when it is positioned on the uniform. The Axon View app may also utilized to use the BWC for remote viewing in circumstances that pose an unnecessary safety risk to the officers, but only in circumstances where an officer has a lawful right to be looking (such as an attic or crawl space or other area that would pose a safety risk)

10. Scope of Official Use

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01. No employee shall obtain or convert any recordings obtained during the course and scope of their duties for personal use. The following circumstances are specifically prohibited:

1. Personal copies of official recordings.
2. Re-recording of videos with other devices (such as smart phones or tablets).
3. Posting of official video and/or audio to any non-department sponsored social networking, blog, website or the like.
4. In no event shall any recording be used or shown for the purpose of ridiculing or embarrassing any employee.

02. Posting of BWC recordings (audio and/or video) on a Department social-media will only be allowed with the express permission from the Clayton Police Chief (any video or audio posted on a Department social media platform or other web site will thereafter be considered public information). If possible, a reasonable effort will be made to notify both the employee(s) capturing and employee(s) depicted in the video of the intent to use the footage on social-media. The employee may object, however, the police chief will have the final decision. The decision and justification will be relayed to the employee in email or written form prior to posting.

11. Review and Use of Recordings

1. Employees should review recordings to help with their preliminary investigation and to recollect for writing their police reports. Employees are still required to complete thorough and detailed police reports. Officers should not substitute “refer to video” for a detailed and thorough report. As with any recorded interview of a victim, witness or suspect, the employee will still summarize the statement in the report narrative. Employees should review recordings prior to courtroom testimony and Detectives may review recordings when relevant and necessary to complete their investigations. Employees will be allowed to review recordings for any legitimate law enforcement purpose. When multiple employees are involved in the same incident, it is permissible for those employees to share access to their individual BWC recordings with each other for the purpose of reviewing the recordings to help with a preliminary investigation and to recollect for writing their police reports.

2. <u>Critical Incidents and Officer Involved Fatal Incidents</u>

The Clayton Police Department acknowledges that recordings taken during critical incidents obtained from video recorders do not necessarily reflect the full extent of the nature of the event or the experience, analysis, training, threat assessment or state of mind of the individual officer(s) in a given incident. Moreover, the recordings, especially video, have limitations and may depict events differently than the events recalled by the involved officer. Specifically, it is understood that the recording device will capture information that may not have been heard and/or observed by the involved officer and that officers may see and hear events that are not captured by the camera.

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Critical Incidents and Officer Involved Fatal Incidents are defined as fatalities of civilians as a result of conduct, or conceivably as a result of conduct by law enforcement personnel; fatalities of on-duty law enforcement personnel as a result of the conduct of another person. Critical incidents are also defined as an intentional act by an officer that causes injury likely to cause death.

Officers who are involved as actors in a critical incident or Officer Involved Fatal Incident (as described above) should be interviewed before reviewing any audio/video recordings of the incident. Once the officer has provided an initial statement (with representation), the officer will have an opportunity to review any available recordings with his representative. The officer will then be afforded an opportunity to provide a follow-up statement after having reviewed the recording(s), if the officer or the investigators deem it necessary. The LEIFI Protocol defines “actors” as law enforcement personnel whose conduct was ‘actually or conceivably a factor’ in a fatality.

If an involved officer is shown the recording(s) after the initial interview, the investigator will admonish the officer about the limitations of the recordings. The following admonishment is appropriate and referenced from the Contra Costa County LEIFI Protocol:

12. Administrative Review and Supervisor Review of Recordings

1. The circumstances for which Supervisors may review BWC footage include, but are not limited to: administrativeinvestigations, inquiries, citizen complaints, instances which may result in liability to the City or any agent or employee of the city.

(b) Supervisors will review BWC footage to ensure that BWCs are operating properly and being used in accordance with this General Order. Supervisors shall conduct a random review of at least one BWC recording for each of their subordinates, at least once per patrol trimester period. Inadvertent discovery of other possible violations during reviews shall require the supervisor to articulate the reason for expanding the scope of the investigation to the Chief of Police or his or her designee.

(c) This section regarding administrative review does not apply to any employee on a Performance Improvement Plan (“PIP”), on probation, or any employee in the FTO program as a trainee. Supervisors may access BWC footage of officers or employees who are on a PIP, on probation, or who are in the FTO program as a trainee, without limitation, to evaluate the performance of the officer or employee. BWC footage of trainees may be shared with the FTO to evaluate performance or for training purposes.

(d) Employees who are the subject or who are a witness in a criminal investigation or administrative investigation may not view any BWC or Dash Cam audio or video recordings related to the incident without approval of the Chief of Police.

(e) When a supervisor receives a complaint about an employee’s conduct or actions from a citizen or fellow employee, the supervisor will have the discretion, based on the severity of the allegation, to either immediately view the BWC footage from the involved employee’s BWC, immediately prioritize download of BWC footage or confiscate the BWC from the involved employee(s) and dock the BWC for upload, then initiate an administrative lock-out to prohibit access. Depending on

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the circumstances, employees may need to check out a spare BWC to return to duty. In those circumstances where a complaint is resolved with no further action needed, supervisors shall put comments into the note section related to the specific related BWC footage.

(f) No officer shall be required to write a police report in cases where they have been administratively locked out of their video footage.

(g) In the event of a LEIFI Protocol, the supervisor on scene shall confiscate the BWC cameras of the subject and witness employee(s), download the BWC footage as soon as possible and initiate an administrative lock-out as soon as practical.

(h) Supervisors learning of training needs, policy violations or commendatory performance during any authorized review will take and document appropriate action.

13. BWC Review for Training

(a) BWC recordings can be a valuable training tool for individual employees, specific units, the department and law enforcement in general. Police Managers will decide if footage can be used for training purposes in patrol briefing settings or specialized units. If possible, a reasonable effort will be made to notify both the employee(s) capturing and employee(s) depicted in the video of the intent to use the footage for training. The employee may object, however, a police manager will have the final decision. The decision and justification will be relayed to the employee(s) in email or written form prior to use.

(b) For department wide official training, the Administrative Sergeant will have to give authorization to use the footage. For any training outside of the Clayton Police Department, the Chief of Police will have to give authorization for the use of the BWC footage.

14. Evidence.com and uploading files

1. Employees shall download their BWC files (footage) into Evidence.com at the conclusion of their shift, or during their shift should storage capacity necessitate an upload before capacity is exceeded by properly placing the BWC in the docking station. Employees shall tag/label each video with the case number or call history number, the type of call and all categories that apply to the incident.

2. In the event of a network failure or BWC failure prior to an upload, the employee shall immediately notify his or her supervisor. The employee may be issued a spare BWC.

15. External Requests for BWC files/Records Request

1. The City Attorney's Office, along with the Chief of Police and the Clayton Police Department Records Unit and Property Unit, will be responsible for processing all Public Records Act requests, subpoenas, official information requests, and/or any other external requests for

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recorded video captured by BWC. These types of requests are reviewed on a case-by-case basis in accordance with applicable law.

2. Should it be decided that recordings will be released to the public, the department will attempt to give 48 hours' notice to the involved employee. This notice can be waived by the Chief of Police, or his/her designee, and this notice does not apply to criminal subpoenas.

16. Request for Deletion of Accidental Recordings

(a) In the event of an accidental or sensitive personal recording, where the resulting recording is of no investigative or evidentiary value, the recording employee may request that the file be deleted by submitting an email request to the Chief of Police. The Chief of Police or his or her designee will review the file and either approve or deny the request. In all cases of deletion requests, a determination should be made within seven (7) calendar days, unless there are extenuating circumstances.

D. USE OF HAND HELD DEVICES TO COLLECT EVIDENCE

Officers using a department issued iOS or Android hand held device shall use the AxonCapture Mobile App to capture photos, audio and videos. Additionally, any media captured through the AxonCapture Mobile App shall be tagged and labeled as outlined in section 14. The app also creates the ability for a citizen to provide photo, video or audio evidence to an officer for review, prior to submission to EVIDENCE.COM. The handheld device serves only as a conduit for the information to be loaded into EVIDENCE.COM. No data is stored on the hand held device.

E. IN-CAR CAMERA OPERATIONS

The Purpose and Scope and the Procedures outlined above covering BWC's will also apply to In-Car Camera operations; namely: Purpose and Scope (A), Prohibited Activation (C.6), Muting Audio (C.7), De-activation (C.8), Operating Procedures (C.9), Scope of Official Use (C.10), Review and Use of Recordings (C.11), Administrative and Supervisor Review (C.12), Review for Training (C.13), Uploading (C.14),External Requests (C.15), and Deletion of Accidental Recordings (C.16).

1. When Employees start their shift, they shall log into the Axon View XL program on the MDC, in preparation for recordings during their shift. Employees shall ensure the forward facing in-car camera is functioning and properly aligned, the rear seat area camera is functioning and their assigned BWC is paired. The Live View feature of the Axon View XL program may be used to check proper alignment and function. Employees will log out of the Axon View XL program at the end of their shift. If an employee knows he or she will be out of the car for an extended period of time (such as court), they may turn off the main power during that time.

2. The forward facing, in-car camera shall be connected to the emergency equipment light bar/siren controller, which will allow for automatic activation of the forward facing, in-car camera and and BWC that is nearby, using the Axon Signal system, for several different circumstances:

(a) When the emergency lights are activated in the number 1, number 2 and number 3 positions.

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(b) When the vehicle reaches 70 MPH.

(c) When the patrol rifle or less-lethal launcher release is depressed

(d) Immediately upon a collision, which will include the 30 second buffering (with no sound).

3. Should the employee turn off the emergency equipment during a contact (such as for DUI investigations or to use only rear facing ambers), the employee shall make sure the in-car camera stays activated during the circumstances described below in section E.3.A through E.3.I.

A. Traffic stops (vehicles or bicycles)

B. DUI investigations

C. Vehicle Searches

D. Prisoner transports

E. “Code 3” driving

F. Vehicle Pursuits

G. Pedestrian Enforcement Stops

H. Courtesy Transports

I. Officers may activate the In-Car Camera system at any time if the officer believes it would be appropriate or of evidentiary value to document an incident.

4. Officers may use the rear seat area camera to document courtesy transports and prisoner transports. The rear seat camera microphone should remain on during recording.

F. RETENTION REQUIREMENTS

All recordings shall be retained for a period consistent with the requirements of the City's Records Retention Schedule and in compliance with applicable California laws. (Penal Code § 832.18)

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Handcuffing and Restraints

305.1 PURPOSE AND SCOPE

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

305.2 POLICY

The Clayton 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.

305.3 USE OF RESTRAINTS

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

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

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

305.3.1 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.

305.3.2 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

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

305.3.3 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.

305.3.4 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.

305.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS

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

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

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

In situations where one pair of handcuffs does not appear sufficient to restrain the 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.

305.5 APPLICATION OF SPIT HOODS

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

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

Officers utilizing spit hoods should ensure that the spit hood is fastened properly to allow for adequate ventilation and so that the restrained person can breathe normally. Officers should provide assistance during the movement of a restrained person due to the potential for impairing or

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distorting that person's vision. Officers should avoid comingling those wearing spit hoods with other detainees.

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

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

305.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES

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

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

305.7 APPLICATION OF LEG RESTRAINT DEVICES

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

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

(a) Whether the officer or others could be exposed to injury due to the assaultive or resistant behavior of a 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).

305.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS

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

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

(b) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.

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(c) Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.

(d) The restrained person should be continually monitored by an officer while in the leg restraint. The officer should ensure that the person does not roll onto and remain on his/her stomach.

(e) The officer should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.

(f) When transported by 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).

305.8 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.

305.9 TRAINING

Subject to available resources, the Training Sergeant 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.

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Control Devices and Techniques

307.1 PURPOSE AND SCOPE

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

307.2 POLICY

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

307.3 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.

307.4 RESPONSIBILITIES

307.4.1 SHIFT SUPERVISOR RESPONSIBILITIES

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

307.4.2 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.

307.4.3 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.

307.5 BATON GUIDELINES

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

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

307.6 TEAR GAS GUIDELINES

Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Shift Supervisor, 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.

307.7 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.

307.7.1 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.

307.7.2 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.

307.7.3 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.

307.8 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.

307.9 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.

307.9.1 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.

307.9.2 DEPLOYMENT CONSIDERATIONS

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

(a) Distance and angle to target.

(b) Type of munitions employed.

(c) Type and thickness of subject's clothing.

(d) The subject's proximity to others.

(e) The location of the subject.

(f) Whether the subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

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

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

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

307.9.3 SAFETY PROCEDURES

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

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

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

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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.

307.10 TRAINING FOR CONTROL DEVICES

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

(a) Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.

(b) All training and proficiency for control devices will be documented in the officer's training file.

(c) Officers who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

307.11 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES

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

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Conducted Electrical Weapon

308.1 PURPOSE AND SCOPE

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

308.2 POLICY

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

308.3 ISSUANCE AND CARRYING TASER DEVICES

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

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

Officers shall only use the TASER device and cartridges that have been issued by the Department. Uniformed officers who have been issued the TASER device shall wear the device in an approved holster on their person.

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

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

(a) All TASER devices shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.

(b) Whenever practicable, officers should carry two or more cartridges on their person when carrying the TASER device.

(c) Officers shall be responsible for ensuring that their issued TASER device is properly maintained and in good working order.

(d) Officers should not hold both a firearm and the TASER device at the same time.

308.4 VERBAL AND VISUAL WARNINGS

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

(a) Provide the individual with a reasonable opportunity to voluntarily comply.

(b) Provide other officers and individuals with a warning that the TASER device may be deployed.

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If, after a verbal warning, an individual is unwilling to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but is not required to, display the electrical arc (provided that a cartridge has not been loaded into the device), or the laser in a further attempt to gain compliance prior to the application of the TASER device. The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.

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

308.5 USE OF THE TASER DEVICE

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

308.5.1 APPLICATION OF THE TASER DEVICE

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

(a) The subject is violent or is physically resisting.

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

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

308.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

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

(a) Individuals who are known to be pregnant.

(b) Elderly individuals or obvious juveniles.

(c) Individuals with obviously low body mass.

(d) Individuals who are handcuffed or otherwise restrained.

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(e) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.

(f) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

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

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

308.5.3 TARGETING CONSIDERATIONS

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

308.5.4 MULTIPLE APPLICATIONS OF THE TASER DEVICE

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

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

(a) Whether the probes are making proper contact.

(b) Whether the individual has the ability and has been given a reasonable opportunity to comply.

(c) Whether verbal commands, other options or tactics may be more effective.

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

308.5.5 ACTIONS FOLLOWING DEPLOYMENTS

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

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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.

308.5.6 DANGEROUS ANIMALS
The TASER device may be deployed against an animal as part of a plan to deal with a potentially dangerous animal, such as a dog, if the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective. The use of the display arc may be used to control an animal or keep it at bay.

308.5.7 OFF-DUTY CONSIDERATIONS
Officers are not authorized to carry department TASER devices while off-duty.

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

308.6 DOCUMENTATION
Officers shall document all TASER device discharges in the related arrest/crime report and the TASER device 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.

308.6.1 TASER DEVICE FORM
Items that shall be included in the TASER device report form are:

(a) The type and brand of TASER device and cartridge and cartridge serial number.

(b) Date, time and location of the incident.

(c) Whether any display, laser or arc deterred a subject and gained compliance.

(d) The number of TASER device activations, the duration of each cycle, the duration between activations, and (as best as can be determined) the duration that the subject received applications.

(e) The range at which the TASER device was used.

(f) The type of mode used (probe or drive-stun).

(g) Location of any probe impact.

(h) Location of contact in drive-stun mode.

(i) Description of where missed probes went.

(j) Whether medical care was provided to the subject.

(k) Whether the subject sustained any injuries.

(l) Whether any officers sustained any injuries.

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The Training Sergeant should periodically analyze the report forms to identify trends, including deterrence and effectiveness. The Training Sergeant should also conduct audits of data downloads and reconcile TASER device report forms with recorded activations. TASER device information and statistics, with identifying information removed, should periodically be made available to the public.

308.6.2 REPORTS

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

(a) Identification of all personnel firing TASER devices

(b) Identification of all witnesses

(c) Medical care provided to the subject

(d) Observations of the subject's physical and physiological actions

(e) Any known or suspected drug use, intoxication or other medical problems

308.7 MEDICAL TREATMENT

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

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

(a) The person is suspected of being under the influence of controlled substances and/or alcohol.

(b) The person may be pregnant.

(c) The person reasonably appears to be in need of medical attention.

(d) The TASER device probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck).

(e) The person requests medical treatment.

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

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

308.8 SUPERVISOR RESPONSIBILITIES

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

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

308.9 TRAINING

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

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

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

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

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

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

The Training Sergeant should ensure that all training includes:

(a) A review of this policy.

(b) A review of the Use of Force Policy.

(c) Performing support-hand draws or cross-draws to reduce the possibility of unintentionally drawing and firing a firearm.

(d) Target area considerations, to include techniques or options to reduce the unintentional application of probes near the head, neck, chest and groin.

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(e) Handcuffing a subject during the application of the TASER device and transitioning to other force options.

(f) De-escalation techniques.

(g) Restraint techniques that do not impair respiration following the application of the TASER device.

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Officer-Involved Shootings and Deaths

309.1 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.

309.2 INVESTIGATION RESPONSIBILITY

This department conforms to the Contra Costa County Contra Costa County Officer Involved Fatal Incident Protocol for investigating officer-involved shootings.

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THE POLICE CHIEFS' ASSOCIATION
CONTRA COSTA COUNTY, CALIFORNIA

PROTOCOL FOR

LAW ENFORCEMENT INVOLVED FATAL INCIDENTS

2014

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309.3 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.

309.4 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.

309.4.1 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 Clayton Police Department would control the investigation if the suspect's crime occurred in Clayton.

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.

309.4.2 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.

309.4.3 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.

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309.5 INVESTIGATION PROCESS

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

309.5.1 UNINVOLVED OFFICER RESPONSIBILITIES

Upon arrival at the scene of an officer-involved shooting, the first uninvolved CPD 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.

(e) Check for injured persons and evacuate as needed.

(f) Brief the supervisor upon arrival.

309.5.2 SHIFT SUPERVISOR RESPONSIBILITIES

Upon learning of an officer-involved shooting or death, the Shift Supervisor shall be responsible for coordinating all aspects of the incident until he/she is relieved by the Chief of Police or a Chief of Police.

All outside inquiries about the incident shall be directed to the Shift Supervisor.

309.5.3 NOTIFICATIONS

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

- Chief of Police
- Administrative Sergeant
-
- Outside agency investigator (if appropriate)
- Professional Standards Unit
-
-
-
- Coroner (if necessary)
- Involved officer's agency representative (if requested)
- Public Information Officer

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309.5.4 SUPERVISOR RESPONSIBILITIES

Upon arrival at the scene, the first uninvolved CPD 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.

1. 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 necessary, the supervisor may administratively order any CPD 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.

(c) Provide all available information to the Shift Supervisor and Dispatch. If feasible, sensitive information should be communicated over secure networks.

(d) Take command of and secure the incident scene with additional CPD members until properly relieved by another supervisor or other assigned personnel or investigator.

(e) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction.

1. Each involved CPD officer should be given an administrative order not to discuss the incident with other involved officers or CPD 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.

309.5.5 INVOLVED OFFICERS

The following shall be considered for the involved officer:

(a) Any request for legal or union representation will be accommodated.

1. Involved CPD 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-CPD officers should be referred to their employing agency.

(b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.

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(c) Discussions with agency representatives/employee groups will be privileged only as to the discussion of non-criminal information (Government Code § 3303(i)).

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(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 CPD officer shall be given reasonable paid administrative leave following an officer-involved shooting or death. It shall be the responsibility of the Shift Supervisor to make schedule adjustments to accommodate such leave.

309.6 CRIMINAL INVESTIGATION

The District Attorney's Office is responsible for the criminal investigation into the circumstances of any officer-involved shooting or death.

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) CPD supervisors and Professional Standards Unit personnel should not participate directly in any voluntary interview of CPD 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 (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,

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no administratively coerced statement will be provided to any criminal investigators unless the officer consents.

309.6.1 REPORTS BY INVOLVED CPD OFFICERS

In the event that suspects remain outstanding or subject to prosecution for related offenses, this department shall retain the authority to require involved CPD 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 CPD 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.

Nothing in this section shall be construed to deprive an involved CPD 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.

309.6.2 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.

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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.

309.6.3 INVESTIGATIVE PERSONNEL

Once notified of an officer-involved shooting or death, it shall be the responsibility of the designated Patrol 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 and may be assigned to separately handle the investigation of any related crimes not being investigated by the District Attorney's Office.

All related department reports, except administrative and/or privileged reports, will be forwarded to the designated Patrol supervisor for approval. Privileged reports shall be maintained exclusively by members who are authorized such access. Administrative reports will be forwarded to the appropriate Chief of Police.

309.7 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 CPD 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 requested or administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.

(b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.

1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his/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.

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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.
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.

309.8 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.

309.9 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.

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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.

309.10 DEBRIEFING

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

309.10.1 CRITICAL INCIDENT/STRESS DEBRIEFING

A critical incident/stress debriefing should occur as soon as practicable. The Administration Chief of Police 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). 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.

309.10.2 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.

309.11 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. Releases will be available to the Shift Supervisor, Patrol Chief of Police and Public Information Officer in the event of inquiries from the media.

The Department shall not subject any involved CPD officer to visits by the media (Government Code § 3303(e)). No involved CPD officer shall make any comment to the media unless he/she is authorized by the Chief of Police or a Chief of Police. 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.

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309.12 REPORTING

If the death of an individual occurs in the Clayton Police Department jurisdiction and qualifies to be reported to the state as a justifiable homicide or an in-custody death, the Patrol Chief of Police 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).

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Firearms

311.1 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.

311.2 POLICY

The Clayton 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.

311.2.1 DUTY WEAPONS

(a) The authorized departmental issued handgun is the Glock Model 22 or 23, 40 caliber.

Officers are authorized to carry personally owned, primary duty weapons as an alternative to the Department-issued firearm. Officer's personally owned duty weapons must be approved by the Rangemaster before carried on-duty. Personally owned duty weapons that are not approved by the Rangemaster, may not be carried on-duty.

- Personally owned, primary duty weapons must meet the following criteria:
  - Be a full-size or compact, semi-automatic handgun in 9mm or.40 caliber.
  - Have a barrel length not less than 4" or greater than 6".
  - Be black in color (No two-tone, chrome or earth tones)
  - One of the following manufacturers: Glock, Sig Sauer, Smith and Wesson (M&P series), Colt, Kimber, Beretta or Ruger.
  - Have 3 magazines.
- Personally owned duty weapons must be carried in a Level III (triple-retention) holster approved by the Rangemaster.
- All costs associated with the initial purchase of any personally owned duty weapon shall be borne by the officer. This includes not only the weapon, but also the required magazines, holster, and magazine pouches.
- Any qualification process necessary, outside of the normally scheduled departmental qualifications, is the responsibility of the individual officer and will not be compensated.
- All costs associated with the maintenance and repair of a personally owned, duty weapon shall be the responsibility of the officer.

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- Duty and training ammunition for a personally owned, duty weapon will be supplied by the Department during department scheduled training.
- Any personally owned duty weapon used for on-duty purposes will only be loaded with Department authorized and issued ammunition.
- Officers choosing to carry their personally owned duty weapon will not be issued a Department owned weapon.

(b) The authorized departmental issued patrol rifle is the Colt AR-15 series rifle/carbine, including M-16 and M-4 variants, chambered in 5.56 NATO caliber that are equipped with a Vortex Optics SPARC II optic, a Streamlight TLR-1 HPL weapon light and a Viking Tactics padded hybrid sling.

- Only officers who complete a POST approved 24 hour patrol rifle course may be issued a patrol rifle.

Officers are authorized to carry personally owned patrol rifles as an alternative to the Department-issued patrol rifle. Officer's personally owned patrol rifles must be approved by the Rangemaster before carried on-duty. Personally owned patrol rifles that are not approved by the Rangemaster, may not be carried on-duty.

- Personally owned patrol rifles must meet the following criteria:
  - Be a semi-automatic, centerfire rifle chambered in 5.56 NATO.
  - Have a barrel length of not less than 16" and not more than 20" and an overall length not less than 26".
  - Be black in color (No two-tone or earth tones)
  - One of the following manufacturers: Colt, Sig Sauer, Smith and Wesson (M&P series), Ruger, Daniel Defense or FNH.
  - Must be equipped with a red-dot or holographic optic with co-witness iron sights, a weapon light with a minimum of 1000 lumens and a minimum two point attachment sling.
  - Must be able to accept standard military style, 30/20 round, M4/M16 style magazines.
  - Officer must complete the California DOJ – Bureau of Firearms – Assault Weapons Registration and provide a copy of the confirmation letter to the Rangemaster within 60 days.
- Officers may choose to use the Department issued Vortex Optics SPARC II optic, Streamlight TLR-1 HPL weapon light and Viking Tactics padded hybrid sling on their personally owned patrol rifle.
- All costs associated with the initial purchase of any personally owned patrol rifle shall be borne by the officer. This includes not only the weapon, but any required accessories not issued by the department.

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- Any qualification process necessary, outside of the normally scheduled departmental qualifications, is the responsibility of the individual officer and will not be compensated.
- All costs associated with the maintenance and repair of a personally owned patrol rifles shall be the responsibility of the officer.
- Duty and training ammunition for a personally owned patrol rifle will be supplied by the Department during department scheduled training.
- Any personally owned rifle used for on-duty purposes will only be loaded with Department authorized and issued ammunition.
- Officers choosing to carry their personally owned patrol rifle will not be issued a Department owned patrol rifle.

311.2.2 AUTHORIZED SECONDARY WEAPONS

Officers desiring to carry a secondary weapon while on-duty are subject to the following restrictions:

(a) The weapon shall be manufactured by a reputable manufacturer, of good quality and workmanship, and approved for on-duty secondary carry by the Rangemaster.

(b) Only one secondary weapon may be carried at a time.

(c) The purchase of the weapon and accessories shall be the responsibility of the officer.

(d) The weapon shall be carried out of sight and in such a manner as to prevent accidental cocking, discharge, or loss of physical control

(e) The weapon shall be subject to inspection annually or when otherwise deemed necessary by the Rangemaster

(f) Ammunition shall be the same as Department issue. If the caliber of the weapon is other than Department issue, the Rangemaster shall approve the ammunition to be carried.

(g) Personnel shall qualify with the secondary weapon at least annually. Officers must demonstrate their proficiency, safe handling and serviceability of the weapon prior to carrying it either on or off duty.

(h) Personnel shall provide written notice of the make, model, serial number, and caliber of a second weapon to the Rangemaster

311.2.3 AUTHORIZED OFF-DUTY WEAPONS

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

(a) The weapon shall be manufactured by a reputable manufacturer, be of good quality and workmanship, and approved for off-duty carry by the Rangemaster.

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(b) The purchase of the weapon, ammunition, and accessories shall be the responsibility of the officer.

(c) The weapon shall be carried concealed and in such a manner as to prevent accidental cocking, discharge, or loss of physical control.

(d) It will be the responsibility of the officer to submit the weapon to the Rangemaster for inspection prior to being carried off-duty. The officer will demonstrate, under the supervison of the Rangemaster that he/she is proficient in the safe handling, firing, carry, and storage of the weapon prior to it being carried off-duty. The weapon shall be subject to inspection whenever deemed necessary. The officer will successfully qualify with the weapon prior to it being carried and at least annually thereafter.

(e) The make, model, serial number, and caliber of the firearm(s) shall be listed on the qualification record after the firearm is approved by the Rangemaster and the officer has qualified.

(f) If any member desires to own more than one weapon utilized while off duty, may do so, as long as the officer meets all the requirements set forth in this policy for each weapon used.

(g) Ammunition shall be manufactured by a reputable manufacturer, be of good quality and workmanship, and approved for off-duty carry by the Rangemaster. All costs associated with the purchase of the ammunition shall be the responsibility of the officer.

(h) When armed, whether on or off duty, officers shall carry their badge, department identification, and state issued photo identification with them at all times.

(i) The provisions of this section do not apply to sporting firearms carried soley for the purpose of engaging in a lawful sporting activity or event.

311.2.4 AMMUNITION

Officers shall carry only department-authorized ammunition. Officers shall be issued fresh duty ammunition in the specified quantity for all department issued firearms during an annual scheduled qualification. Officers carrying off-duty, personally owned, authorized firearms of a caliber differing from department issued firearms shall be responsible for obtaining fresh duty ammunition in accordance with the above at their own expense. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by the Rangemaster when needed in accordance with established policy.

311.2.5 ALCOHOL AND DRUGS

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

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311.2.6 LASER SIGHTS

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

(a) Any approved laser sight shall only be installed in strict accordance with manufacturer specifications.

(b) Once approved laser sights have been properly installed on any weapon, the officer shall qualify with the weapon to ensure proper functionality and sighting of the weapon prior to carrying it.

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

311.2.7 AUTHORIZED SPECIALTY WEAPONS

Additional weapons may be made available to supervisors for use in specialized situations such as animal control incidents. Any such weapon and ammunition will be stored in the sergeant's vehicle in a locked gun box. Any person using one of these weapons must have completed training and qualification on the weapon prior to its use. Qualification and updated training on these weapons will be completed at least annually. Use of any of these weapons must be approved in advanced by a sergeant or the Chief of Police.

311.3 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 Chief of Police. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

311.3.1 HANDGUNS

The authorized department-issued handgun is the Glock 22/23,.40 caliber..

311.3.2 SHOTGUNS

The department does not currently issue or authorize the use and carry of shotguns, except in the less lethal configuration. The use and carry of lethal shotgun ammunition is not authorized..

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311.4 FIREARMS QUALIFICATIONS

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

311.4.1 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.

311.5 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) Less Lethal Launchers 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.

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(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.

311.5.1 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).

311.5.2 PATROL RIFLE STORAGE

Patrol rifles may only be stored in patrol vehicles when on-duty. Patrol rifles shall not be left stored in a police vehicle during a member's days off or when off- shift.

Department issued patrol rifles will be stored in the patrol gun locker in the firearms storage room. Department issued patrol rifles are not to be stored at home. Members may choose to store their personally-owned patrol rifles in the patrol gun locker in the firearms storage room or at their home. No rifles will be stored in a member's assigned locker. Members that choose to store their personally-owned patrol rifles at home shall do so with a California-approved Firearm Safety Device that meets the requirements of Penal Code section 23655 and shall be stored in a manner approved by the California Penal Code.

311.5.3 GUN LOCKER PROCEDURE

The department owned firearms safe and patrol gun locker are to be kept secured at all times unless a member is placing a firearm in or taking a firearm out. The key to the patrol gun locker shall be secured in the locked key box when not in use. The door to the firearm storage room shall be kept closed and locked when not in use.

311.5.4 MONTHLY FIREARM INSPECTION

On a monthly basis, the Rangemaster will conduct inspections of all department owned, non-issued firearms. All firearms issued to members of the department shall be inspected during semi-annual range training.

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The non-issued firearms inspections will be documented on a firearms inspection log by the Rangemaster no later than the second Sunday of the month. The Rangemaster will print the completed log and place a copy in the Chief's box. The inspection log will also be retained electronically.

Any department owned firearm found to damaged or otherwise in a non-functioning condition shall be removed from service immediately and given to the Department Rangemaster as soon as possible for further inspection and breakdown. Any officer whose department issued firearm is found to be in need of service shall, temporarily, be issued a firearm by the Department Rangemaster and shall participate in a firearms qualification with that weapon as soon as possible.

311.6 FIREARMS TRAINING AND QUALIFICATIONS

All members who carry a firearm while on-duty are required to successfully complete semi-annual training with their duty firearms. All members will qualify at least twice a year with their duty firearms, and annually with their off-duty and secondary firearms.

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

311.6.1 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.

(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.

311.7 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

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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 Chief of Police 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.

311.8 RANGEMASTER DUTIES

The range will be under the exclusive control of the Rangemaster. All members attending will follow the directions of the Rangemaster. The Rangemaster will maintain a roster of all members attending the range and will submit the roster to the Training Sergeant after each range date. Failure of any 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.

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 Sergeant 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 Sergeant.

311.9 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):

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(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 Clayton Police Department identification card, bearing the officer's name, a full-face photograph, identification number, 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 Clayton Police Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the Clayton 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.

(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.

311.9.1 REPAIR OR MODIFICATIONS OF DUTY WEAPONS

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

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

311.10 CARRYING FIREARMS OUT OF STATE

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

(a) The officer shall carry his/her badge,Clayton Police Department identification card and state issued photo identification card with them 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).

(e) Qualified retired officers shall also carry certification of having met firearms qualification within the past 12 months.

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

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

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Vehicle Pursuits

313.1 PURPOSE AND SCOPE

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

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

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

313.1.1 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.

313.1.2 FAILURE TO YIELD DEFINED

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

313.2 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

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due regard and caution for the safety of all persons using the highway as required by Vehicle Code § 21056.

313.2.1 WHEN TO INITIATE A PURSUIT

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

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

(a) Seriousness of the known or reasonably suspected crime and its relationship to community safety.

(b) The importance of protecting the public and balancing the known or reasonably suspected offense and the apparent need for immediate capture against the risks to officers, innocent motorists and others.

(c) Apparent nature of the fleeing suspects (e.g., whether the suspects represent a serious threat to public safety).

(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 officers familiarity with the area of the pursuit, the quality of radio communications between the pursuing units and the dispatcher/supervisor and the driving capabilities of the pursuing officers under the conditions of the pursuit.

(g) Weather, traffic and road conditions that substantially increase the danger of the pursuit beyond the worth of apprehending the suspect.

(h) Performance capabilities of the vehicles used in the pursuit in relation to the speeds and other conditions of the pursuit.

(i) Vehicle speeds.

(j) Other persons in or on the pursued vehicle (e.g., passengers, co-offenders and hostages).

(k) Availability of other resources such as helicopter assistance.

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

313.2.2 WHEN TO TERMINATE A PURSUIT

Pursuits should be discontinued whenever the totality of objective circumstances known or which reasonably ought to be known to the officer or supervisor during the pursuit indicates that the

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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 should also be considered in deciding whether to terminate a pursuit:

(a) Distance between the pursuing officers and the fleeing vehicle is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time and/or distance.

(b) Pursued vehicle's location is no longer definitely known.

(c) Officer's pursuit vehicle sustains any type of damage that renders it unsafe to drive.

(d) Extended pursuits of violators for misdemeanors not involving violence or risk of serious harm (independent of the pursuit) are discouraged.

(e) There are hazards to uninvolved bystanders or motorists.

(f) If the identity of the offender is known and it does not reasonably appear that the need for immediate capture outweighs the risks associated with continuing the pursuit, officers should strongly consider discontinuing the pursuit and apprehending the offender at a later time.

(g) Pursuit is terminated by a supervisor.

313.2.3 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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313.2.4 PASSING UNINVOLVED VEHICLES
Officer's involved in a pursuit should attempt to avoid passing uninvolved vehicles on the right due to the obligation of other motorists to yield to emergency vehicles by pulling to the right and stopping as outlined in CVC section 21806. In the event that an officer needs to pass an uninvolved vehicle on the right, the officer should slow and pass on the right while exercising due regard for other motorists on the roadway. Officers passing on the right must be constantly aware of the possibility that a motorist may react suddenly and unexpectedly and be prepared to take evasive action to avoid a collision.

313.3 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.

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

313.3.2 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 should terminate their involvement in any pursuit immediately upon arrival of a sufficient number of emergency police vehicles or any police helicopter. The exemptions provided by Vehicle Code § 21055 do not apply to officers using vehicles without emergency equipment.

313.3.3 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 Dispatch 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.

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(e) Number of known occupants.

(f) The identity or description of the known occupants.

(g) Information concerning the use of firearms, threat of force, injuries, hostages or other unusual hazards.

Unless relieved by a supervisor or secondary unit, the officer in the primary unit shall be responsible for the broadcasting of the progress of the pursuit. Unless practical circumstances indicate otherwise, and in order to concentrate on pursuit driving, the primary officer should relinquish the responsibility of broadcasting the progress of the pursuit to a secondary unit or aircraft joining the pursuit.

313.3.4 SECONDARY UNITS RESPONSIBILITIES

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

(a) The officer in the secondary unit should immediately notify the dispatcher of entry into the pursuit.

(b) Remain a safe distance behind the primary unit unless directed to assume the role of primary officer, or if the primary unit is unable to continue the pursuit.

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

313.3.5 PURSUIT DRIVING TACTICS

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

(a) Officers, considering their driving skills and vehicle performance capabilities, will space themselves from other involved vehicles such that they are able to see and avoid hazards or react safely to maneuvers by the fleeing vehicle.

(b) Because intersections can present increased risks, the following tactics should be considered:

1. Available units not directly involved in the pursuit may proceed safely to controlled intersections ahead of the pursuit in an effort to warn cross traffic.

2. Pursuing units should exercise due caution when proceeding through controlled intersections.

(c) As a general rule, officers should not pursue a vehicle driving left of center (wrong way) on a freeway. In the event that the pursued vehicle does so, the following tactics should be considered:

1. Requesting assistance from an air unit.

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2. Maintaining visual contact with the pursued vehicle by paralleling it on the correct side of the roadway.
3. Requesting other units to observe exits available to the suspects.

(d) Notifying the California Highway Patrol (CHP) and/or other jurisdictional agency if it appears that the pursuit may enter their jurisdiction.

(e) Officers involved in a pursuit should not attempt to pass other units unless the situation indicates otherwise or they are requested to do so by the primary unit.

313.3.6 TACTICS/PROCEDURES FOR UNITS NOT INVOLVED IN THE PURSUIT

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

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

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

313.3.7 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.

313.3.8 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.

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313.4 SUPERVISORY CONTROL AND RESPONSIBILITY

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

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

(a) Upon becoming aware of a pursuit, immediately ascertaining all reasonably available information to continuously assess the situation and risk factors associated with the pursuit in order to ensure that the pursuit is conducted within established department guidelines.

(b) Engaging in the pursuit, when appropriate, to provide on-scene supervision.

(c) Exercising management and control of the pursuit even if not engaged in it.

(d) Ensuring that no more than the number of required police units needed are involved in the pursuit under the guidelines set forth in this policy.

(e) Directing that the pursuit be terminated if, in his/her judgment, it is unjustified to continue the pursuit under the guidelines of this policy.

(f) Ensuring that aircraft are requested if available.

(g) Ensuring that the proper radio channel is being used.

(h) Ensuring the notification and/or coordination of outside agencies if the pursuit either leaves or is likely to leave the jurisdiction of this agency.

(i) Controlling and managing CPD units when a pursuit enters another jurisdiction.

(j) Preparing post-pursuit critique and analysis of the pursuit for training purposes.

313.4.1 SHIFT SUPERVISOR RESPONSIBILITY

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

The Shift Supervisor shall review all pertinent reports for content and forward to the Chief of Police.

313.5 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.

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313.5.1 COMMUNICATION CENTER RESPONSIBILITIES
Upon notification that a pursuit has been initiated, Dispatch will:

(a) Coordinate pursuit communications of the involved units and personnel.

(b) Notify and coordinate with other involved or affected agencies as practicable.

(c) Ensure that a field supervisor is notified of the pursuit.

(d) Assign an incident number and log all pursuit activities.

(e) Broadcast pursuit updates as well as other pertinent information as necessary.

(f) Notify the Shift Supervisor as soon as practicable.

313.5.2 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.

313.6 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.

313.6.1 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 Clayton 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.

313.6.2 PURSUITS EXTENDING INTO THIS JURISDICTION
The agency that initiates a pursuit shall be responsible for conducting the pursuit. Units from this department should not join a pursuit unless specifically requested to do so by the agency

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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 should consider these additional following factors:

(a) Ability to maintain the pursuit

(b) Circumstances serious enough to continue the pursuit

(c) Adequate staffing to continue the pursuit

(d) The public's safety within this jurisdiction

(e) Safety of the pursuing officers

As soon as practicable, a supervisor or the Shift Supervisor should review a request for assistance from another agency. The Shift Supervisor 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.

313.7 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.

313.7.1 WHEN USE IS AUTHORIZED

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

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

313.7.2 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.

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.

313.7.3 USE OF FIREARMS

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

313.7.4 INTERVENTION STANDARDS

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

(a) Blocking or vehicle intercept should only be considered in cases involving felony suspects or impaired drivers who pose a threat to public safety when officers reasonably believe that attempting a conventional enforcement stop will likely result in the driver attempting to flee in the vehicle. Because of the potential risks involved, this technique should only be employed by officers who have received training in such tactics after giving consideration to the following:

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1. The need to immediately stop the suspect vehicle or prevent it from leaving substantially outweighs the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
2. All other reasonable intervention techniques have failed or reasonably appear ineffective.
3. Employing the blocking maneuver does not unreasonably increase the risk to officer safety.
4. The target vehicle is stopped or traveling at a low speed.
5. At no time should civilian vehicles be used to deploy this technique.

(b) Only those officers trained in the use of the Pursuit Intervention Technique (PIT) will be authorized to use this procedure and only then with approval of a supervisor upon consideration of the circumstances and conditions presented at the time, including the potential for risk of injury to officers, the public and occupants of the pursued vehicle.

(c) Ramming a fleeing vehicle should be done only after other reasonable tactical means at the officer's disposal have been exhausted. This tactic should be reserved for situations where there does not appear to be another reasonable alternative method. This policy is an administrative guide to direct officers in their decision-making process before ramming another vehicle. When ramming is used as a means to stop a fleeing vehicle, one or more of the following factors should be present:

1. The suspect is an actual or suspected felon who reasonably appears to represent a serious threat to the public if not apprehended.
2. The suspect is driving with willful or wanton disregard for the safety of other persons or is driving in a reckless and life-endangering manner.
3. If there does not reasonably appear to be a present or immediately foreseeable serious threat to the public, the use of ramming is not authorized.

(d) As with all intervention techniques, pursuing officers should obtain supervisor approval before attempting to box a suspect vehicle during a pursuit. The use of such a technique must be carefully coordinated with all involved units, taking into consideration the circumstances and conditions presented at the time as well as the potential risk of injury to officers, the public and occupants of the pursued vehicle.

(e) The use of spike strips should be approved in advance by a supervisor and deployed only when it is reasonably certain that only the pursued vehicle will be affected by their use. Officers should carefully consider the limitations of such devices as well as the potential risks to officers, the public and occupants of the pursued vehicle. If the pursued vehicle is a motorcycle, a vehicle transporting hazardous materials, or a school bus transporting children, officers and supervisors should weigh the potential consequences against the need to immediately stop the vehicle.

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(f) Because roadblocks involve a potential for serious injury or death to occupants of the pursued vehicle if the suspect does not stop, the intentional placement of roadblocks in the direct path of a pursued vehicle is generally discouraged and should not be deployed without prior approval of a supervisor and only then under extraordinary conditions when all other reasonable intervention techniques have failed or reasonably appear ineffective and the need to immediately stop the pursued vehicle substantially outweighs the risks of injury or death to occupants of the pursued vehicle, officers or other members of the public.

313.7.5 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.

313.8 REPORTING REQUIREMENTS

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

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

(b) The Shift Supervisor 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 Shift Supervisor for review and distribution.

(c) After first obtaining the available information, a field supervisor shall promptly complete a Supervisor's Log, briefly summarizing the pursuit, and submit it to his/her manager. This log should minimally contain the following information:

1. Date and time of pursuit
2. Length of pursuit
3. Involved units and officers
4. Initial reason for pursuit
5. Starting and termination points
6. Disposition (arrest, citation), including arrestee information if applicable
7. Injuries and/or property damage
8. Medical treatment

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9. Name of supervisor at scene
10. A preliminary determination whether the pursuit appears to be in compliance with this policy and whether additional review or follow-up is warranted

313.8.1 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)).

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

313.9 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.

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Officer Response to Calls

315.1 PURPOSE AND SCOPE

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

315.1.1 DISPATCH SERVICES

The Clayton Police Department contracts with the City of Concord for dispatch services as is subject to the Concord Police Department Communications Center Policy. Calls received by the Communications Center are classified according to their policy into one of the following three categories.

- Priority one calls are incidents in which a person's safety is in jeopardy, the crime is in progress, or is an RRES related crime.
- Priority two calls generally include property crimes not in progress, and other non-emergency calls which require an officer's response.
- Priority three calls are miscellaneous service requests, which may be handled as officers are available.

Communication Center personnel may advise that a request is for a Code-3 response when such requests come from another jurisdiction or emergency services department, however it is up to the individual officer to determine the appropriateness of such a response in accordance with all department policies, training and procedures.

315.2 RESPONSE TO CALLS

Officers dispatched to a priority one incident shall consider the call an emergency and proceed immediately. The responding officer will usually be responsible for determining if a Code-3 response is appropriate in accordance with department policy, procedure and training.

Officers dispatched to a priority two incident shall consider the call urgent and proceed as soon as practical. The responding officer shall follow all traffic laws and respond in a safe and reasonable manner.

Officers dispatched to a priority three incident shall consider the call a non-emergency call and proceed within a reasonable time frame. The responding officer shall follow all traffic laws and respond in a safe and reasonable manner.

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.

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

The on-duty supervisor has the authority to direct a higher or lower response priority if, based on the totality of the circumstances reasonably known to the supervisor at the time of the response, a different response priority should be used.

315.3 REQUESTING EMERGENCY ASSISTANCE

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

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

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

315.3.1 NUMBER OF UNITS ASSIGNED

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

315.4 INITIATING CODE 3 RESPONSE

The discretion to initiate a Code-3 response to a priority one call falls to the responding officer unless specifically directed otherwise by a supervisor. Officers responding Code-3 should notify Dispatch as soon as practical.

Generally, only one unit should respond Code-3 to any situation. Should another officer believe a Code-3 response is appropriate, Dispatch should also be notified.

The first unit arriving on scene shall immediately evaluate the circumstances present and advise Dispatch of the need for and response code for additional units.

Nothing in this policy is intended to reduce the on-duty supervisor's discretion to manage officers' response codes as appropriate for the circumstances known at the time of the response.

315.5 RESPONSIBILITIES OF RESPONDING OFFICERS

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

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

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

315.6 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 Shift Supervisor 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 Shift Supervisor

(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 Shift Supervisor or field supervisor

315.7 SUPERVISORY RESPONSIBILITIES

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

(a) The proper response has been initiated

(b) No more than those units reasonably necessary under the circumstances are involved in the response

(c) Affected outside jurisdictions are being notified as practical

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

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

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When making the decision to authorize a Code-3 response, the Shift Supervisor 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

315.8 FAILURE OF EMERGENCY EQUIPMENT

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

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Canines

317.1 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.

317.2 GUIDELINES FOR THE USE OF CANINES

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

(a) There is a reasonable belief that the individual poses an imminent threat of violence or serious harm to the public, any officer, or the handler.

(b) The individual is physically resisting or threatening to resist arrest and the use of a canine reasonably appears to be necessary to overcome such resistance.

(c) The individual(s) is/are believed to be concealed in an area where entry by other than the canine would pose a threat to the safety of officers or the public.

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

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

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

317.2.1 PREPARATION FOR UTILIZING A CANINE

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

(a) The individual's age or estimate thereof.

(b) The nature of the suspected offense.

(c) Any potential danger to the public and/or other officers at the scene if the canine is released.

(d) The degree of resistance or threatened resistance, if any, the subject has shown.

(e) The potential for escape or flight if the police dog is not utilized.

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

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

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

317.2.2 WARNINGS GIVEN TO ANNOUNCE THE USE OF A CANINE

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

317.2.3 USE OF NARCOTIC-DETECTION CANINES

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

(a) To assist in the search for narcotics during a search warrant service.

(b) To obtain a search warrant by using the detection canine in support of probable cause.

(c) To search vehicles, buildings, bags and any other articles deemed necessary.

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

317.2.4 USE OF BOMB/EXPLOSIVE DETECTION DOGS

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

(a) To assist in the search of a building, structure, area, vehicle or article where an actual or suspected explosive device has been reported or located.

(b) To conduct preventative searches at locations such as special events, VIP visits, official buildings and other restricted areas. Because a dog sniff may be considered a search, such searches of individuals should remain minimally intrusive and shall be strictly limited to the purpose of detecting explosives.

(c) To assist with searches at transportation facilities and vehicles (e.g., buses, airplanes and trains).

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(d) To assist in the search of scenes where an explosion has occurred and an explosive device or secondary explosive device is suspected.

(e) At no time will a detection dog be used to render a suspected device safe or clear.

317.2.5 GUIDELINES FOR NON-APPREHENSION USE

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

(a) Absent a change in circumstances that present an imminent threat to officers, the canine or the public, such applications should be conducted on leash or under such conditions that will minimize the likelihood that the canine will bite or otherwise injure the individual.

(b) Throughout the deployment of the canine in such circumstances, the handler should consider issuing periodic verbal assurances that the canine will not bite or hurt the person.

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

(d) Once the individual has been located, the canine should be placed in a down stay or otherwise secured as soon as it becomes reasonably practicable.

317.2.6 REPORTING CANINE USE, BITES AND INJURIES

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

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

317.2.7 REPORTING CANINE INJURIES

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

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

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

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317.3 ASSIGNMENT

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

Canine teams should generally not be assigned to handle routine matters that will take them out of service for extended periods of time. If such assignment is necessary, it should only be made with the approval of the Shift Supervisor.

317.4 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.

(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.

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Domestic Violence

319.1 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.

319.1.1 DEFINITIONS

Definitions related to this policy include:

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

319.2 POLICY

The Clayton 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.

319.3 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.

319.4 INVESTIGATIONS

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

(a) Calls of reported, threatened, imminent, or ongoing domestic violence and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls.

(b) When practicable, officers should obtain and document statements from the victim, the suspect, and any witnesses, including children, in or around the household or location of occurrence.

(c) Officers should list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other children who may not have been in the house at that particular time should also be obtained for follow-up.

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(d) When practicable and legally permitted, video or audio record all significant statements and observations.

(e) All injuries should be photographed, regardless of severity, taking care to preserve the victim's personal privacy. Where practicable, photographs should be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the Patrol 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. Whether the suspect lives on the premises with the victim.
2. Claims by the suspect that the victim provoked or perpetuated the violence.
3. The potential financial or child custody consequences of arrest.
4. The physical or emotional state of either party.
5. Use of drugs or alcohol by either party.
6. Denial that the abuse occurred where evidence indicates otherwise.
7. A request by the victim not to arrest the suspect.
8. Location of the incident (public/private).
9. Speculation that the complainant may not follow through with the prosecution.
10. Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or marital status of the victim or suspect.
11. The social status, community status, or professional position of the victim or suspect.

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319.4.1 IF A SUSPECT IS ARRESTED
If a suspect is arrested, officers should:

(a) Advise the victim that there is no guarantee the suspect will remain in custody.

(b) Provide the victim's contact information to the jail staff to enable notification of the victim upon the suspect's release from jail.

(c) Advise the victim whether any type of court order will be in effect when the suspect is released from jail.

319.4.2 IF NO ARREST IS MADE
If no arrest is made, the officer should:

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

1. Voluntary separation of the parties.

2. Appropriate resource referrals (e.g., counselors, friends, relatives, shelter homes, victim witness unit).

(b) Document the resolution in a report.

319.5 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).

319.6 DISPATCH ASSISTANCE

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

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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.

319.7 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).

319.8 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.

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319.9 LEGAL MANDATES AND RELEVANT LAWS

California law provides for the following:

319.9.1 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 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.

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(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).

319.9.2 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).

(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).

319.9.3 PUBLIC ACCESS TO POLICY

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

319.9.4 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.

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(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)).

319.9.5 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.

319.9.6 DECLARATION IN SUPPORT OF BAIL INCREASE

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

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Search and Seizure

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

321.2 POLICY

It is the policy of the Clayton 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.

321.3 SEARCHES

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

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

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

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

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

Whenever practicable, officers are encouraged to contact a supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.

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321.4 SEARCH PROTOCOL

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

(a) Members of this department will strive to conduct searches with dignity and courtesy.

(b) Officers should explain to the person being searched the reason for the search and how the search will be conducted.

(c) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.

(d) In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.

(e) When the person to be searched is of the opposite sex as the searching officer, a reasonable effort should be made to summon an officer of the same sex as the subject to conduct the search. When it is not practicable to summon an officer of the same sex as the subject, the following guidelines should be followed:

1. Another officer or a supervisor should witness the search.
2. The officer should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.

321.5 DOCUMENTATION

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

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

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

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Temporary Custody of Juveniles

323.1 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 Clayton Police Department (34 USC § 11133).

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

323.1.1 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(d); 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.

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).

323.1.2 JUVENILE DETENTION FACILITIES

The Clayton Police Department does not maintain facilities for the temporary detention of juveniles in either secure or non-secure detention. When juveniles are detained in the field, officers will make every attempt to release the juvenile to a parent or guardian in the field or transfer the juvenile to an appropriate juvenile facility.

The department contracts with the City of Concord for detention services, including the temporary detention of juveniles. Detention of juveniles at the Concord facility is subject to the conditions and restrictions as outlined in Concord Police Department Jail Policies and Procedures, as well as this policy. Officers may transport juveniles directly to an appropriate county juvenile facility when that facility's guidelines for admittance are met.

A supervisor may authorize the temporary non-secure detention of a juvenile at the Clayton Police Department facility under circumstances where other options are either unavailable or inappropriate. When juveniles are held in non-secure detention at the Clayton Police Department, it will be in accordance with this policy and the juveniles will be held in the common report writing area under the direct visual supervision of a sworn police officer at all times. The juvenile shall be released to a parent or guardian as soon as practical.

The holding of juveniles in secure detention at the Clayton Police Department is prohibited because secure facilities for that purpose do not exist.

323.2 POLICY

The Clayton 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

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at the Clayton Police Department. Juveniles should be held in temporary custody only for as long as reasonably necessary for processing, transfer, or release.

323.3 JUVENILES WHO SHOULD NOT BE HELD

Juveniles who exhibit any of the following conditions should not be held at the Clayton 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 Shift Supervisor. 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 Clayton Police Department unless they have been evaluated by a qualified medical and/or mental health professional (15 CCR 1142).

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

323.3.1 EMERGENCY MEDICAL CARE OF JUVENILES IN CUSTODY

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

323.3.2 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).

323.4 CUSTODY OF JUVENILES

Officers should take custody of a juvenile and temporarily hold the juvenile at the Clayton 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.

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No juvenile should be held in temporary custody at the Clayton Police Department without authorization of the arresting officer's supervisor or the Shift Supervisor. 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 Clayton Police Department (34 USC § 11133; Welfare and Institutions Code § 207.1(d)).

323.4.1 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 Clayton 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.

323.4.2 CUSTODY OF JUVENILE STATUS OFFENDERS

Status offenders should generally be released by citation or with a warning rather than taken into temporary custody. However, officers may take custody of a status offender if requested to do so by a parent or legal guardian in order to facilitate reunification (e.g., transported home or to the station to await a parent). Juvenile status offenders shall not be held in secure custody (34 USC § 11133).

323.4.3 CUSTODY OF JUVENILE OFFENDERS

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

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

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

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

In all other cases the juvenile offender may be:

(a) Released upon warning or citation.

(b) Released to a parent or other responsible adult after processing at the Department.

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(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).

323.5 ADVISEMENTS

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

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

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

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

323.6 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 Clayton Police Department (15 CCR 1150).

(c) Shift Supervisor notification and approval to temporarily hold the juvenile.

(d) Any charges for which the juvenile is being held and classification of the juvenile as a juvenile offender, status offender, or non-offender.

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(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(d); 15 CCR 1145).

(i) Any other information that may be required by other authorities, such as compliance inspectors or a local juvenile court authority.

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

323.7 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(d); Welfare and Institutions Code § 208; 15 CCR 1144). There should also be sight and sound separation between non-offenders and juvenile and status offenders.

In situations where brief or accidental contact may occur (e.g., during the brief time a juvenile is being fingerprinted and/or photographed in booking), a member of the Clayton 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).

323.8 TEMPORARY CUSTODY REQUIREMENTS

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

(a) The Shift Supervisor should be notified if it is anticipated that a juvenile may need to remain at the Clayton Police Department more than four hours. This will enable the Shift Supervisor to ensure no juvenile is held at the Clayton 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.

(e) Juveniles shall have reasonable access to toilets and wash basins (15 CCR 1143).

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(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).

1. The supervisor should ensure that there is an adequate supply of clean blankets.

(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).

323.9 USE OF RESTRAINT DEVICES

Juvenile offenders may be handcuffed in accordance with the Handcuffing and Restraints Policy. A juvenile offender may be handcuffed 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 Shift Supervisor. 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).

323.10 PERSONAL PROPERTY

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

The personal property of a juvenile should be placed in a property bag. The property should be inventoried in the juvenile’s presence and sealed into the bag. The property should be kept in a

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monitored or secure location until the juvenile is released from the custody of the Clayton Police Department.

323.11 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). Shift Supervisor 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).

323.11.1 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)).

(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.

323.12 SUICIDE ATTEMPT, DEATH, OR SERIOUS INJURY OF A JUVENILE

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

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

323.13 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.

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Prior to conducting a custodial interrogation, including the waiver of *Miranda* rights, an officer shall permit a juvenile 15 years of age or younger to consult with legal counsel in person, by telephone, or by video conference. The consultation may not be waived by the juvenile. The requirement to consult with legal counsel does not apply when (Welfare and Institutions Code § 625.6):

(a) Information is necessary to protect life or property from an imminent threat.

(b) The questions are limited to what is reasonably necessary to obtain the information relating to the threat.

323.13.1 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.

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).

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323.14 FORMAL BOOKING

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

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 Shift Supervisor or Patrol 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

323.15 RELIGIOUS ACCOMMODATION

Juveniles have the right to the same religious accommodation as adults in temporary custody (see the Temporary Custody of Adults Policy).

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Adult Abuse

325.1 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 Clayton Police Department members as required by law.

325.1.1 DEFINITIONS

Definitions related to this policy include:

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 act that would mandate reporting or notification to a social service agency or law enforcement (Penal Code § 368).

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 § 15610.07; Penal Code § 368.5).

325.2 POLICY

The Clayton Police Department will investigate all reported incidents of alleged adult abuse and ensure proper reporting and notification as required by law.

325.3 INVESTIGATIONS AND REPORTING

All reported or suspected cases of adult abuse require investigation and a report, even if the allegations appear unfounded or unsubstantiated.

Investigations and reports related to suspected cases of 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 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.

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(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) Results of investigations shall be provided to those agencies (Adult Protective Services (APS), long-term ombudsman) that referred or reported the adult abuse (Welfare and Institutions Code § 15640(f)).

(k) 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)
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 adult abuse and investigated similarly.

325.4 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.

(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).

325.5 MANDATORY NOTIFICATION

Members of the Clayton 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

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knowledge of an incident that reasonably appears to be abuse of an elder (age 65 or older) 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)).

A dependent adult is 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 (Welfare and Institutions Code § 15610.23).

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.

(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.

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(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 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 Patrol 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).

325.5.1 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.

(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.

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325.6 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.

325.6.1 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)).

325.7 INTERVIEWS

325.7.1 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.

325.7.2 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:

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(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.

325.8 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 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.

325.9 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.

325.9.1 OFFICER RESPONSIBILITIES

Officers responding to a drug lab or other narcotics crime scene where an adult abuse victim is present or where there is evidence that an 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 Patrol supervisor so an interagency response can begin.

325.9.2 SUPERVISOR RESPONSIBILITIES

The Patrol 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 Patrol supervisor that he/she has responded to a drug lab or other narcotics crime scene

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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.

325.10 TRAINING

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

(a) Participating in multidisciplinary investigations, as appropriate.

(b) Conducting interviews.

(c) Availability of therapy services for adults and families.

(d) Availability of specialized forensic medical exams.

(e) Cultural competence (including interpretive services) related to adult abuse investigations.

(f) Availability of victim advocates or other support.

325.11 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.

325.12 JURISDICTION

The Clayton 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).

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 in such cases. However, this department will retain responsibility for the criminal investigations (Penal Code § 368.5).

325.13 RELEVANT STATUTES

Penal Code § 368 (c)

Any 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

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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)

(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.

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.

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.

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(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.

(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. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.

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(3) Failure to protect from health and safety hazards.

(4) Failure to prevent malnutrition or dehydration.

(5) Failure of an elder or dependent adult to satisfy the needs specified in paragraphs (1) to (4), inclusive, for himself or herself as a result of poor cognitive functioning, mental limitation, substance abuse, or chronic poor health.

Welfare and Institutions Code § 15610.63

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.

(3) Rape in concert, as described in Section 264.1 of the Penal Code.

(4) Spousal rape, as defined in Section 262 of the Penal Code.

(5) Incest, as defined in Section 285 of the Penal Code.

(6) Sodomy, as defined in Section 286 of the Penal Code.

(7) Oral copulation, as defined in Section 287 or former Section 288a of the Penal Code.

(8) Sexual penetration, as defined in Section 289 of the Penal Code.

(9) 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.

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Discriminatory Harassment

327.1 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.

327.2 POLICY

The Clayton 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.

327.3 DEFINITIONS

Definitions related to this policy include:

327.3.1 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 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.

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; making 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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327.3.2 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.

327.3.3 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 the member improve the member's 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.

327.3.4 RETALIATION

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

327.4 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 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 the member's immediate supervisor may bypass the chain of command and make the report to a higher-ranking supervisor or manager. Complaints may also be filed with the Chief of Police, the Personnel Manager, or the City Manager.

Any member who believes, in good faith, that the member has been discriminated against, harassed, or subjected to retaliation, or who has observed harassment, discrimination, or

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retaliation, 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.

327.4.1 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors and managers shall include but are not limited to:

(a) Continually monitoring the work environment and striving 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 the Personnel Manager in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment, or retaliation no later than the next business day.

327.4.2 SUPERVISOR'S ROLE

Supervisors and managers shall be aware of the following:

(a) Behavior of supervisors and managers should represent the values of the Department and professional 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.

327.4.3 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 Personnel Manager, the City Manager, or the California Department of Fair Employment and Housing (DFEH) for further information, direction, or clarification (Government Code § 12950).

327.5 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

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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.

327.5.1 SUPERVISOR RESOLUTION

Members who believe they are experiencing discrimination, harassment, or retaliation should be encouraged to inform the individual that the behavior is unwelcome, offensive, unprofessional, or inappropriate. However, if the member feels uncomfortable or threatened or has difficulty expressing the member's 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.

327.5.2 FORMAL INVESTIGATION

If the complaint cannot be satisfactorily resolved through the supervisory resolution process, 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 an 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, the Personnel Manager, or the City Manager.

327.5.3 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 against, 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.

327.6 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:

(a) Approve by the Chief of Police, the City Manager, or the Personnel Manager, depending on the ranks of the involved parties.

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(b) Maintained in accordance with the department's established records retention schedule.

327.6.1 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.

327.7 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 the member has been advised of this policy, is aware of and understands its contents, and agrees to abide by its provisions during the member's 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.

327.7.1 STATE-REQUIRED TRAINING
The Training Sergeant 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 Sergeant should ensure that employees are provided the link or website address to the training course (Government Code § 12950).

327.7.2 TRAINING RECORDS
The Training Sergeant 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).

327.8 WORKING CONDITIONS

The Administration Chief of Police 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).

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327.9 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).

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Child Abuse

329.1 PURPOSE AND SCOPE

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

329.1.1 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).

329.2 POLICY

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

329.3 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).

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

329.3.1 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.

329.4 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).

329.5 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.

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(c) Any relevant statements the child may have made and to whom he/she made the statements.

(d) If a child was taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.

(e) Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.

(f) Whether the child victim was transported for medical treatment or a medical examination.

(g) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other children who may reside in the residence.

(h) Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.

(i) Previous addresses of the victim and suspect.

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

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).

329.5.1 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).

329.6 PROTECTIVE CUSTODY

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

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

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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).

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

329.6.1 CALIFORNIA SAFELY SURRENDERED BABY LAW

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

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329.6.2 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.

329.7 INTERVIEWS

329.7.1 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.

329.7.2 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.

329.7.3 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).

329.8 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.

329.9 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.

329.9.1 SUPERVISOR RESPONSIBILITIES

The Patrol 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 Patrol 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.

329.9.2 OFFICER RESPONSIBILITIES

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

(a) Document the environmental, medical, social and other conditions of the child using photography as appropriate and the checklist or form developed for this purpose.

(b) Notify the Patrol supervisor so an interagency response can begin.

329.10 STATE MANDATES AND OTHER RELEVANT LAWS

California requires or permits the following:

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329.10.1 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).

329.10.2 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.

329.10.3 CACI HEARING OFFICER

The Patrol 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.

329.10.4 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.

329.10.5 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).

329.11 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.

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Missing Persons

331.1 PURPOSE AND SCOPE

This policy provides guidance for handling missing person investigations.

331.1.1 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).

331.2 POLICY

The Clayton 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 Clayton 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).

331.3 REQUIRED FORMS AND BIOLOGICAL SAMPLE COLLECTION KITS

The Patrol 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)

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- Missing person school notification form
- Medical records release form from the California Department of Justice
- California DOJ missing person forms as appropriate
- Biological sample collection kits

331.4 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 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).

331.5 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).

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3. Any documents that may assist in the investigation, such as court orders regarding custody.
4. Any other evidence that may assist in the investigation, including personal electronic devices (e.g., cell phones, computers).

(h) When circumstances permit and if appropriate, attempt to determine the missing person's location through 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.

331.6 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.

331.6.1 SUPERVISOR RESPONSIBILITIES

The responsibilities of the supervisor shall include, but are not limited to:

(a) Reviewing and approving missing person reports upon receipt.
   1. The reports should be promptly sent to the Records Bureau.

(b) Ensuring resources are deployed as appropriate.

(c) Initiating a command post as needed.

(d) Ensuring applicable notifications and public alerts are made and documented.

(e) Ensuring that records have been entered into the appropriate missing persons networks.

(f) Taking reasonable steps to identify and address any jurisdictional issues to ensure cooperation among agencies.

If the case falls within the jurisdiction of another agency, the supervisor should facilitate transfer of the case to the agency of jurisdiction.

331.6.2 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).

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(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 Patrol.

(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).

331.7 PATROL 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).

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(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).

331.8 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.

331.8.1 UNIDENTIFIED PERSONS

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

(a) Obtain a complete description of the person.

(b) Enter the unidentified person's description into the NCIC Unidentified Person File.

(c) Use available resources, such as those related to missing persons, to identify the person.

331.9 CASE CLOSURE

The Patrol 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 Clayton or this department is the lead agency, the case should be kept under active investigation for as long as the person may still be alive. Exhaustion of leads in the investigation should not be a reason for closing a case.

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(c) If this department is not the lead agency, the case can be made inactivate if all investigative leads have been exhausted, the lead agency has been notified and entries are made in the applicable missing person networks as appropriate.

(d) A missing person case should not be closed or reclassified because the person would have reached a certain age or adulthood or because the person is now the subject of a criminal or civil warrant.

331.10 TRAINING

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

(a) The initial investigation:

1. Assessments and interviews
2. Use of current resources, such as Mobile Audio Video (MAV)
3. Confirming missing status and custody status of minors
4. Evaluating the need for a heightened response
5. Identifying the zone of safety based on chronological age and developmental stage

(b) Briefing of department members at the scene.

(c) Identifying NCIC Missing Person File categories (e.g., disability, endangered, involuntary, juvenile and catastrophe).

(d) Verifying the accuracy of all descriptive information.

(e) Initiating a neighborhood investigation.

(f) Investigating any relevant recent family dynamics.

(g) Addressing conflicting information.

(h) Key investigative and coordination steps.

(i) Managing a missing person case.

(j) Additional resources and specialized services.

(k) Update procedures for case information and descriptions.

(l) Preserving scenes.

(m) Internet and technology issues (e.g., Internet use, cell phone use).

(n) Media relations.

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Public Alerts

333.1 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.

333.2 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.

333.3 RESPONSIBILITIES

333.3.1 EMPLOYEE RESPONSIBILITIES

Employees of the Clayton Police Department should notify their supervisor, Shift Supervisor or Patrol 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.

333.3.2 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 Chief of Police 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 Chief of Police

333.4 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.

333.4.1 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.

333.4.2 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)

333.5 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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333.5.1 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.

333.5.2 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

333.6 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).

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333.6.1 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.

333.6.2 PROCEDURE FOR SILVER ALERT

Requests for a Silver Alert shall be made through the California Highway Patrol (Government Code § 8594.10).

333.7 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 Shift Supervisor or Patrol Supervisor elects to use the services of the Sheriff's Department, the following will apply:

(a) Notify the Sheriff's Department Shift Supervisor 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 Shift Supervisor.

(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.

The Clayton Police Department shall assign a minimum of two detectives/officers to respond to 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.

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333.8 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).

333.8.1 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.

333.8.2 PROCEDURE

Public safety emergency alerts should be activated by following the guidelines issued by the Office of Emergency Services (Government Code § 8593.7).

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Victim and Witness Assistance

335.1 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.

335.2 POLICY

The Clayton Police Department is committed to providing guidance and assistance to the victims and witnesses of crime. The members of the Clayton 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.

335.3 CRIME VICTIM LIAISON

The Chief of Police shall appoint a member of the Department to 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 Clayton Police Department regarding benefits from crime victim resources. This person shall also be responsible for maintaining compliance with all legal mandates related to crime victims and/or witnesses.

335.3.1 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 his/her 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 Clayton Police Department jurisdiction (Penal Code § 680.2).

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335.4 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.

335.4.1 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).

335.5 VICTIM INFORMATION

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

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

(b) Community resources for victims of sexual assault.

(c) Assurance that sexual assault victims will not incur out-of-pocket expenses for forensic medical exams, 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.

(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.

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(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).

335.6 WITNESSES

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

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

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Hate Crimes

337.1 PURPOSE AND SCOPE

This policy 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 the Clayton Police Department may best use its resources to investigate and solve an offense, in addition to building community trust and increasing police legitimacy (Penal Code § 13519.6).

337.1.1 DEFINITION AND LAWS

In accordance with Penal Code § 422.55; Penal Code § 422.56; Penal Code § 422.6; and Penal Code § 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:

Bias motivation - Bias motivation is a pre-existing negative attitude toward actual or perceived characteristics referenced in Penal Code § 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 - Disability includes mental disability and physical disability as defined in Government Code § 12926, regardless of whether those disabilities are temporary, permanent, congenital, or acquired by heredity, accident, injury, advanced age, or illness.

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 situations where 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 from those of the victim. Such 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.

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Gender - Gender means sex and includes a person's gender identity and gender expression.

Gender expression - Gender expression means a person's gender-related appearance and behavior, whether or not stereotypically associated with the person's assigned sex at birth.

Gender identity- Gender identity means each person's internal understanding of their gender, or the perception of a person's gender identity, which may include male, female, a combination of male and female, neither male nor female, a gender different from the person's sex assigned at birth, or transgender (2 CCR § 11030).

Hate crime - “Hate crime” includes but is not limited to a violation of Penal Code § 422.6, and 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:

(a) Disability

(b) Gender

(c) Nationality

(d) Race or ethnicity

(e) Religion

(f) Sexual orientation

(g) Association with a person or group with one or more of these actual or perceived characteristics:

1. “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 Penal Code § 422.55(a).

Note: A “hate crime” need not be motivated by hate but may be motivated by any bias against a protected characteristic.

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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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
- Solicitation to commit any crime

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 a crime would not have been committed but for the actual or perceived characteristic.

Nationality - Nationality includes citizenship, country of origin, and national origin.

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:

- Community center
- Educational facility
- Entity
- Family
- Group
- Individual
- Office
- Meeting hall
- Person
- Place of worship
- Private institution
- Public agency

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- Library
- Other victim or intended victim of the offense

337.2 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.

337.3 PLANNING AND PREVENTION

In order to facilitate the guidelines contained within this policy, department members will continuously work to build and strengthen relationships with the community, engage in dialogue, and provide education to the community about this policy. Department personnel are also encouraged to learn about the inherent issues concerning their communities in relation to hate crimes.

Although hate incidents are not criminal events, they can be indicators of, or precursors to, hate crimes. Hate incidents should be investigated and documented as part of an overall strategy to prevent hate crimes.

337.3.1 HATE CRIMES COORDINATOR

A department member appointed by the Chief of Police or the authorized designee will serve as the Hate Crimes Coordinator. The responsibilities of the Hate Crimes Coordinator should include but not be limited to (Penal Code § 422.87):

(a) Meeting with residents in target communities to allay fears; emphasizing the department's concern over hate crimes and related incidents; reducing the potential for counter-violence; and providing safety, security, and crime-prevention information. Cultural diversity education and immersion programs (if available) could facilitate this process.

(b) Finding, evaluating, and monitoring public social media sources to identify possible suspects in reported hate crimes; to identify suspects or suspect groups in future hate

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crimes or hate incidents affecting individuals, groups, or communities that may be victimized; and to predict future hate-based events.

(c) Providing direct and referral assistance to the victim and the victim's family.

(d) Conducting public meetings on hate crime threats and violence in general.

(e) Establishing relationships with formal community-based organizations and leaders.

(f) Expanding, where appropriate, preventive programs such as hate, bias, and crime-reduction seminars for students.

(g) Reviewing 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 Muslim communities (Penal Code § 13519.6(b)(8)).

(h) Providing orientation of and with communities of specific targeted victims such as immigrants, Muslims, Arabs, LGBTQ, black or African-American, Jewish, Sikh, and persons with disabilities.

(i) Coordinating with the Training Sergeant to include in a training plan recognition of hate crime bias characteristics, including information on general underreporting of hate crimes.

(j) Verifying a process is in place to provide this policy and related orders to officers in the field; and taking reasonable steps to rectify the situation if such a process is not in place.

(k) Taking reasonable steps to ensure hate crime data is provided to the Records Bureau for mandated reporting to the Department of Justice.

(l) Reporting any suspected multi-mission extremist crimes to the agency Terrorism Liaison Officer, the assigned designee, or other appropriate resource; and verifying that such data is transmitted to the Joint Regional Information Exchange System in accordance with the protocols of the Records Bureau Policy.

(m) Maintaining the department's supply of up-to-date hate crimes brochures (Penal Code § 422.92; Penal Code § 422.87).

(n) Annually assessing this policy, including:

1. Keeping abreast of the Commission on Peace Officer Standards and Training (POST) model policy framework for hate crimes for revisions or additions, including definitions, responsibilities, training resources, and planning and prevention methods.

2. Analysis of the department's data collection as well as the available outside data (e.g., annual California Attorney General's report on hate crime) in preparation for and response to future hate crimes.

337.3.2 RELEASE OF INFORMATION

Establishing a relationship with stakeholders, before any incident occurs, to develop a network and protocol for disclosure often assists greatly in any disclosure.

The benefit of public disclosure of hate crime incidents includes:

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(a) Dissemination of correct information.

(b) Assurance to affected communities or groups that the matter is being properly and promptly investigated.

(c) The ability to request information regarding the commission of the crimes from the victimized community.

Information or records relating to hate crimes subject to public disclosure shall be released as provided by the Records Maintenance and Release Policy or as allowed by law. In accordance with the Media Relations Policy, the supervisor, public information officer, or the authorized designee should be provided with information that can be responsibly reported to the media. When appropriate, the department spokesperson should reiterate that hate crimes will not be tolerated, will be investigated seriously, and will be prosecuted to the fullest extent of the law.

The Department should consider the following when releasing information to the public regarding hate crimes and hate incidents that have been reported within the jurisdiction:

- Inform community organizations in a timely manner when a community group has been the target of a hate crime.
- Inform the community of the impact of these crimes on the victim, the victim's family, and the community, and of the assistance and compensation available to victims.
- Inform the community regarding hate crime law and the legal rights of, and remedies available to, victims of hate crimes.
- Provide the community with ongoing information regarding hate crimes and/or hate incidents.

337.4 RESPONSE, VICTIM ASSISTANCE, AND FOLLOW-UP

337.4.1 INITIAL RESPONSE

First responding officers should know the role of all department personnel as they relate to the department'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.

At the scene of a suspected hate or bias crime, officers should take preliminary actions reasonably deemed necessary, including but not limited to the following:

(a) Use agency checklist (per Penal Code § 422.87) to assist in the investigation of any hate crime (see Appendix).

(b) Stabilize the victims and request medical attention when necessary.

(c) Properly protect the safety of victims, witnesses, and perpetrators.

1. Assist victims in seeking a Temporary Restraining Order (if applicable).

(d) 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.

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(e) Properly protect, preserve, and process the crime scene, and remove all physical evidence of the incident 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 facilitate removal or covering as soon as reasonably possible. Department personnel should follow up with the property owner to determine if this was accomplished in a timely manner.

(f) Collect and photograph physical evidence or indicators of hate crimes such as:

1. Hate literature.
2. Spray paint cans.
3. Threatening letters.
4. Symbols used by hate groups.

(g) Identify criminal evidence on the victim.

(h) Request the assistance of translators or interpreters when needed to establish effective communication with witnesses, victims, or others as appropriate.

(i) Conduct a preliminary investigation and record pertinent information including but not limited to:

1. Identity of suspected perpetrators.
2. Identity of witnesses, including those no longer at the scene.
3. The offer of victim confidentiality per Government Code § 6254.
4. Prior occurrences in this area or with this victim.
5. Statements made by suspects; exact wording is critical.
6. The victim's protected characteristics and determine if bias was a motivation “in whole or in part” in the commission of the crime.

(j) Adhere 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.

(k) Provide information regarding immigration remedies available to victims of crime (e.g., U-Visa, T-Visa, S-Visa).

(l) Provide the department’s Hate Crimes Brochure (per Penal Code § 422.92) if asked, if necessary, or per policy.

(m) Utilize proper techniques for interviewing people with disabilities and be aware of and provide appropriate accommodations (e.g., ADA standards, Braille, visuals, translators for the deaf or hard of hearing).

(n) Document any suspected multi-mission extremist crimes.

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337.4.2 INVESTIGATION

Investigators at the scene of, or performing follow-up investigation on, a suspected hate or bias crime or hate incident should take all actions deemed reasonably necessary, including but not limited to the following:

(a) Consider typologies of perpetrators of hate crimes and incidents, including but not limited to thrill, reactive/defensive, and mission (hard core).

(b) Utilize investigative techniques and methods to handle hate crimes or hate incidents in a professional manner.

(c) Utilize proper techniques for interviewing people with disabilities and be aware of and provide appropriate accommodations (e.g., ADA standards, Braille, visuals, translators for the deaf or hard of hearing).

(d) Properly investigate any report of a hate crime committed under the color of authority per Penal Code § 422.6 and Penal Code § 13519.6.

(e) Document physical evidence or indicators of hate crimes, in accordance with the provisions of the Property and Evidence Policy, such as:

1. Hate literature.
2. Spray paint cans.
3. Threatening letters.
4. Symbols used by hate groups.
5. Desecration of religious symbols, objects, or buildings.

(f) Request the assistance of translators or interpreters when needed to establish effective communication.

(g) Conduct a preliminary investigation and record information regarding:

1. Identity of suspected perpetrators.
2. Identity of witnesses, including those no longer at the scene.
3. Offer of victim confidentiality per Government Code § 6254.
4. Prior occurrences, in this area or with this victim.
5. Statements made by suspects; exact wording is critical.
6. Document the victim’s protected characteristics.

(h) Provide victim assistance and follow-up.

(i) Canvass the area for additional witnesses.

(j) Examine suspect’s social media activity for potential evidence of bias motivation.

(k) Coordinate the investigation with department, state, and regional intelligence operations. These sources can provide the investigator with an analysis of any patterns, organized hate groups, and suspects potentially involved in the offense.

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(l) Coordinate the investigation with the crime scene investigation unit (if applicable) or other appropriate units of the Department.

(m) Determine if the incident should be classified as a hate crime.

(n) Take reasonable steps to provide appropriate assistance to hate crime victims, including the following measures:

1. Contact victims periodically to determine whether they are receiving adequate and appropriate assistance.
2. Provide ongoing information to victims about the status of the criminal investigation.
3. Provide victims and any other interested persons the brochure on hate crimes per Penal Code § 422.92 and information on any local advocacy groups (if asked).

(o) Document any suspected multi-mission extremist crimes.

(p) Coordinate with other law enforcement agencies in the area to assess patterns of hate crimes and/or hate incidents, and determine if organized hate groups are involved.

337.4.3 SUPERVISION

The supervisor shall confer with the initial responding officer and take reasonable steps to ensure that necessary preliminary actions have been taken. The supervisor shall request any appropriate personnel necessary to accomplish the following:

(a) Provide immediate assistance to the crime victim by:

1. Expressing the department's official position on the importance of these cases and the measures that will be taken to apprehend the perpetrators.
2. 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.
3. Identifying individuals or agencies that may provide victim assistance and support. Local victim assistance resources may include family members or close 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).

(b) 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.

(c) 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.

(d) 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 officerto specific locations that could become targets).

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(e) Verify hate crimes are being properly reported, including reporting to the Department of Justice, pursuant to Penal Code § 13023.

(f) 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).

(g) Respond to and properly initiate an investigation of any reports of hate crimes committed under the color of authority.

(h) 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.

(i) Verify reporting of any suspected multi-mission extremist crimes to the agency Hate Crimes Coordinator.

(j) Make a final determination as to whether the incident should be classified as a hate crime and forward to the Chief of Police for approval.

337.5 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 include (Penal Code § 422.87):

(a) Recognition of bias motivators such as ranges of attitudes and perceptions toward a specific characteristic or group, including disability bias and gender bias.

(b) Accurate reporting by officers, including information on the general underreporting of hate crimes.

(c) Distribution of hate crime brochures.

337.6 APPENDIX

See attachments:

Statutes and Legal Requirements.pdf

Hate Crime Checklist.pdf

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Standards of Conduct

339.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Clayton 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.

339.2 POLICY

The continued employment or appointment of every member of the Clayton 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.

339.3 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.

339.3.1 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.

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The person countermanding the original order shall notify, in writing, the person issuing the original order, indicating the action taken and the reason.

339.3.2 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.

339.3.3 WEAPONS AND EQUIPMENT CARE AND SAFETY

(a) Brandishing, displaying, pointing or using any loaded or unloaded firearm, Taser or other weapon at any employee without legal justification, regardless of the intent of the offending employee. Exceptions to this policy maybe allowed for bonafide training, but only when using unloaded, replica or specialty training firearms, Tasers or other weapons. The Chief of Police or a Sergeant shall approve any such exceptions in advance. An authorized trainer or other designated supervisor must supervise any such training at all times.

(b) Removing or attempting to remove any firearm, Taser, other weapon or equipment from another employee's person or control without legal or reasonable justification to do so, regardless of the intent of the offending employee. Exceptions to this policy maybe allowed for bonafide training, but only when using unloaded, replica or specialty training firearms, Tasers or other weapons. The Chief of Police or a Sergeant shall approve any such exceptions in advance. An authorized trainer or other designated supervisor must supervise any such training at all times.

339.4 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.

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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.

339.5 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:

339.5.1 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.

339.5.2 ETHICS

(a) Using or disclosing one’s status as a member of the Clayton Police Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department 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.

339.5.3 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.

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339.5.4 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.

339.5.5 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.

339.5.6 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.

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(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 non-subpoenaed records.

339.5.7 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) Concealing, attempting to conceal, removing, or destroying defective or incompetent work.

(d) Unauthorized sleeping during on-duty time or assignments.

(e) Failure to notify the Department within 24 hours of any change in residence address or contact numbers.

(f) Failure to notify the Personnel Department of changes in relevant personal information (e.g., information associated with benefits determination) in a timely fashion.

339.5.8 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 work-related 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.

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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.

339.5.9 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.

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(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.

339.5.10 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.

(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.

339.5.11 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.

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Information Technology Use

341.1 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.

341.1.1 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 Clayton 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.

341.2 POLICY

It is the policy of the Clayton 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.

341.3 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.

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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 may request access when it is reasonably believed to be relevant to the investigation of allegations of work-related misconduct (Labor Code § 980).

341.4 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 Shift Supervisors.

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.

341.4.1 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.

341.4.2 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.

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341.4.3 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.

341.4.4 OFF-DUTY USE

Members shall only use technology resources provided by the Department while on-duty or in conjunction with specific on-call assignments unless specifically authorized by a supervisor. This includes the use of telephones, cell phones, texting, email or any other "off the clock" work-related activities. This also applies to personally owned devices that are used to access department resources.

Refer to the Personal Communication Devices Policy for guidelines regarding off-duty use of personally owned technology.

341.5 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.

341.6 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.

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

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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.

341.7 SECTION TITLE

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Report Preparation

343.1 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.

343.1.1 REPORT PREPARATION

Employees should ensure that reports are sufficiently detailed for their purpose and free from errors prior to submission. It is the responsibility of the assigned employee to complete and submit all reports taken during the shift before going off-duty unless permission to hold the report has been approved by a supervisor. Generally, reports requiring prompt follow-up action on active leads, or arrest reports where the suspect remains in custody should not be held.

Handwritten reports must be prepared legibly. If the report is not legible, the submitting employee will be required by the reviewing supervisor to promptly make corrections and resubmit the report. Employees who dictate reports shall use appropriate grammar, as content is not the responsibility of the typist. Employees who generate reports on computers are subject to all requirements of this policy.

All reports shall accurately reflect the identity of the persons involved, all pertinent information seen, heard or assimilated by any other sense, and any actions taken. Employees shall not suppress, conceal or distort the facts of any reported incident, nor shall any employee make a false report orally or in writing. Generally, the reporting employee's opinions should not be included in reports unless specifically identified as such.

343.1.2 REVIEW OF AUDIO, VIDEO, PHOTOGRAPHIC AND OTHER EVIDENCE

Employees should review all audio, video, photographic and other evidence prior to writing a report to ensure accuracy of their report. In cases where an employee's "state of mind" may be an issue in the report, such as in a use of force report, the originating employee should document their state of mind as it relates to the use of force in their report prior to reviewing any other material. Employees reviewing materials prior to writing their report shall include a statement in their report indicating when and what materials were reviewed. All materials reviewed shall be booked and retained as evidence associated with the report.

Employees documenting the discharge or use of a Taser or other device that retains digital information or evidence about the use shall be allowed to review such material prior to writing their report. Any such material reviewed shall be documented in the report, as well as being booked and retained as evidence associated with the report. Only authorized and trained employees shall download or access digital information or evidence stored in any device.

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343.2 REQUIRED REPORTING

Written reports are required in all of the following situations on the appropriate department approved form unless otherwise approved by a supervisor.

343.2.1 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 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. Adult Abuse Policy
5. Hate Crimes Policy
6. Suspicious Activity Reporting Policy

(e) All misdemeanor crimes where the victim desires a report, or follow-up is required

(f) All Vandalisms

(g) All Thefts

(h) All Battery's

(i) Any crime where a suspect is identified

(j) All calls for service at locations that hold an ABC license, regardless of whether or not a crime has actually occurred

Misdemeanor crimes not listed above, where the victim does not desire a report shall be documented using the department-approved alternative reporting method (e.g., dispatch log).

343.2.2 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)

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(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

(j) Whenever the employee believes the circumstances should be documented or at the direction of a supervisor

343.2.3 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.

343.2.4 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.

343.2.5 MISCELLANEOUS INJURIES

Any injury that is reported to this department shall require a report when:

(a) The injury is a result of drug overdose

(b) Attempted suicide

(c) The injury is major/serious, whereas death could result

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(d) The circumstances surrounding the incident are suspicious in nature and it is desirable to record the event

The above reporting requirements are not intended to be all-inclusive. A supervisor may direct an employee to document any incident he/she deems necessary.

343.2.6 MANDATORY REPORTING OF JUVENILE GUNSHOT INJURIES
A report shall be taken when any incident in which a child 18 years or younger suffered an unintentional or self-inflicted gunshot wound. The Records Bureau shall notify the California Department of Public Health (CDPH) of the incident as required by CDPH (Penal Code § 23685).

343.3 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.

343.3.1 GENERAL POLICY OF HANDWRITTEN REPORTS
Some incidents and report forms lend themselves to block print rather than typing. In general, the narrative portion of those reports where an arrest is made or when there is a long narrative should be typed or dictated.

Supervisors may require, with the foregoing general policy in mind, block printing or typing of reports of any nature for department consistency.

343.3.2 GENERAL USE OF OTHER HANDWRITTEN FORMS
County, state and federal agency forms may be block printed as appropriate. In general, the form itself may make the requirement for typing apparent.

343.4 REPORT CORRECTIONS

Supervisors shall review reports for content and accuracy. If a correction is necessary, the reviewing supervisor should complete the Report Correction form stating the reasons for rejection. The original report and the correction form should be returned to the reporting employee for correction as soon as practical. It shall be the responsibility of the originating officer to ensure that any report returned for correction is processed in a timely manner.

343.5 REPORT CHANGES OR ALTERATIONS

Reports that have been approved by a supervisor and submitted to the Records Bureau for filing and distribution shall not be modified or altered except by way of a supplemental report. Reviewed reports that have not yet been submitted to the Records Bureau may be corrected or modified by the authoring officer only with the knowledge and authorization of the reviewing supervisor.

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343.6 ELECTRONIC SIGNATURES

The Clayton Police Department has established an electronic signature procedure for use by all employees of the Clayton Police Department. The Patrol Chief of Police 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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Media Relations

345.1 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.

345.2 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, Chief of Polices, Shift Supervisors and designated Public Information Officer(s) may prepare and release information to the media in accordance with this policy and the applicable law.

345.2.1 MEDIA REQUEST

Any media request for information or access to a law enforcement situation shall be referred to the designated department media representative, or if unavailable, to the first available supervisor. Prior to releasing any information to the media, employees shall consider the following:

(a) At no time shall any employee of this department make any comment or release any official information to the media without prior approval from a supervisor or the designated department media representative.

(b) In situations involving multiple law enforcement agencies, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this department.

(c) Under no circumstance should any member of this department make any comments to the media regarding any law enforcement incident not involving this department without prior approval of the Chief of Police.

345.3 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 Shift Supervisor. The TFR request should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate control tower. If the control tower is not known, the Federal Aviation Administration should be contacted (14 CFR 91.137).

(c) No member of this department who is under investigation shall be subjected to media visits or interviews without the consent of the involved employee (Government Code § 3303(e)).

(d) Media interviews with individuals who are in custody should not be permitted without the approval of the Chief of Police and the express consent of the person in custody.

A tactical operation should be handled in the same manner as a crime scene, except the news media shall be permitted within the outer perimeter of the scene, subject to any restrictions as determined by the supervisor in charge. Department members shall not jeopardize a tactical operation in order to accommodate the news media. All comments to the media shall be coordinated through a supervisor or the Public Information Officer.

345.3.1 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.

345.4 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 Shift Supervisor. 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

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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 Shift Supervisor (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 Shift Supervisor. Such requests will generally be processed in accordance with the provisions of the Public Records Act (Government Code § 6250, et seq.).

345.4.1 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.

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Subpoenas and Court Appearances

347.1 PURPOSE AND SCOPE

This policy establishes the guidelines for department members who must appear in court. It will allow the Clayton Police Department to cover any related work absences and keep the Department informed about relevant legal matters.

347.2 POLICY

Clayton Police Department members will respond appropriately to all subpoenas and any other court-ordered appearances.

347.3 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)).

347.3.1 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:

(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.

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(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 Clayton Police Department.

(e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the Clayton 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.

347.3.2 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.

347.3.3 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.

347.4 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.

347.5 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.

347.6 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.

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(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.

347.6.1 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.

347.7 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.

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Reserve Officers

349.1 PURPOSE AND SCOPE

The Clayton Police Department Reserve Unit was established to supplement and assist regular sworn police officers in their duties. This unit provides professional, sworn volunteer reserve officers who can augment regular staffing levels.

349.2 SELECTION AND APPOINTMENT OF POLICE RESERVE OFFICERS

The Clayton Police Department shall endeavor to recruit and appoint to the Reserve Unit only those applicants who meet the high ethical, moral and professional standards set forth by this department.

349.2.1 PROCEDURE

All applicants shall be required to meet and pass the same pre-employment procedures as regular police officers before appointment.

Before appointment to the Police Reserve Unit, an applicant must have completed, or be in the process of completing, a POST approved basic academy or extended basic academy.

349.2.2 APPOINTMENT

Applicants who are selected for appointment to the Police Reserve Unit shall, on the recommendation of the Chief of Police, be sworn in by the Chief of Police and take a loyalty oath to observe and obey all of the laws of the land and to carry out their duties to the best of their ability.

349.2.3 COMPENSATION FOR POLICE RESERVE OFFICERS

Compensation for reserve officers is provided as follows:

All reserve officer appointees are issued two sets of uniforms and all designated attire and safety equipment. All property issued to the reserve officer shall be returned to the Department upon termination or resignation.

349.2.4 EMPLOYEES WORKING AS RESERVE OFFICERS

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

349.3 DUTIES OF RESERVE OFFICERS

Reserve officers assist regular officers in the enforcement of laws and in maintaining peace and order within the community. Assignments of reserve officers will usually be to augment the Patrol Division. Reserve officers may be assigned to other areas within the Department as needed. Reserve officers are required to work a minimum of 16 hours per month.

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349.3.1 POLICY COMPLIANCE
Police reserve officers shall be required to adhere to all departmental policies and procedures. A copy of the policies and procedures will be made available to each reserve officer upon appointment and he/she shall become thoroughly familiar with these policies.

Whenever a rule, regulation, or guideline in this manual refers to a sworn regular full-time officer, it shall also apply to a sworn reserve officer unless by its nature it is inapplicable.

349.3.2 RESERVE OFFICER ASSIGNMENTS
All reserve officers will be assigned to duties by the Reserve Coordinator or his/her designee.

349.3.3 RESERVE COORDINATOR
The Chief of Police shall delegate the responsibility for administering the Reserve Officer Program to a Reserve Coordinator.

The Reserve Coordinator shall have the responsibility of, but not be limited to:

(a) Assignment of reserve personnel

(b) Conducting reserve meetings

(c) Establishing and maintaining a reserve call-out roster

(d) Maintaining and ensuring performance evaluations are completed

(e) Monitoring individual reserve officer performance

(f) Monitoring overall Reserve Program

(g) Maintaining liaison with other agency Reserve Coordinators

349.4 FIELD TRAINING
Penal Code § 832.6 requires Level II reserve officers, who have not been released from the immediate supervision requirement per the Completion of the Formal Training Process subsection, to work under the immediate supervision of a peace officer who possesses a Basic POST Certificate.

349.4.1 TRAINING OFFICERS
Officers of this department, who demonstrate a desire and ability to train reserve officers, may train the reserves during Phase II, subject to Shift Supervisor approval.

349.4.2 PRIMARY TRAINING OFFICER
Upon completion of the Academy, reserve officers will be assigned to a primary training officer. The primary training officer will be selected from members of the Field Training Officer (FTO) Committee. The reserve officer will be assigned to work with his/her primary training officer during the first 160 hours of training. This time shall be known as the Primary Training Phase.

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349.4.3 FIELD TRAINING MANUAL

Each new reserve officer will be issued a Field Training Manual at the beginning of his/her Primary Training Phase. This manual is an outline of the subject matter and/or skills necessary to properly function as an officer with the Clayton Police Department. The reserve officer shall become knowledgeable of the subject matter as outlined. He/she shall also become proficient with those skills as set forth in the manual.

349.4.4 COMPLETION OF THE PRIMARY TRAINING PHASE

At the completion of the Primary Training Phase, (Phase I) the primary training officer will meet with the Reserve Coordinator. The purpose of this meeting is to discuss the progress of the reserve officer in training.

If the reserve officer has progressed satisfactorily, he/she will then proceed to Phase II of the training. If he/she has not progressed satisfactorily, the Reserve Coordinator will determine the appropriate action to be taken.

349.4.5 SECONDARY TRAINING PHASE

The Secondary Training Phase (Phase II) shall consist of 100 hours of additional on-duty training. The reserve officer will no longer be required to ride with his/her primary training officer. The reserve officer may now ride with any officer designated by the Shift Supervisor.

During Phase II of training, as with Phase I, the reserve officer's performance will be closely monitored. In addition, rapid progress should continue towards the completion of the Officer's Field Training Manual. At the completion of Phase II of training, the reserve officer will return to his/her primary training officer for Phase III of the training.

349.4.6 THIRD TRAINING PHASE

Phase III of training shall consist of 24 hours of additional on-duty training. For this training phase, the reserve officer will return to his/her original primary training officer. During this phase, the training officer will evaluate the reserve officer for suitability to graduate from the formal training program.

At the completion of Phase III training, the primary training officer will meet with the Reserve Coordinator. Based upon the reserve officer's evaluations, plus input from the primary training officer, the Reserve Coordinator shall decide if the reserve officer has satisfactorily completed his/her formal training. If the reserve officer has progressed satisfactorily, he/she will then graduate from the formal training process. If his/her progress is not satisfactory, the Reserve Coordinator will decide upon the appropriate action to be taken.

349.4.7 COMPLETION OF THE FORMAL TRAINING PROCESS

When a reserve officer has satisfactorily completed all three phases of formal training, he/she will have had a minimum of 284 hours of on-duty training. He/she will no longer be required to ride with a reserve training officer. The reserve officer may now be assigned to ride with any officer for the remaining 200-hour requirement for a total of 484 hours before being considered for relief of immediate supervision.

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349.5 SUPERVISION OF RESERVE OFFICERS

Reserve officers who have attained the status of Level II shall be under the immediate supervision of a regular sworn officer (Penal Code 832.6). The immediate supervision requirement shall also continue for reserve officers who have attained Level I status unless special authorization is received from the Reserve Coordinator with the approval of the Chief of Police.

349.5.1 SPECIAL AUTHORIZATION REQUIREMENTS

Reserve officers certified as Level I may, with prior authorization of the Reserve Coordinator and on approval of the Chief of Police, be relieved of the "immediate supervision" requirement. Level I reserve officers may function under the authority of Penal Code § 832.6(a)(1) only for the duration of the assignment or purpose for which the authorization was granted.

In the absence of the Reserve Coordinator and the Chief of Police, the Shift Supervisor may assign a certified Level I reserve officer to function under the authority of Penal Code § 832.6(a)(1) for specific purposes and duration.

349.5.2 RESERVE OFFICER MEETINGS

All reserve officer meetings will be scheduled and conducted by the Reserve Coordinator. All reserve officers are required to attend scheduled meetings. Any absences must be satisfactorily explained to the Reserve Coordinator.

349.5.3 IDENTIFICATION OF RESERVE OFFICERS

All reserve officers will be issued a uniform badge and a Department identification card. The uniform badge shall be the same as that worn by a regular full-time officer. The identification card will be the standard identification card with the exception that "Reserve" will be indicated on the card.

349.5.4 UNIFORM

Reserve officers shall conform to all uniform regulation and appearance standards of this department.

349.5.5 INVESTIGATIONS AND COMPLAINTS

If a reserve officer has a complaint made against him/her or becomes involved in an internal investigation, that complaint or internal investigation may be investigated by the Reserve Coordinator, at the discretion of the Patrol Chief of Police.

Reserve officers are considered at-will employees. Government Code § 3300 et seq. applies to reserve officers with the exception that the right to hearing is limited to the opportunity to clear their name.

Any disciplinary action that may have to be administered to a reserve officer shall be accomplished as outlined in the Policy Manual.

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349.5.6 RESERVE OFFICER EVALUATIONS
While in training reserves will be continuously evaluated using standardized daily and weekly observation reports. The reserve will be considered a trainee until all of the training phases have been completed. Reserves having completed their field training will be evaluated annually using performance dimensions applicable to the duties and authorities granted to that reserve.

349.6 FIREARMS REQUIREMENTS

Penal Code § 830.6(a)(1) designates a reserve officer as having peace officer powers during his/her assigned tour of duty, provided the reserve officer qualifies or falls within the provisions of Penal Code § 832.6.

349.6.1 CARRYING WEAPON ON DUTY
Penal Code § 830.6(a)(1) permits qualified reserve officers to carry a loaded firearm while on-duty. It is the policy of this department to allow reserves to carry firearms only while on-duty or to and from duty.

349.6.2 CONCEALED FIREARMS PROHIBITED
No reserve officer will be permitted to carry a concealed firearm while in an off-duty capacity, other than to and from work, except those reserve officers who possess a valid CCW permit. An instance may arise where a reserve officer is assigned to a plainclothes detail for his/her assigned tour of duty. Under these circumstances, the reserve officer may be permitted to carry a weapon more suited to the assignment with the knowledge and approval of the supervisor in charge of the detail.

Any reserve officer who is permitted to carry a firearm other than the assigned duty weapon may do so only after verifying that the weapon conforms to departmental standards. The weapon must be registered by the reserve officer and be inspected and certified as fit for service by a departmental armorer.

Before being allowed to carry any optional firearm during an assigned tour of duty, the reserve officer shall have demonstrated his/her proficiency with said weapon.

When a reserve officer has satisfactorily completed all three phases of training (as outlined in the Field Training section), he/she may be issued a permit to carry a concealed weapon. The decision to issue a concealed weapon permit will be made by the Chief of Police with input from the Reserve Program Coordinator and administrative staff. In issuing a concealed weapon permit a reserve officer's qualification will be individually judged. A reserve officer's dedication to the program and demonstrated maturity, among other factors, will be considered before a concealed weapon permit will be issued. Once issued, the concealed weapon permit will be valid only for as long as the reserve officer remains in good standing as a Reserve Officer with the Clayton Police Department.

349.6.3 RESERVE OFFICER FIREARM TRAINING
All reserve officers are required to maintain proficiency with firearms used in the course of their assignments. Reserve officers shall comply with all areas of the firearms training section of the Policy Manual.

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349.7 EMERGENCY CALL-OUT FOR RESERVE PERSONNEL

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

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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 Clayton 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.

351.3 ASSISTING OUTSIDE AGENCIES

Generally, requests for any type of assistance from another agency should be routed to the Shift Supervisor'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 Shift Supervisor 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.

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 Clayton Police Department shall notify his/her supervisor or the Shift Supervisor and Dispatch 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.

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The requesting member should arrange for appropriate radio communication capabilities, if necessary and available, so that communication can be coordinated between assisting personnel.

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 Shift Supervisor.

351.6 MANDATORY SHARING

Equipment and supplies purchased with federal funds or grants that require such equipment and supplies be shared with other agencies should be documented and updated as necessary by the Administration Chief of Police or the authorized designee.

The documentation should include:

(a) The conditions relative to sharing.

(b) The training requirements for:

1. The use of the supplies and equipment.
2. The members trained in the use of the supplies and equipment.

(c) Any other requirements for use of the equipment and supplies.

Copies of the documentation should be provided to Dispatch and the Shift Supervisor to ensure use of the equipment and supplies is in compliance with the applicable sharing agreements.

The Training Sergeant should maintain documentation that the appropriate members have received the required training.

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Registered Offender Information

355.1 PURPOSE AND SCOPE

This policy establishes guidelines by which the Clayton 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 Clayton 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 Patrol 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 Patrol 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 Patrol supervisor should also establish a procedure to routinely disseminate information regarding registered offenders to Clayton 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 Clayton Police Department's website. Information on sex registrants placed on the Clayton 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 (Penal Code § 290.45; Penal Code § 290.46; Penal Code § 457.1), and in compliance with a California Public Records Act (Government Code § 6250-6276.48) request.

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).

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355.5.2 RELEASE NOTIFICATIONS

Registrant information that is released should include notification that:

(a) The offender registry includes only those persons who have been required by law to register and who are in compliance with the offender registration laws.

(b) The information is provided as a public service and may not be current or accurate.

(c) Persons should not rely solely on the offender registry as a safeguard against offenses in their communities.

(d) The crime for which a person is convicted may not accurately reflect the level of risk.

(e) Anyone who uses information contained in the registry to harass registrants or commit any crime may be subject to criminal prosecution.

(f) The purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders (Penal Code 290.45).

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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 Clayton 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 Chief of Police. The following list of incident types is provided as a guide for notification and is not intended to be all inclusive:

- Homicides
- Traffic accidents with fatalities
- Officer-involved shooting - on or off duty (see Officer-Involved Shootings and Deaths Policy for special notifications)
- Significant injury or death to employee - on or off duty
- Death of a prominent Clayton official
- Arrest of a department employee or prominent Clayton official
- Aircraft crash with major damage and/or injury or death
- In-custody deaths

357.4 SHIFT SUPERVISOR RESPONSIBILITY

The Shift Supervisor is responsible for making the appropriate notifications. The Shift Supervisor shall make reasonable attempts to obtain as much information on the incident as possible before notification. The Shift Supervisor shall attempt to make the notifications as soon as practicable. Notification should be made by calling the home telephone number first and then by any other available contact numbers.

357.4.1 STAFF NOTIFICATION

In the event an incident occurs described in The Major Incident Notification Policy, the Chief of Police shall be notified along with the affected Chief of Polices.

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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 Chief of Police and the Traffic Chief of Police shall be notified. The Traffic Chief of Police will then contact the appropriate accident investigator.

357.4.4 PUBLIC INFORMATION OFFICER (PIO)

The Chief of Police will be contacted to designate a Public Information Officer when it appears the media may have a significant interest in the incident.

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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.

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.

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.

(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).

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(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.

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. If the next-of-kin lives in another jurisdiction, a law enforcement official from that jurisdiction shall be requested to make the personal notification. If the relatives live outside this county, the Coroner may be requested to make the notification. The Coroner needs to know if notification has been made. Assigned detectives may need to talk to the next-of-kin.

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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 Investigations Division shall be notified to determine the possible need for a detective to respond to the scene for further immediate investigation.

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)).

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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.

361.2 REPORTING

(a) In an effort to maintain uniformity in reporting, officers presented with the crime of identity theft (Penal Code § 530.6) shall initiate a report for victims residing within the jurisdiction of this department when the crime occurred. For incidents of identity theft occurring outside this jurisdiction, officers should observe the following:

1. For any victim not residing within this jurisdiction, the officer may either take a courtesy report to be forwarded to the victim's residence agency or the victim should be encouraged to promptly report the identity theft to the law enforcement agency where he or she resides.

(b) While the crime of identity theft should be reported to the law enforcement agency where the victim resides, officers of this department should investigate and report crimes occurring within this jurisdiction which have resulted from the original identity theft (e.g., the identity theft occurred elsewhere, but the credit card fraud occurred and is reported in this jurisdiction).

(c) Officers should include all known incidents of fraudulent activity (e.g., credit card number applied for in victim's name when the victim has never made such an application).

(d) Officers should also cross-reference all known reports made by the victim (e.g., U.S. Secret Service, credit reporting bureaus, U.S. Postal Service and DMV) with all known report numbers.

(e) The reporting officer should inform victims of identity theft that the California Identity Theft Registry is available to help those who are wrongly linked to crimes. The registry can be checked by law enforcement and other authorized persons to investigate whether a criminal history or want was created in the victim's name (Penal Code § 530.7). Information regarding the California Identity Theft Registry can be obtained by calling toll free (888) 880-0240.

(f) Following supervisory review and departmental processing, the initial report should be forwarded to the appropriate detective for follow up investigation, coordination with other agencies and prosecution as circumstances dictate.

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Private Persons Arrests

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.

363.2 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.

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.

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1. Any officer who determines that a private person's arrest appears to be unlawful should promptly release the arrested individual pursuant to Penal Code § 849(b)(1). The officer must include the basis of such a determination in a related report.
2. Absent reasonable cause to support a private person's arrest or other lawful grounds to support an independent arrest by the officer, the officer should 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

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.

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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 Investigation Chief of Police.

(c) By the tenth day of each month, it shall be the responsibility of the Investigation Chief of Police 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 Clayton 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 Clayton 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.

367.3 LEP COORDINATOR

The Chief of Police shall delegate certain responsibilities to an LEP Coordinator. The LEP Coordinator shall be appointed by, and directly responsible to, the Patrol Chief of Police or the authorized designee.

The responsibilities of the LEP Coordinator include, but are not limited to:

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(a) Coordinating and implementing all aspects of the Clayton Police Department's LEP services to LEP individuals.

(b) Developing procedures that will enable members to access LEP services, including telephonic interpreters, and ensuring the procedures are available to all members.

(c) Ensuring that a list of all qualified bilingual members and authorized interpreters is maintained and available to each Shift Supervisor and Dispatch Supervisor. The list should include information regarding the following:

1. Languages spoken
2. Contact information
3. Availability

(d) Ensuring signage stating that interpreters are available free of charge to LEP individuals is posted in appropriate areas and in the most commonly spoken languages.

(e) Reviewing existing and newly developed documents to determine which are vital documents and should be translated, and into which languages the documents should be translated.

(f) Annually assessing demographic data and other resources, including contracted language services utilization data and community-based organizations, to determine if there are additional documents or languages that are appropriate for translation.

(g) Identifying standards and assessments to be used by the Department to qualify individuals as qualified bilingual members or authorized interpreters.

(h) Periodically reviewing efforts of the Department in providing meaningful access to LEP individuals, and, as appropriate, developing reports, new procedures or recommending modifications to this policy.

(i) Receiving and responding to complaints regarding department LEP services.

(j) 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.

367.4 FOUR-FACTOR ANALYSIS

Since there are many different languages that members could encounter, the Department will utilize the four-factor analysis outlined in the U.S. Department of Justice (DOJ) Guidance to Federal Financial Assistance Recipients, available at the DOJ website, to determine which measures will provide meaningful access to its services and programs. It is recognized that law enforcement contacts and circumstances will vary considerably. This analysis, therefore, must remain flexible and will require an ongoing balance of four factors, which are:

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(a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by department members, or who may benefit from programs or services within the jurisdiction of the Department or a particular geographic area.

(b) The frequency with which LEP individuals are likely to come in contact with department members, programs or services.

(c) The nature and importance of the contact, program, information or service provided.

(d) The cost of providing LEP assistance and the resources available.

367.5 TYPES OF LEP ASSISTANCE AVAILABLE

Clayton 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.

367.6 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.

367.7 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.

367.8 QUALIFIED BILINGUAL MEMBERS

Bilingual members may be qualified to provide LEP services when they have demonstrated through established department procedures a sufficient level of skill and competence to fluently communicate in both English and a non-English language. Members utilized for LEP services must demonstrate knowledge of the functions of an interpreter/translator and the ethical issues involved when acting as a language conduit. Additionally, bilingual members must be able to communicate technical and law enforcement terminology, and be sufficiently proficient in the non-English language to perform complicated tasks, such as conducting interrogations, taking statements, collecting evidence or conveying rights or responsibilities.

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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.

367.9 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.

367.9.1 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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367.9.2 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.

367.10 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.

367.11 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE

The Clayton Police Department will take reasonable steps and will work with the Personnel Department to develop in-house language capacity by hiring or appointing qualified members proficient in languages representative of the community being served.

367.11.1 EMERGENCY CALLS TO 9-1-1

Department members will make every reasonable effort to promptly accommodate LEP individuals utilizing 9-1-1 lines. When a 9-1-1 call-taker receives a call and determines that the caller is an LEP individual, the call-taker shall quickly determine whether sufficient information can be obtained to initiate an appropriate emergency response. If language assistance is still needed, the language is known and a qualified bilingual member is available in Dispatch, the call shall immediately be handled by the qualified bilingual member.

If a qualified bilingual member is not available or the call-taker is unable to identify the caller's language, the call-taker will contact the contracted telephone interpretation service and establish a three-way call between the call-taker, the LEP individual and the interpreter.

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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.

367.12 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.

367.13 INVESTIGATIVE FIELD INTERVIEWS

In any situation where an interview may reveal information that could be used as the basis for arrest or prosecution of an LEP individual and a qualified bilingual member is unavailable or lacks the skills to directly communicate with the LEP individual, an authorized interpreter should be used. This includes interviews conducted during an investigation with victims, witnesses and suspects. In such situations, audio recordings of the interviews should be made when reasonably possible. Identification and contact information for the interpreter (e.g., name, address) should be documented so that the person can be subpoenaed for trial if necessary.

If an authorized interpreter is needed, officers should consider calling for an authorized interpreter in the following order:

- An authorized department member or allied agency interpreter
- An authorized telephone interpreter
- Any other authorized interpreter

Any *Miranda* warnings shall be provided to suspects in their primary language by an authorized interpreter or, if the suspect is literate, by providing a translated *Miranda* warning card.

The use of an LEP individual's bilingual friends, family members, children, neighbors or bystanders may be used only when a qualified bilingual member or authorized interpreter is unavailable and there is an immediate need to interview an LEP individual.

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367.14 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.

367.15 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.

367.16 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.

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.

367.17 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.

367.18 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.

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

367.18.1 TRAINING FOR AUTHORIZED INTERPRETERS

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

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

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

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Communications with Persons with Disabilities

369.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with disabilities, including those who are deaf or hard of hearing, have impaired speech or vision, or are blind.

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.

369.2 POLICY

It is the policy of the Clayton Police Department to reasonably ensure that people with disabilities, including victims, witnesses, suspects and arrestees have equal access to law enforcement services, programs and activities. Members must make efforts to communicate effectively with individuals with disabilities.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon disabilities.

369.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR

The Chief of Police shall delegate certain responsibilities to an ADA Coordinator (28 CFR 35.107). The ADA Coordinator shall be appointed by, and directly responsible, to the Patrol Chief of Police or the authorized designee.

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

(a) Working with the City ADA coordinator regarding the Clayton Police Department's efforts to ensure equal access to services, programs and activities.

(b) Developing reports, new procedures, or recommending modifications to this policy.

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(c) Acting as a liaison with local disability advocacy groups or other disability groups regarding access to department services, programs and activities.

(d) Ensuring that a list of qualified interpreter services is maintained and available to each Shift Supervisor 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., 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.

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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.

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 Clayton 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.

369.6 TYPES OF ASSISTANCE AVAILABLE

Clayton 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.

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Department-provided auxiliary aids or services may include, but are not limited to, the assistance methods described in this policy.

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 speechreading (lip-reading) to understand what others are saying. The qualified interpreter should not be a person with an interest in the case or investigation involving the disabled individual. A person providing interpretation services may be required to establish the accuracy and trustworthiness of the interpretation in a court proceeding.

Qualified interpreters should be:

(a) Available within a reasonable amount of time but in no event longer than one hour if requested.

(b) Experienced in providing interpretation services related to law enforcement matters.

(c) Familiar with the use of VRS and/or video remote interpreting services.

(d) Certified in either American Sign Language (ASL) or Signed English (SE).

(e) Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.

(f) Knowledgeable of the ethical issues involved when providing interpreter services.

Members should use department-approved procedures to request a qualified interpreter at the earliest reasonable opportunity, and generally not more than 15 minutes after a request for an interpreter has been made or it is reasonably apparent that an interpreter is needed. No individual who is disabled shall be required to provide his/her own interpreter (28 CFR 35.160).

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).

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Note that relay services translate verbatim, so the conversation must be conducted as if speaking directly to the caller.

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.

All written communications exchanged in a criminal case shall be attached to the report or placed into evidence.

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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 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 speechread by facing the individual and speaking slowly and clearly.

(d) Use of computer, word processing, personal communication device or similar device to exchange texts or notes.

(e) Slowly and clearly speaking or reading simple terms to individuals who have a visual or mental impairment.

Members should be aware that these techniques may not provide effective communication as required by law and this policy depending on the circumstances.

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

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has made a clear indication that he/she understands the process and desires to proceed without an interpreter. The use of a video remote interpreting service should be considered, where appropriate, if a live interpreter is not available. *Miranda* warnings shall be provided to suspects who are deaf or hard of hearing by a qualified interpreter or by providing a written *Miranda* warning card.

In order to ensure that communications during custodial investigations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

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.

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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.

The Training Sergeant 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 Training Sergeant 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.

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Mandatory Employer Notification

371.1 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.

371.2 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.

371.2.1 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).

371.2.2 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).

371.2.3 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).

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371.2.4 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 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).

371.3 POLICY

The Clayton Police Department will meet the reporting requirements of California law to minimize the risks to children and others.

371.4 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).

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Biological Samples

373.1 PURPOSE AND SCOPE

This policy provides guidelines for the collection of biological samples from those individuals required to provide samples upon conviction or arrest for certain offenses. This policy does not apply to biological samples collected at a crime scene or taken from a person in conjunction with a criminal investigation. Nor does it apply to biological samples from those required to register, for example, sex offenders.

373.2 POLICY

The Clayton Police Department will assist in the expeditious collection of required biological samples from offenders in accordance with the laws of this state and with as little reliance on force as practicable.

373.3 PERSONS SUBJECT TO DNA COLLECTION

Those who must submit a biological sample include (Penal Code § 296):

(a) A person, including a juvenile, upon conviction or other adjudication of any felony offense.

(b) A person, including a juvenile, upon conviction or other adjudication of any offense if the person has a prior felony on record.

(c) An adult arrested or charged with any felony.

373.4 PROCEDURE

When an individual is required to provide a biological sample, a trained employee shall obtain the sample in accordance with this policy.

373.4.1 COLLECTION

The following steps should be taken to collect a sample:

(a) Verify that the individual is required to provide a sample pursuant to Penal Code § 296; Penal Code § 296.1.

(b) Verify that a biological sample has not been previously collected from the offender by querying the individual's criminal history record for a DNA collection flag or, during regular business hours, calling the California Department of Justice (DOJ) designated DNA laboratory. There is no need to obtain a biological sample if one has been previously obtained.

(c) Use a DNA buccal swab collection kit provided by the California DOJ to perform the collection and take steps to avoid cross contamination.

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373.5 USE OF FORCE TO OBTAIN SAMPLES

If a person refuses to cooperate with the sample collection process, officers should attempt to identify the reason for refusal and seek voluntary compliance without resorting to using force. Force will not be used in the collection of samples except as authorized by court order and only with the approval of a supervisor. Methods to consider when seeking voluntary compliance include contacting:

(a) The person's parole or probation officer when applicable.

(b) The prosecuting attorney to seek additional charges against the person for failure to comply or to otherwise bring the refusal before a judge.

(c) The judge at the person's next court appearance.

(d) The person's attorney.

(e) A chaplain.

(f) Another custody facility with additional resources, where an arrestee can be transferred to better facilitate sample collection.

(g) A supervisor who may be able to authorize custodial disciplinary actions to compel compliance, if any are available.

The supervisor shall review and approve any plan to use force and be present to document the process.

373.5.1 VIDEO RECORDING

A video recording should be made anytime force is used to obtain a biological sample. The recording should document all staff participating in the process, in addition to the methods and all force used during the collection. The recording should be part of the investigation file, if any, or otherwise retained in accordance with the department's records retention schedule (15 CCR 1059).

373.5.2 CELL EXTRACTIONS

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

373.6 LEGAL MANDATES AND RELEVANT LAWS

California law provides for the following:

373.6.1 DOCUMENTATION RELATED TO FORCE

The Shift Supervisor shall prepare prior written authorization for the use of any force (15 CCR 1059). The written authorization shall include information that the subject was asked to provide the requisite specimen, sample or impression and refused, as well as the related court order authorizing the force.

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373.6.2 BLOOD SAMPLES

A blood sample should only be obtained under this policy when:

(a) The California DOJ requests a blood sample and the subject consents, or

(b) A court orders a blood sample following a refusal.

The withdrawal of blood may only be performed in a medically approved manner by health care providers trained and qualified to draw blood. A California DOJ collection kit shall be used for this purpose (Penal Code § 298(a); Penal Code § 298(b)(2)).

373.6.3 LITIGATION

The Chief of Police or authorized designee should notify the California DOJ's DNA Legal Unit in the event this department is named in a lawsuit involving the DNA Data Bank sample collection, sample use or any aspect of the state's DNA Data Bank Program.

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Child and Dependent Adult Safety

379.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that children and dependent adults are not left without appropriate care in the event their caregiver or guardian is arrested or otherwise prevented from providing care due to actions taken by members of this department (Penal Code § 833.2(a)).

This policy does not address the actions to be taken during the course of a child abuse or dependent adult investigation. These are covered in the Child Abuse and Adult Abuse policies.

379.2 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 Clayton 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.

379.3 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation, officers should make reasonable attempts to determine if the arrestee is responsible for children or dependent adults. In some cases this may be obvious, such as when children or dependent adults are present. However, officers should inquire if the arrestee has caregiver responsibilities for any children or dependent adults who are without appropriate supervision. The following steps should be taken (Penal Code § 13517.7(b)(1)):

(a) Inquire about and confirm the location of any children or dependent adults.

(b) Look for evidence of children and dependent adults. Officers should be mindful that some arrestees may conceal the fact that they have a dependent for fear the individual may be taken from them.

(c) Consider inquiring of witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a child or dependent adult.

Whenever reasonably possible, officers should take reasonable steps to accomplish the arrest of a parent, guardian or caregiver out of the presence of his/her child or dependent adult. Removing children or dependent adults from the scene in advance of the arrest will generally ensure the best outcome for the individual.

Whenever it is safe to do so, officers should allow the parent or caregiver to assure children or dependent adults that they will be provided care. If this is not safe or if the demeanor of the parent or caregiver suggests this conversation would be non-productive, the officer at the scene should explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

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379.3.1 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 Shift Supervisor 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.

379.3.2 DURING THE BOOKING PROCESS

During the booking process the arrestee shall be allowed to make additional telephone calls to relatives or other responsible individuals as is reasonably necessary to arrange for the care of any child or dependent adult. These telephone calls should be given as soon as practicable and are in addition to any other telephone calls allowed by law (Penal Code § 851.5(c)).

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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.

379.3.3 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

379.3.4 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.

379.4 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).

Only when other reasonable options are exhausted should a child or dependent adult be transported to the police facility, transported in a marked patrol car, or taken into formal protective custody.

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Under no circumstances should a child or dependent adult be left unattended or without appropriate care.

379.5 TRAINING

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

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Service Animals

381.1 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).

381.1.1 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)).

381.2 POLICY

It is the policy of the Clayton 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.

381.3 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.
- 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

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schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.

381.4 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 Clayton Police Department affords to all members of the public (28 CFR 35.136).

381.4.1 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.

381.4.2 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.

381.4.3 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)).

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.

381.4.4 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

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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).

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Volunteer Program

383.1 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.

383.1.1 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.

383.2 VOLUNTEER MANAGEMENT

383.2.1 VOLUNTEER COORDINATOR

The Volunteer Coordinator shall be appointed by the Administration Chief of Police. 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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(j) Maintaining liaison with other volunteer-utilizing programs in the community and assisting in community-wide efforts to recognize and promote volunteering.

383.2.2 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.

383.2.3 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

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

383.2.4 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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383.2.5 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.

383.2.6 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.

383.2.7 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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383.3 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.

383.4 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.

383.5 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.

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383.5.1 VEHICLE USE

Volunteers assigned to duties such as vacation house checks or other assignments that require the use of a vehicle must first complete the following:

(a) A driving safety briefing and department approved driver safety course.

(b) Verification that the volunteer possesses a valid California Driver License.

(c) Verification that the volunteer carries current vehicle insurance.

The Volunteer Coordinator should insure that all volunteers receive safety briefing updates and license and insurance verification at least once a year.

When operating a Department vehicle, volunteers shall obey all rules of the road, including seat belt requirements. Smoking is prohibited in all Department vehicles.

Volunteers should not operate a marked patrol car unless there is a prominently placed sign indicating that it is out of service and are not authorized to operate a Department vehicle Code-3.

383.5.2 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.

383.6 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.

383.6.1 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.

383.7 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.

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Off-Duty Law Enforcement Actions

385.1 PURPOSE AND SCOPE

The decision to become involved in a law enforcement action when off-duty can place an officer as well as others at great risk and must be done with careful consideration. This policy is intended to provide guidelines for officers of the Clayton Police Department with respect to taking law enforcement action while off-duty.

385.2 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.

385.3 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.

385.4 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.

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(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.

385.4.1 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 Clayton Police Department officer until acknowledged. Official identification should also be displayed.

385.4.2 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.

385.4.3 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.

385.4.4 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.

385.5 REPORTING

Any off-duty officer who engages in any law enforcement activity, regardless of jurisdiction, shall notify the Shift Supervisor as soon as practicable. The Shift Supervisor shall determine whether a report should be filed by the employee.

Officers should cooperate fully with the agency having jurisdiction in providing statements or reports as requested or as appropriate.

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Department Use of Social Media

388.1 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 mission.

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).
- Use of social media in personnel processes (see the Recruitment and Selection Policy).
- 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).

388.1.1 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

388.2 POLICY

The Clayton 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.

388.3 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 the member's chain of command.

388.4 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.

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Examples of appropriate content include:

(a) Announcements.

(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.

(g) Press releases.

(h) Recruitment of personnel.

388.4.1 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 Public Information Officer or the authorized designee will be responsible for the compilation of information to be released, subject to the approval of the Incident Commander.

388.5 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 Clayton 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 should promptly report such content to a supervisor. The supervisor will ensure its removal from public view and investigate the cause of the entry.

388.5.1 PUBLIC POSTING PROHIBITED

Department social media sites shall be designed and maintained to prevent posting of content by the public.

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The Department may provide a method for members of the public to contact department members directly.

388.6 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.

388.7 RETENTION OF RECORDS

The Administration Chief of Police 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.

388.8 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.

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Native American Graves Protection and Repatriation

389.1 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.).

389.1.1 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.

389.2 POLICY

It is the policy of the Clayton 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.

389.3 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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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

389.4 EVIDENCE AND PROPERTY

If the location has been investigated as a possible homicide scene prior to identification as a NAGPRA site, investigators shall work with other appropriate agencies and individuals to ensure the proper transfer and repatriation of any material collected. Members shall ensure that any remains or artifacts located at the site are expediently processed (43 CFR 10.6).

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Gun Violence Restraining Orders

390.1 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).

390.1.1 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).

390.2 POLICY

It is the policy of the Clayton 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.

390.3 GUN VIOLENCE RESTRAINING ORDERS

An officer 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.

Officers 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 officer 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, an officer 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).

390.3.1 ADDITIONAL CONSIDERATIONS

Officers should also consider requesting permission to petition the court for a gun violence restraining order (Penal Code § 18108):

(a) When responding to a domestic disturbance where the residence is associated with a firearm registration or record.

(b) When responding to any call or incident when a firearm is present or when one of the involved parties owns or possesses a firearm.

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(c) During a contact with a person exhibiting mental health issues, including suicidal thoughts, statements, or actions if that person owns or possesses a firearm.

Officers should consider obtaining a mental health evaluation if the encounter involves a situation where there is a reasonable cause to believe that the person poses an immediate and present danger of causing personal injury to themselves or another person by having custody or control of a firearm (see the Mental Illness Commitments Policy) (Penal Code § 18108).

390.4 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).

(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.

390.4.1 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.

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390.5 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.
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.

390.6 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).

390.7 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:

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(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.

390.8 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.

390.9 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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(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 Sergeant 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).

390.10 RENEWAL OF GUN VIOLENCE RESTRAINING ORDERS

The Patrol 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).

390.11 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).

390.12 TRAINING

The Training Sergeant should ensure that members receive periodic training on the requirements of this policy (Penal Code § 18108).

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Community Relations

391.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for community relationship-building.

Additional guidance on community relations and outreach is provided in other policies, including the:

- Hate Crimes Policy.
- Limited English Proficiency Services Policy.
- Communications with Persons with Disabilities Policy.
- Chaplains Policy.
- Patrol Function Policy.
- Suspicious Activity Reporting Policy.

391.2 POLICY

It is the policy of the Clayton Police Department to promote positive relationships between members of the department and the community by treating community members with dignity and respect and engaging them in public safety strategy development and relationship-building activities, and by making relevant policy and operations information available to the community in a transparent manner.

391.3 MEMBER RESPONSIBILITIES

Officers should, as time and circumstances reasonably permit:

(a) Make casual and consensual contacts with community members to promote positive community relationships (see the Detentions and Photographing Detainees Policy).

(b) Become reasonably familiar with the schools, businesses and community groups in their assigned jurisdictional areas.

(c) Work with community members and the department community relations coordinator to identify issues and solve problems related to community relations and public safety.

(d) Conduct periodic foot patrols of their assigned areas to facilitate interaction with community members. Officers carrying out foot patrols should notify an appropriate supervisor and Dispatch of their status (i.e., on foot patrol) and location before beginning and upon completion of the foot patrol. They should also periodically inform Dispatch of their location and status during the foot patrol.

391.4 TRAINING

Subject to available resources, members should receive training related to this policy, including training on topics such as:

(a) Effective social interaction and communication skills.

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(b) Cultural, racial and ethnic diversity and relations.

(c) Building community partnerships.

(d) Community policing and problem-solving principles.

(e) Enforcement actions and their effects on community relations.

Where practicable and appropriate, community members, especially those with relevant expertise, should be involved in the training to provide input from a community perspective.

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Chapter 4 - Patrol Operations

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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 roll calls and to attend roll calls 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.

400.4 POLICY

The Clayton 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.

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400.5 FUNCTION

Patrol will generally be conducted by uniformed officers in clearly marked law enforcement vehicles in assigned jurisdictional areas of Clayton. 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.

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Bias-Based Policing

402.1 PURPOSE AND SCOPE

This policy provides guidance to department members that affirms the Clayton 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 - An inappropriate reliance on actual or perceived characteristics such as race, ethnicity, national origin, 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).

402.2 POLICY

The Clayton 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.

(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.

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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.

402.4.2 REPORTING OF STOPS

The Racial and Identity Profiling Act of 2015 requires that California Law Enforcement agencies that employ between one and 334 peace officers shall issue its first round of reports on or before April 1, 2023. Starting no later than January 1, 2022, Clayton police will begin collecting and compiling the reportable data as outlined below:

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. 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).

If multiple agencies are involved in a stop and the Clayton Police Department is the primary agency, the Clayton Police Department officer shall collect the data elements and prepare the stop data report (11 CCR 999.227).

The stop data report should be completed by the end of the officer's shift or as soon as practicable (11 CCR 999.227).

402.5 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.

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(b) Supervisors should periodically review MAV recordings, portable audio/video recordings, Mobile Digital Computer (MDC) data and any other available resource used to document contact between officers and the public to ensure compliance with the policy.

1. Supervisors should document these periodic reviews.
2. Recordings or data that capture a potential instance of bias-based policing should be appropriately retained for administrative investigation purposes.

(c) Supervisors shall initiate investigations of any actual or alleged violations of this policy.

(d) 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 TRAINING

Training on fair and objective policing and review of this policy should be conducted as directed by the Training Bureau.

(a) All sworn members of this department will be scheduled to attend Peace Officer Standards and Training (POST)-approved training on the subject of 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 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)).

402.7 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Professional Standards Unit Manager shall ensure that all data required by the California Department of Justice (DOJ) regarding complaints of racial bias against officers is collected and provided to the Records Supervisor for required reporting to the DOJ (Penal Code § 13012; Penal Code § 13020). See the Records Bureau Policy.

Supervisors should ensure that data stop reports are provided to the Records Supervisor for required annual reporting to the DOJ (Government Code § 12525.5) (See Records Bureau Policy).

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Roll Call Training

404.1 PURPOSE AND SCOPE

Roll Call training is generally conducted at the beginning of the officer's assigned shift. Roll Call provides an opportunity for important exchange between employees and supervisors. A supervisor generally will conduct Roll Call; however officers may conduct Roll Call for training purposes with supervisor approval.

Roll Call should accomplish, at a minimum, the following basic tasks:

(a) Briefing officers with information regarding daily patrol activity, with particular attention given to unusual situations and changes in the status of wanted persons, stolen vehicles, and major investigations

(b) Notifying officers of changes in schedules and assignments

(c) Notifying officers of new Memorandums or changes in Memorandums

(d) Reviewing recent incidents for training purposes

(e) Providing training on a variety of subjects

404.2 PREPARATION OF MATERIALS

The supervisor conducting Roll Call is responsible for preparation of the materials necessary for a constructive briefing. Supervisors may delegate this responsibility to a subordinate officer in his or her absence or for training purposes.

404.3 RETENTION OF ROLL CALL TRAINING RECORDS

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

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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 Clayton 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.

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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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).

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Ride-Along Policy

410.1 PURPOSE AND SCOPE

The Ride-Along Program provides an opportunity for citizens to experience the law enforcement function first hand. This policy provides the requirements, approval process, and hours of operation for the Ride-Along Program.

410.1.1 ELIGIBILITY

The Clayton Police Department Ride-Along Program is offered to residents, students and those employed within the City. Every attempt will be made to accommodate interested persons however any applicant may be disqualified without cause.

The following factors may be considered in disqualifying an applicant and are not limited to:

- Being under 15 years of age
- Prior criminal history
- Pending criminal action
- Pending lawsuit against the Department
- Denial by any supervisor

Family members may ride-along on a limited basis with advanced approval from the Chief of Police. Requests for family members to ride with their relative will be limited to one time per year.

410.1.2 AVAILABILITY

The Ride-Along Program is available on most days of the week, with certain exceptions. The ride-along times are from 10:00 a.m. to 11:00 p.m. Exceptions to this schedule may be made as approved by the Chief of Police.

410.2 PROCEDURE TO REQUEST A RIDE-ALONG

All participation requests are to be processed in advance by police administrative staff. Requests to participate in the ride along program must be made at least one week in advance, any exceptions must be approved by the Chief of Police. All interested participants must complete a Ride-Along application, which will be processed by police administrative staff.

Once the Ride-Along application is approved, generally, ride-along requests will be scheduled by the Chief of Police, or his or her designee. 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.

Ride-alongs will be scheduled, based on availability, at least one week after the date of application. All ride along applications and waivers will be kept in the Ride Along Program file.

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If the ride-along is denied after the request has been made, a representative of the Department will contact the applicant and advise him/her of the denial.

410.2.1 PROGRAM REQUIREMENTS
Once approved, civilian ride-alongs will be allowed to ride no more than once every six months (expect as noted above for relatives). An exception would apply to the following: Cadets, Explorers, RSVP, Chaplains, Reserves, police applicants, and all others with approval of the Chief of Police.

An effort will be made to ensure that no more than one citizen will participate in a ride-along during any given time period. 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.

410.2.2 SUITABLE ATTIRE
Any person approved to ride along is required to be suitably dressed in collared shirt, blouse or jacket, slacks and shoes. Sandals, T-shirts, tank tops, shorts and ripped or torn blue jeans are not permitted. Hats and ball caps will not be worn in the police vehicle. The Shift Supervisor or field supervisor may refuse a ride along to anyone not properly dressed.

410.2.3 PEACE OFFICER RIDE-ALONGS
Off-duty members of this department or any other law enforcement agency will not be permitted to ride-along with on-duty officers without the expressed consent of the Shift Supervisor. In the event that such a ride-along is permitted, the off-duty employee shall not be considered on-duty and shall not represent themselves as a peace officer or participate in any law enforcement activity except as emergency circumstances may require.

410.2.4 RIDE-ALONG CRIMINAL HISTORY CHECK
All Ride-along applicants are subject to a criminal history and DMV 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 Clayton Police Department) (CLETS Policies, Practices and Procedures Manual § 1.6.1.F.2.).

410.3 OFFICER'S RESPONSIBILITY
The officer shall advise the dispatcher that a ride-along is present in the vehicle before going into service. Officers shall consider the safety of the ride-along at all times. Officers should use sound discretion when encountering a potentially dangerous situation, and if feasible, let the participant out of the vehicle in a well-lighted place of safety. The dispatcher will be advised of the situation and as soon as practical have another police unit respond to pick up the participant at that location. The ride-along may be continued or terminated at this time.

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410.4 CONTROL OF RIDE-ALONG

The assigned employee shall maintain control over the ride-along at all times and instruct him/her in the conditions that necessarily limit their participation. These instructions should include:

(a) The ride-along will follow the directions of the officer

(b) The ride-along will not become involved in any investigation, handling of evidence, discussions with victims or suspects, or handling any police equipment

(c) The ride-along may terminate the ride at any time and the officer may return the observer to their home or to the station if the ride-along interferes with the performance of the officer's duties

(d) Ride-alongs may be allowed to continue riding during the transportation and booking process provided this does not jeopardize their safety

(e) Officers will not allow any ride-alongs to be present in any residences or situations that would jeopardize their safety or cause undue stress or embarrassment to a victim or any other citizen

(f) Under no circumstance shall a civilian ride along be permitted to enter a private residence with an officer without the expressed consent of the resident or other authorized person

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Hazardous Material Response

412.1 PURPOSE AND SCOPE

Hazardous materials present a potential harm to employees resulting from their exposure. To comply with Title 8, California Code of Regulations, § 5194, the following is to be the policy of this department.

412.1.1 HAZARDOUS MATERIAL DEFINED

A hazardous material is a substance which by its nature, containment and reactivity, has the capability of inflicting harm during exposure; characterized as being toxic, corrosive, flammable, reactive, an irritant or strong sensitizer and thereby posing a threat to health when improperly managed.

412.2 HAZARDOUS MATERIAL RESPONSE

Employees may encounter situations involving suspected hazardous materials, such as at the scene of a traffic accident, chemical spill or fire. When employees come into contact with a suspected hazardous material, certain steps should be taken to protect themselves and citizens.

The following steps should be considered at any scene involving suspected hazardous materials:

(a) Attempt to identify the type of hazardous substance. (Identification can be determined by placard, driver's manifest or statements from the person transporting).

(b) Notify the Fire Department.

(c) Provide first-aid for injured parties if it can be done safely and without contamination.

(d) Begin evacuation of the immediate area and surrounding areas, depending on the substance. Voluntary evacuation should be considered; however, depending on the substance, mandatory evacuation may be necessary.

(e) Notify the local health authority. Such notification is mandatory when a spilled or released item is a pesticide (Health and Safety Code § 105215).

(f) Notify the Department of Toxic Substances Control. This is mandatory when an officer comes in contact with, or is aware of, the presence of a suspected hazardous substance at a site where an illegal controlled substance is or was manufactured (Health and Safety § 25354.5).

412.3 REPORTING EXPOSURE(S)

Department personnel who believe that they have been exposed to a hazardous material shall immediately report the exposure to a supervisor. Each exposure shall be documented by the employee in an employee memorandum that shall be forwarded via chain of command to the Commanding Officer. Should the affected employee be unable to document the exposure for any reason, it shall be the responsibility of the notified supervisor to complete the memorandum.

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Injury or illness caused or believed to be caused from exposure to hazardous materials shall be reported the same as any other on-duty injury or illness in addition to a crime report or incident report.

412.3.1 SUPERVISOR RESPONSIBILITY

When a supervisor has been informed that an employee has been exposed to a hazardous material, he/she shall ensure that immediate medical treatment is obtained and appropriate action is taken to lessen the exposure.

To ensure the safety of employees, safety equipment is available through supervisory personnel. Safety items not maintained by the Department will be obtained through the Fire Department.

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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 Clayton 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.

414.3.1 EMERGENCY COMMUNICATIONS

Only an officer who has been designated by the District Attorney or Attorney General may use or authorize the use of an electronic amplifying or recording device to eavesdrop on or record, or both, oral communication in response to an emergency situation involving a hostage or the barricading of a location, and only when (Penal Code § 633.8(b)):

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(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.

(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.

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(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.

(h) Coordinate pursuit or surveillance vehicles and control of travel routes.

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(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 Dispatch.

(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 SWAT/HNT CALL OUT

Following the countywide mutual aid protocal, the Sheriff's Department will be called to provide SWAT or HNT personnel as needed.

414.7 SWAT RESPONSIBILITIES

The Incident Commander will decide, with input from the SWAT Commander, whether to deploy the SWAT 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 SWAT. The Incident Commander and the SWAT Commander or the authorized designee shall maintain communications at all times.

414.8 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.

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Response to Bomb Calls

416.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to assist members of the Clayton Police Department in their initial response to incidents involving explosives, explosive devices, explosion/bombing incidents or threats of such incidents. Under no circumstances should these guidelines be interpreted as compromising the safety of first responders or the public. When confronted with an incident involving explosives, safety should always be the primary consideration.

416.2 POLICY

It is the policy of the Clayton Police Department to place a higher priority on the safety of persons and the public over damage or destruction to public or private property.

416.3 RECEIPT OF BOMB THREAT

Department members receiving a bomb threat should obtain as much 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 Shift Supervisor is immediately advised and informed of the details. This will enable the Shift Supervisor to ensure that the appropriate personnel are dispatched, and, as appropriate, the threatened location is given an advance warning.

416.4 GOVERNMENT FACILITY OR PROPERTY

A bomb threat targeting a government facility may require a different response based on the government agency.

416.4.1 CLAYTON POLICE DEPARTMENT FACILITY

If the bomb threat is against the Clayton Police Department facility, the Shift Supervisor 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 Clayton 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 Shift Supervisor deems appropriate.

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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 Clayton, the member receiving the notification should obtain as much information as reasonably possible from the notifying individual, including:

(a) The location of the facility.

(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 Shift Supervisor is immediately notified so that he/she can communicate with the person in charge of the threatened facility.

416.5.1 ASSISTANCE

The Shift Supervisor should be notified when police assistance is requested. The Shift Supervisor 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 Shift Supervisor determine that the Department will assist or control such an incident, he/she will determine:

(a) The appropriate level of assistance.

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(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.

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 Shift Supervisor including:

1. The time of discovery.

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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:

(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
- Shift Supervisor
- 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

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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 Shift Supervisor 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.

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Mental Illness Commitments

418.1 PURPOSE AND SCOPE

This policy provides guidelines for when officers may take a person into custody for psychiatric evaluation and treatment (5150 commitment) (Welfare and Institutions Code § 5150).

418.2 POLICY

It is the policy of the Clayton 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 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.

418.3.2 MENTAL HEALTH DOCUMENTATION

The officer will complete an Application For 72-Hour Detention for Evaluation and Treatment form (MH-302) and provide it to the ambulance personnel transporting the patient. The officer will retain

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a copy of the 72-hour evaluation for inclusion in the case report. The officer shall also provide a verbal summary to ambulance personnel regarding the circumstances leading to the involuntary detention.

418.3.3 SECURING OF WEAPONS

If a receiving and secured facility prohibits weapons or if an extraordinary event occurs in the treatment facility and officers determine a need to secure their firearms, the firearm shall be secured in the appropriate gun locker at the facility or in the police unit.

418.4 CONSIDERATIONS AND RESPONSIBILITIES

Any officer handling a call involving an individual who may qualify for a 5150 commitment should consider, as time and circumstances reasonably permit:

(a) Available information that might assist in determining the cause and nature of the person's action or stated intentions.

(b) Community or neighborhood mediation services.

(c) Conflict resolution and de-escalation techniques.

(d) Community or other resources available to assist in dealing with mental health issues.

While these steps are encouraged, nothing in this section is intended to dissuade officers from taking reasonable action to ensure the safety of the officers and others.

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.

418.5 TRANSPORTATION

When transporting any individual for a 5150 commitment, the transporting officer should have Dispatch 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, Shift Supervisor approval is required before transport commences.

418.5.1 RETURN OF CONFISCATED FIREARMS AND WEAPONS

(a) Whenever the handling officer has cause to believe that the future return of any confiscated weapon(s) might endanger the person or others, the officer shall detail those facts and circumstances in a report. The report shall be forwarded to the Patrol which shall be responsible for initiating a petition to the superior court for a hearing in accordance with Welfare and Institutions Code § 8102(b), to determine whether or not the weapon(s) will be returned.

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(b) The petition to the Superior Court shall be initiated within 30 days of the release of the individual from whom such weapon(s) have been confiscated unless the Department makes an ex parte application to the court to extend the time to file such a petition, up to a maximum of 60 days. At the time any such petition is initiated, the Department shall send written notice to the individual informing him or her of the right to a hearing on the issue and that he or she has 30 days to confirm with the court clerk any desire for a hearing and that the failure to do so will result in the forfeiture of any confiscated weapon(s).

(c) If no petition is initiated within the above period, the Department shall make the weapon(s) available for return in accordance with subsection (d) below. If the person does not confirm a desire for a hearing within the prescribed 30 days, the Department may file a petition for an order of default.

(d) Under no circumstances shall any firearm be returned to any individual unless and until such person presents valid identification and written notification from the California Department of Justice which conforms to the provisions of Penal Code § 33865.

(e) In no case in which a firearm or other deadly weapon is not retained as evidence shall the Department be required to retain such firearms or other deadly weapon longer than 180 days after notice has been provided to the owner that such firearm or other deadly weapon is available for return. At the expiration of such period, the firearm or other deadly weapon may be processed for disposal in accordance with applicable law (Penal Code § 33875).

418.6 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 a 5150 commitment and remain present to provide clarification of the grounds for detention, upon request.

Absent exigent circumstances, the transporting officer should not assist facility staff with the admission process, including restraint of the individual. However, if the individual is transported and delivered while restrained, the officer may assist with transferring the individual to facility restraints and will be available to assist during the admission process, if requested. Under normal circumstances, officers will not apply facility-ordered restraints.

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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 Clayton 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 Shift Supervisor 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 Shift Supervisor 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 Clayton 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 Shift Supervisor 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 Shift Supervisor 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 Clayton City codes

All other misdemeanor violations for juveniles shall be documented with a case number and the case should be referred to the Juvenile Probation Department 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.

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Foreign Diplomatic and Consular Representatives

422.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that members of the Clayton Police Department extend appropriate privileges and immunities to foreign diplomatic and consular representatives in accordance with international law.

422.2 POLICY

The Clayton 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.

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.

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.

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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, 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.

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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:

Category	Arrested or Detained	Enter Residence Subject to Ordinary Procedures	Issued Traffic Citation	Subpoenaed as Witness	Prosecuted	Recognized Family Members
Diplomatic Agent	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Member of Admin and Tech Staff	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Service Staff	Yes (note (a))	Yes	Yes	Yes	No for official acts. Yes otherwise (note (a))	No immunity or inviolability (note (a))
Career Consul Officer	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
Honorable Consul Officer	Yes	Yes	Yes	No for official acts Yes otherwise.	No for official acts Yes otherwise	No immunity or inviolability
Consulate Employees	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))
Int'l Org Staff (note (b))	Yes (note (c))	Yes (note (c))	Yes	Yes (note (c))	No for official acts. Yes otherwise (note (c))	No immunity or inviolability

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Diplomatic-Level Staff of Missions to Int'l Org	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Support Staff of Missions to Int'l Orgs	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.

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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 Clayton 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.

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(f) Whether planned tactics can be effectively deployed.

(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).

424.4 PLANNING

The Patrol Chief of Police 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.

(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.

424.5 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.

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Immigration Violations

428.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Clayton 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 Clayton 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. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and not 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).

428.5 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 8 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.).

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):

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(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 Clayton Police Department intends to comply with the request (Government Code § 7283.1).

If the Clayton 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).

428.7.3 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).

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(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.

428.7.4 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Patrol 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 Patrol supervisor assigned to oversee the handling of any related case. The Patrol 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.

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). Form I-914 Supplement B certification shall be completed if the victim qualifies under Penal Code § 236.5 or Penal Code § 679.11 (human trafficking).

(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.

(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

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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 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 Sergeant 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.).

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Emergency Utility Service

430.1 PURPOSE AND SCOPE

The City Public Works Department has personnel available to handle emergency calls 24 hours per day. Calls for service during non-business hours are frequently directed to the Police Department. Requests for such service received by this department should be handled in the following manner.

430.1.1 BROKEN WATER LINES

The Contra Costa Water Department'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.The Water Department 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, Water Department personnel should be called as soon as practical by Dispatch.

430.1.2 ELECTRICAL LINES

City Public Works does not maintain electrical lines to street light poles. When a power line poses a hazard, an officer should be dispatched to protect against personal injury or property damage that might be caused by power lines. Pacific Gas and Electric personnel should be promptly notified, as appropriate.

430.1.3 RESERVOIRS, PUMPS, WELLS, ETC.

The Contra Costa Water Department 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, Water Department personnel should be contacted as soon as possible.

430.1.4 EMERGENCY NUMBERS

A current list of emergency personnel who are to be called for municipal utility emergencies is maintained by Dispatch.

430.2 TRAFFIC SIGNAL MAINTENANCE

The City of Clayton contracts with Contra Costa County or the City of Concord to furnish maintenance for all traffic signals within the City, other than those maintained by the State of California.

430.2.1 OFFICER'S RESPONSIBILITY

Upon observing a damaged or malfunctioning signal, the officer will advise the Dispatch of the location and problem with the signal. The dispatcher should make the necessary notification to the proper maintenance agency.

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Aircraft Accidents

434.1 PURPOSE AND SCOPE

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 Clayton 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 department 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.

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(c) Fluids, batteries, flares and igniters.

(d) Evacuation chutes, ballistic parachute systems and composite materials.

434.8 DOCUMENTATION

All aircraft accidents occurring within the City of Clayton 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 CPD 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

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be coordinated with the NTSB or other authority who may have assumed responsibility for the investigation.

Depending on the type of aircraft, the airline or the military may be responsible for family notifications and the release of victims' names. The PIO should coordinate with other involved entities before the release of information.

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Field Training Officer Program

436.1 PURPOSE AND SCOPE

The Field Training Officer Program is intended to provide a standardized program to facilitate the officer's transition from the academic setting to the actual performance of general law enforcement duties of the Clayton Police Department.

It is the policy of this department to assign all new police officers to a structured Field Training Officer Program that is designed to prepare the new officer to perform in a patrol assignment, and possessing all skills needed to operate in a safe, productive, and professional manner.

436.2 FIELD TRAINING OFFICER - SELECTION AND TRAINING

The Field Training Officer (FTO) is an experienced officer trained in the art of supervising, training, and evaluating entry level and lateral police officers in the application of their previously acquired knowledge and skills.

436.2.1 SELECTION PROCESS

FTOs will be selected based on the following requirements:

(a) Desire to be an FTO

(b) Minimum of four years of patrol experience, two of which shall be with this department

(c) Demonstrated ability as a positive role model

(d) Participate and pass an internal oral interview selection process

(e) Evaluation by supervisors and current FTOs

(f) Possess a POST Basic certificate

436.2.2 TRAINING

An officer selected as a Field Training Officer shall successfully complete a POST certified (40-hour) Field Training Officer's Course prior to being assigned as an FTO.

All FTOs must complete a 24-hour Field Training Officer update course every three years while assigned to the position of FTO (11 CCR 1004).

All FTOs must meet any training mandate regarding crisis intervention behavioral health training pursuant to Penal Code § 13515.28.

436.3 FIELD TRAINING OFFICER PROGRAM SUPERVISOR

The FTO Program supervisor should be selected from the rank of sergeant or above by the Patrol Chief of Police or a designee and should possess, or be eligible to receive, a POST Supervisory Certificate.

The responsibilities of the FTO Program supervisor include the following:

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(a) Assignment of trainees to FTOs

(b) Conduct FTO meetings

(c) Maintain and ensure FTO/trainee performance evaluations are completed

(d) Maintain, update, and issue the Field Training Manual to each trainee

(e) Monitor individual FTO performance

(f) Monitor overall FTO Program

(g) Maintain liaison with FTO coordinators of other agencies

(h) Maintain liaison with academy staff on recruit performance during the academy

(i) Develop ongoing training for FTOs

The FTO Program supervisor will be required to successfully complete a POST-approved Field Training Administrator's Course within one year of appointment to this position (11 CCR 1004(c)).

436.4 TRAINEE DEFINED

Any entry level or lateral police officer newly appointed to the Clayton Police Department who has successfully completed a POST approved Basic Academy.

436.5 REQUIRED TRAINING

Entry level officers shall be required to successfully complete the Field Training Program, consisting of a minimum of 10 weeks (11 CCR 1004; 11 CCR 1005).

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 Clayton 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 Clayton Police Department.

436.6 EVALUATIONS

Evaluations are an important component of the training process and shall be completed as outlined below.

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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.

436.6.2 IMMEDIATE SUPERVISOR
The immediate supervisor shall review and approve the Daily Trainee Performance Evaluations and forward them to the Field Training Administrator.

436.6.3 FIELD TRAINING ADMINISTRATOR
The Field Training Administrator will review and approve the Daily Trainee Performance Evaluations submitted by the FTO through his/her immediate supervisor.

436.6.4 TRAINEE
At the completion of the Field Training Program, the trainee shall submit a confidential performance evaluation on each of their FTOs and on the Field Training Program.

436.7 DOCUMENTATION
All documentation of the Field Training Program will be retained in the officer's training files and will consist of the following:

(a) Daily Trainee Performance Evaluations

(b) End-of-phase evaluations

(c) A Certificate of Completion certifying that the trainee has successfully completed the required number of hours of field training

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Obtaining Air Support

438.1 PURPOSE AND SCOPE

The use of a police helicopter can be invaluable in certain situations. This policy specifies potential situations where the use of a helicopter may be requested and the responsibilities for making a request.

438.2 REQUEST FOR HELICOPTER ASSISTANCE

If a supervisor or officer in charge of an incident determines that the use of a helicopter would be beneficial, a request to obtain helicopter assistance may be made.

438.2.1 REQUEST FOR ASSISTANCE FROM ANOTHER AGENCY

After consideration and approval of the request for a helicopter, the Shift Supervisor, or his/her designee, will have dispatch call the closest agency having helicopter support available. The Dispatcher will apprise that agency of the specific details of the incident prompting the request.

438.2.2 CIRCUMSTANCES UNDER WHICH AID MAY BE REQUESTED

Police helicopters may be requested under any of the following conditions:

(a) When the helicopter is activated under existing mutual aid agreements

(b) Whenever the safety of law enforcement personnel is in jeopardy and the presence of the helicopters may reduce such hazard

(c) When the use of the helicopters will aid in the capture of a suspected fleeing felon whose continued freedom represents an ongoing threat to the community

(d) When a helicopter is needed to locate a person who has strayed or is lost and whose continued absence constitutes a serious health or safety hazard

(e) Vehicle pursuits

While it is recognized that the availability of helicopter support will generally provide valuable assistance to ground personnel, the presence of a helicopter will rarely replace the need for officers on the ground.

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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.

440.2 POLICY

The Clayton 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 photograph shall be left to the officer based on the totality of the circumstances, officer safety considerations, and constitutional safeguards.

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 contact with consenting individuals is encouraged by the Clayton Police Department to strengthen community involvement, community awareness, and problem identification.

440.3.1 INITIATING A FIELD INTERVIEW

When initiating the stop, the officer should be able to point to specific 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

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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. 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 officershould 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.

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440.5.3 DISPOSITION OF PHOTOGRAPHS

All detainee photographs must be adequately labeled and submitted to the Shift Supervisor 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 Shift Supervisor 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 Shift Supervisor 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 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 a recorded statement. Such witnesses, if willing, may be transported by Clayton Police Department members.

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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 Clayton 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.

442.2 POLICY

The Clayton 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.

It is the policy of this department to collect and share relevant information while respecting the privacy and legal rights of the public.

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

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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 an Officerin a shared criminal gang intelligence database, such as CALGANG®. Members must obtain the requisite training before accessing any such database.

It is the Officer's 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 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 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.

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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 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.

(b) Should not be originals that would ordinarily be retained by the Records Bureau or Property Room, but should be copies of, or references to, retained documents such as copies of reports, FI forms, Dispatch 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:

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(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.

Department supervisors who utilize an authorized criminal intelligence system should work with the Training Sergeant 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.

442.7 CRIMINAL STREET GANGS

The Patrol supervisor 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.

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442.8 TRAINING

The Training Sergeant 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.

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Shift Supervisors

444.1 PURPOSE AND SCOPE

Each patrol shift must be directed by supervisors who are capable of making decisions and communicating in a manner consistent with departmental policies, procedures, practices, functions and objectives. To accomplish this goal, a Sergeant heads each watch.

444.2 DESIGNATION AS ACTING SHIFT SUPERVISOR

When a Sergeant is unavailable for duty as Shift Supervisor, in most instances the senior qualified corporal or senior officer shall be designated as acting Shift Supervisor. This policy does not preclude designating a less senior corporal or senior officer as an acting Shift Supervisor when operational needs require or training permits.

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Mobile Digital Computer Use

447.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper access, use and application of the Mobile Digital 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 Dispatch.

447.2 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).

447.3 POLICY

Clayton 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.

447.4 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 Shift Supervisors.

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.

447.4.1 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.

447.5 DOCUMENTATION OF ACTIVITY

Except as otherwise directed by the Shift Supervisor 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.

447.5.1 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.

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.

447.5.2 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 Shift Supervisor 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.

447.6 EQUIPMENT CONSIDERATIONS

447.6.1 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 Dispatch. 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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447.6.2 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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Medical Marijuana

450.1 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.

450.1.1 DEFINITIONS

Definitions related to this policy include:

Cardholder - A person issued a current 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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450.2 POLICY

It is the policy of the Clayton 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 Clayton Police Department will exercise discretion to ensure laws are appropriately enforced without unreasonably burdening both those individuals protected under California law and public resources.

450.3 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.

450.3.1 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.

450.3.2 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.

450.3.3 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).

450.3.4 ADDITIONAL CONSIDERATIONS

Officers should consider the following when investigating an incident involving marijuana possession, delivery, production, or use:

(a) Because enforcement of medical marijuana laws can be complex, time consuming, and call for resources unavailable at the time of initial investigation, officers may consider submitting a report to the prosecutor for review, in lieu of making an arrest. This can be particularly appropriate when:

1. The suspect has been identified and can be easily located at a later time.
2. The case would benefit from review by a person with expertise in medical marijuana investigations.
3. Sufficient evidence, such as photographs or samples, has been lawfully obtained.

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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 should consider conferring 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 should not order a patient to destroy marijuana plants under threat of arrest.

450.3.5 EXCEPTIONS

This policy does not apply to, and officers should consider taking enforcement action for the following:

(a) Persons who engage in illegal conduct that endangers others, such as driving under the influence of marijuana in violation of the Vehicle Code (Health and Safety Code § 11362.5).

(b) Marijuana possession in jails or other correctional facilities that prohibit such possession (Health and Safety Code § 11362.785).

(c) Smoking marijuana (Health and Safety Code § 11362.79):

1. In any place where smoking is prohibited by law.
2. In or within 1,000 feet of the grounds of a school, recreation center or youth center, unless the medical use occurs within a residence.
3. On a school bus.
4. While in a motor vehicle that is being operated.
5. While operating a boat.

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(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).

450.3.6 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).

450.4 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.

450.5 PROPERTY ROOM SUPERVISOR RESPONSIBILITIES

The Property Room supervisor should ensure that marijuana, drug paraphernalia or other related property seized from a person engaged or assisting in the use of medical marijuana is not destroyed pending any charges and without a court order. The Property Room supervisor is not responsible for caring for live marijuana plants.

Upon the prosecutor's decision to forgo prosecution, or the dismissal of charges or an acquittal, the Property Room supervisor should, as soon as practicable, return to the person from whom it was seized any useable medical marijuana, plants, drug paraphernalia or other related property.

The Property Room supervisor may release marijuana to federal law enforcement authorities upon presentation of a valid court order or by a written order of the Patrol supervisor.

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Bicycle Patrol Unit

452.1 PURPOSE AND SCOPE

The Clayton 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.

452.2 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 Shift Supervisor.

452.3 SELECTION OF PERSONNEL

Interested sworn personnel, who are off probation, shall submit a change of assignment request to their appropriate Chief of Police. 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.

452.3.1 BICYCLE PATROL UNIT SUPERVISOR

The Bicycle Patrol Unit supervisor will be selected from the rank of sergeant by the Patrol Chief of Police 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 Patrol Division.

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(f) Other activities as required to maintain the efficient operation of the Bicycle Patrol Unit.

452.4 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.

452.5 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.

452.6 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.

452.7 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.

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Foot Pursuit Policy

456.1 PURPOSE AND SCOPE

This policy provides guidelines to assist officers in making the decision to initiate or continue the pursuit of suspects on foot.

456.1.1 POLICY

It is the policy of this department when deciding to initiate or continue a foot pursuit that officers must continuously balance the objective of apprehending the suspect with the risk and potential for injury to department personnel, the public or the suspect.

Officers are expected to act reasonably, based on the totality of the circumstances. Absent exigent circumstances, the safety of department personnel and the public should be the primary consideration when determining whether a foot pursuit should be initiated or continued. Officers must be mindful that immediate apprehension of a suspect is rarely more important than the safety of the public and department personnel.

456.2 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.

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(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.

456.3 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.

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(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.

456.4 RESPONSIBILITIES IN FOOT PURSUITS

456.4.1 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.

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456.4.2 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.

456.4.3 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.

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.

456.4.4 DISPATCH RESPONSIBILITIES
Upon notification or becoming aware that a foot pursuit is in progress, the dispatcher is responsible for:

(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 Shift Supervisor as soon as practicable.

(g) Assigning an incident number and logging all pursuit activities.

456.5 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.

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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.

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.

456.6 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.

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Homeless Persons

462.1 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 Clayton Police Department recognizes that members of the homeless community are often in need of special protection and services. The Clayton 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.

462.1.1 POLICY

It is the policy of the Clayton 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.

462.2 HOMELESS COMMUNITY LIAISON

The Chief of Police will designate a member of this department to act as the Homeless Liaison Officer. The responsibilities of the Homeless Liaison Officer include the following:

(a) Maintain and make available to all department employees a list of assistance programs and other resources that are available to the homeless.

(b) Meet with social services and representatives of other organizations that render assistance to the homeless.

(c) Maintain a list of the areas within and near this jurisdiction that are used as frequent homeless encampments.

(d) Remain abreast of laws dealing with the removal and/or destruction of the personal property of the homeless. This will include:

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.

(e) Be present during any clean-up operation conducted by this department involving the removal of personal property of the homeless to ensure that the rights of the homeless are not violated.

(f) Develop training to assist officers in understanding current legal and social issues relating to the homeless.

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462.3 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 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.

462.3.1 OTHER CONSIDERATIONS

Homeless members of the community will receive the same level and quality of service provided to other members of the community. The fact that a victim or witness is homeless can, however, require special considerations for a successful investigation and prosecution. Officers should consider the following when handling investigations involving homeless victims, witnesses or suspects:

(a) Document alternate contact information. This may include obtaining addresses and phone numbers of relatives and friends.

(b) Document places the homeless person may frequent.

(c) Provide homeless victims with victim/witness resources when appropriate.

(d) Obtain statements from all available witnesses in the event that a homeless victim is unavailable for a court appearance.

(e) Consider whether the person may be a dependent adult or elder, and if so, proceed in accordance with the Adult Abuse Policy.

(f) Arrange for transportation for investigation-related matters, such as medical exams and court appearances.

(g) Consider whether a crime should be reported and submitted for prosecution, even when a homeless victim indicates that he/she does not desire prosecution.

462.4 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

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supervisor should be consulted. The property should be photographed and measures should be taken to remove or secure the property. It will be the supervisor's responsibility to coordinate the removal and safekeeping of the property.

Officers should not conduct or assist in clean-up operations of belongings that reasonably appear to be the property of homeless persons without the prior authorization of a supervisor or the department Homeless Liaison Officer. When practicable, requests by the public for clean-up of a homeless encampment should be referred to the Homeless Liaison Officer.

Officers who encounter unattended encampments, bedding or other personal property in public areas that reasonably appears to belong to a homeless person should not remove or destroy such property and should inform the department Homeless Liaison Officer if such property appears to involve a trespass, blight to the community or is the subject of a complaint. It will be the responsibility of the Homeless Liaison Officer to address the matter in a timely fashion.

462.5 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.

462.6 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.

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Crisis Intervention Incidents

463.1 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.

463.1.1 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.

463.2 POLICY

The Clayton 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.

463.3 SIGNS

Members should be alert to any of the following possible signs of mental health issues or crises:

(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

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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.

463.4 COORDINATION WITH MENTAL HEALTH PROFESSIONALS

The Chief of Police should designate an appropriate Chief of Police 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.

463.5 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.

(j) Evaluate any available information that might assist in determining cause or motivation for the person's actions or stated intentions.

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(k) If circumstances reasonably permit, consider and employ alternatives to force.

463.6 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.

463.7 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.

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463.8 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 Chief of Police.

Evaluate whether a critical incident stress management debriefing for involved members is warranted.

463.9 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.

463.9.1 DIVERSION

Individuals who are not being arrested should be processed in accordance with the Mental Illness Commitments Policy.

463.10 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

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may be harmful to him/herself or others, an officer should be promptly summoned to provide assistance.

463.11 EVALUATION

The Chief of Police 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 individuals, officers or incidents and will be submitted to the Chief of Police through the chain of command.

463.12 TRAINING

In coordination with the mental health community and appropriate stakeholders, the Department will develop and provide comprehensive education and training to all department members to enable them to effectively interact with persons in 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).

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Public Recording of Law Enforcement Activity

464.1 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.

464.2 POLICY

The Clayton 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.

464.3 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.

464.4 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

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behavior to be unlawful. Accompanying the warnings should be clear directions on what an 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.

464.5 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.

464.6 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

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evidence is to transmit a copy of the recording from a device to a department-owned device.

Recording devices and media that are seized will be submitted within the guidelines of the Property and Evidence Policy.

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First Amendment Assemblies

465.1 PURPOSE AND SCOPE

This policy provides guidance for responding to public assemblies or demonstrations.

465.2 POLICY

The Clayton 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.

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.

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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.

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 Dispatch, 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.

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- 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.

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.

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(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 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.

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 TASER® 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).

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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 Clayton 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 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).

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, Dispatch 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.

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Civil Disputes

466.1 PURPOSE AND SCOPE

This policy provides members of the Clayton 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 Clayton 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.

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.

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.

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. 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 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 Clayton 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 Patrol Chief of Police 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 Patrol Chief of Police 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:

- Patrol supervisor
- Crime Analysis Unit
- Other authorized designees

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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 Clayton Police Department that all officers and other designated members be trained to provide emergency medical aid and to facilitate an emergency medical response.

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 Dispatch 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 Dispatch 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 excited delirium or other agitated chaotic behavior.

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.

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468.4 TRANSPORTING ILL AND INJURED PERSONS

Except in extraordinary cases where alternatives are not reasonably available, members should 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.

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.

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

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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 Patrol Chief of Police 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).

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 Sergeant who is responsible for ensuring appropriate maintenance.

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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 Dispatch 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 Sergeant 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 Sergeant 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).

468.9 ADMINISTRATION OF OPIOID OVERDOSE MEDICATION

Trained members may administer opioid overdose medication (Civil Code § 1714.22; Business and Professions Code § 4119.9).

It is the policy of the Clayton Police Department that Officers shall be trained to administer Naloxone in accordance with mandated training guidelines as determined and established by the Contra Costa County Health Services Agency and State Law. Trained personnel will use Naloxone to prevent opioid-related deaths amongst members of the public and staff members who have been exposed.

Officers who are trained in accordance with mandated training guidelines shall deploy with Naloxone kits in the field. However, the Officer will retain the discretion to administer or not administer Naloxone to persons experiencing or suspected of experiencing opioid-related overdoses. There is no legal obligation to administer Naloxone.

Officer who administer Naloxone are protected from civil and criminal liability if they “act with reasonable care” and “in good faith”. This is accomplished by administering Naloxone according to established training protocol.

468.9.1 STORAGE OF NALOXONE

Naloxone doses will be stored in designated cases to be taken into the field by trained officers at the beginning of each shift. Those kits must be removed from patrol vehicles at the end of the shift, and will not be kept in patrol vehicles for extended periods of time when going off-duty.

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468.9.2 NALOXONE USE AND DOCUMENTATION

Officers who have completed mandated Naloxone training are authorized to administer Naloxone when they reasonably believe someone is experiencing an opioid-related overdose. Only the Department approved NARCAN (Naloxone HCI) Nasal Spray may be administered. Personnel will treat the incident as a medical emergency and shall follow these steps when performing intervention:

(a) Confirm emergency personnel are responding;

(b) Maintain universal precautions;

(c) Perform patient assessment;

(d) Determine unresponsiveness;

(e) Update dispatch of potential overdose state;

(f) Follow Naloxone use protocol;

(g) Immediately notify responding emergency medical personnel that Naloxone has been administered; and

(h) Notify the Patrol Sergeant. If no Sergeant is on-duty make the notification via email.

Documentation:

Upon completion of the incident, Offices will submit a police report detailing the nature of the incident, the care the patient received and the fact that Naloxone was deployed. Officers will also fill out the Contra Costa County Law Enforcement Overdose Program form (LEOP) and attach to their report.

Maintenance and Replacement:

Officers will be responsible for inspecting the Naloxone kit prior to deploying it in the field. The maintenance and replacement of the Naloxone kits will be the responsibility of the Program Manager, as designated by the Chief of Police. Used, lost, or damaged Naloxone kits will be reported to the administrative sergeant and designated program manager for replacement.

Program Manager Responsibilities:

When Naloxone has been administered, the designated program manager will transmit the LEOP form to County Health Services.

468.9.3 OPIOID OVERDOSE MEDICATION TRAINING

Initial training: Officers may not administer Naloxone without the completion of mandated training. Upon completion of training, Officers will have their training recorded with the Program Coordinator, and a copy will be placed in their personnel file.

Continued training: Officers will receive refresher training as deemed appropriate by local and state law and guidelines.

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The Training Sergeant 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).

468.9.4 DESTRUCTION OF OPIOID OVERDOSE MEDICATION
The Training Sergeant shall ensure the destruction of any expired opioid overdose medication (Business and Professions Code § 4119.9).

468.9.5 OPIOID OVERDOSE MEDICATION RECORD MANAGEMENT
Records regarding acquisition and disposition of opioid overdose medications shall be maintained and retained in accordance with the established records retention schedule and at a minimum of three years from the date the record was created (Business and Professions Code § 4119.9).

468.10 ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS
The Patrol Chief of Police may authorize the acquisition of epinephrine auto-injectors for use by Department members as provided by Health and Safety Code § 1797.197a. The Training Sergeant shall create and maintain an operations plan for the storage, maintenance, use and disposal of epinephrine auto-injectors as required by Health and Safety Code § 1797.197a(f).

Trained members who possess valid certification may administer an epinephrine auto-injector for suspected anaphylaxis (Health and Safety Code § 1797.197a(b); 22 CCR 100019).

468.10.1 EPINEPHRINE USER RESPONSIBILITIES
Members should handle, store and administer epinephrine auto-injectors consistent with their training and the Department operations plan. Members should check the auto-injectors at the beginning of their shift to ensure the medication is not expired. Any expired medication should be removed from service in accordance with the Department Operations Plan.

Any member who administers an epinephrine auto-injector medication should contact Dispatch as soon as possible and request response by EMS (Health and Safety Code § 1797.197a(b)).

468.10.2 EPINEPHRINE AUTO-INJECTOR REPORTING
Any member who administers an epinephrine auto-injector should detail its use in an appropriate report.

The Training Sergeant should ensure that the Records Supervisor is provided enough information for required reporting to the EMS Authority within 30 days after each use (Health and Safety Code § 1797.197a(f)).

Records regarding the acquisition and disposition of epinephrine auto-injectors shall be maintained pursuant to the established records retention schedule but no less than three years (Business and Professions Code § 4119.4(d)).

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468.10.3 EPINEPHRINE AUTO-INJECTOR TRAINING
The Training Sergeant should ensure that members authorized to administer epinephrine auto-injectors are provided with initial and refresher training that meets the requirements of Health and Safety Code § 1797.197a(c) and 22 CCR 100019.

468.11 SECTION TITLE

468.12 SICK OR INJURED ARRESTEE

If an arrestee appears ill or injured, or claims illness or injury, he/she should be medically cleared prior to booking. 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.

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 shall not transport an arrestee to a hospital without a supervisor's approval.

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.

468.13 FIRST AID TRAINING

The Training Sergeant 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).

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Automated License Plate Readers (ALPRs)

469.1 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.

469.2 POLICY

The policy of the Clayton 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.

469.3 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Clayton 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 is the responsibility of the Chief of Police or his/her designee(s). ALPR data retention and access shall be managed by the ALPR Administrator or his/her designee(s).

469.4 ALPR ADMINISTRATOR

The ALPR Administrator 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.

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(g) Ensuring this policy and related procedures are conspicuously posted on the department's website

469.5 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.

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. 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, vendor-provided/facilitated training, including webinars.

e. 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.

469.6 DATA COLLECTION AND RETENTION

The ALPR Administrator is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred, wirelessly, from ALPR systems to the remote vendor-maintained secure storage server.

All ALPR data is stored in a vendor owned and maintained remotely located highly secure server with redundant systems in place. The data should be stored for a minimum of one year (Government Code § 34090.6) Thereafter, ALPR data is programmed to be automatically 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.

The only information contained in the ALPR database is the vehicle license plate, a photograph of the vehicle, the location the photograph was taken and the date and time the photograph was taken. The data that is contained in the database is encrypted and does not keep any personal information.

469.7 ACCOUNTABILITY

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All data will be closely safeguarded and protected by technological means. The Clayton 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 remote, vendor-maintained secure server can be accessed only through a login/password-protected system that is programmed to track all access of information by name, date and time. (Civil Code § 1798.90.52). The ALPR has an auditing feature which is in place to maintain this information.

b. Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only.

c. ALPR system audits should be conducted on a regular basis. Audits conducted are tracked in the system.

For security or data breaches, see the Records Maintenance and Release Policy #810.

469.8 ACCESS TO ALPR DATA

Access to ALPR data is restricted to officers with both the need to know and the right to know. When these conditions are met, data can be used for the following purposes:

a. To locate stolen vehicles, stolen property, wanted persons, and suspects of crimes.

b. To locate and apprehend individuals subject to arrest warrants or otherwise lawfully sought by law enforcement.

c. To locate witnesses and victims of violent crimes.

d. To locate missing children, adults, and elderly individuals, including but not limited to responding to Amber and Silver Alerts.

e. To protect participants at special events, critical infrastructure, and the public in general.

469.9 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.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy #810 (Civil Code § 1798.90.55).

469.10 TRAINING

The Training Sergeant or his/her designee ensures that members recieve department-approved training for those authorized to use or access the ALPR system (Civil Code section 1798.90.51 & 1798.90.53), this includes vendor provided material, including webinars.

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Chapter 5 - Traffic Operations

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Traffic Function and Responsibility

500.1 PURPOSE AND SCOPE

The ultimate goal of traffic law enforcement is to reduce traffic collisions. This may be achieved through the application of such techniques as geographic/temporal assignment of personnel and equipment and the establishment of preventive patrols to deal with specific categories of unlawful driving behavior. Traffic enforcement techniques are based on accident data, enforcement activity records, traffic volume, and traffic conditions. This department provides enforcement efforts toward violations, not only in proportion to the frequency of their occurrence in accident situations, but also in terms of traffic-related needs.

500.2 TRAFFIC OFFICER DEPLOYMENT

Several factors are considered in the development of deployment schedules for officers of the Clayton 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:

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500.3.1 WARNINGS
Warnings or other non-punitive enforcement actions should be considered in each situation and substituted for arrests or citations when circumstances warrant, especially in the case of inadvertent violations.

500.3.2 CITATIONS
Citations may be issued when an officer believes it is appropriate. It is essential that officers fully explain the rights and requirements imposed on motorists upon issuance of a citation for a traffic violation. Officers should provide the following information at a minimum:

(a) Explanation of the violation or charge

(b) Court appearance procedure including the optional or mandatory appearance by the motorist

(c) Notice of whether the motorist can enter a plea and pay the fine by mail or at the court

500.3.3 PHYSICAL ARREST
Physical arrest can be made on a number of criminal traffic offenses outlined in the Vehicle Code or Penal Code. These physical arrest cases usually deal with, but are not limited to:

(a) Vehicular manslaughter

(b) Felony and misdemeanor driving under the influence of alcohol/drugs

(c) Felony or misdemeanor hit-and-run

(d) Refusal to sign notice to appear

(e) Any other misdemeanor at the discretion of the officer, such as reckless driving with extenuating circumstances

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).

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Although intended primarily for use while performing traffic related assignments, high-visibility vests should be worn at any time increased visibility would improve the safety or efficiency of the member.

500.5.1 REQUIRED USE

Except when working in a potentially adversarial or confrontational role, such as during vehicle stops, high-visibility vests should be worn at any time it is anticipated that an employee will be exposed to the hazards of approaching traffic or construction and recovery equipment. Examples of when high-visibility vests should be worn include traffic control duties, accident investigations, lane closures and while at disaster scenes, or anytime high visibility is desirable. When emergency conditions preclude the immediate donning of the vest, officers should retrieve and wear the vest as soon as conditions reasonably permit. Use of the vests shall also be mandatory when directed by a supervisor.

Vests maintained in the investigation units may be used any time a plainclothes officer might benefit from being readily identified as a member of law enforcement.

500.5.2 CARE AND STORAGE OF HIGH-VISIBILITY VESTS

High-visibility vests shall be maintained in the trunk of each patrol and investigation unit, in the side box of each police motorcycle and in the saddlebag or gear bag of each police bicycle. Each vest should be stored inside the re-sealable plastic bag provided to protect and maintain the vest in a serviceable condition. Before going into service each employee shall ensure a serviceable high-visibility vest is properly stored.

A supply of high-visibility vests will be maintained in the equipment room for replacement of damaged or unserviceable vests. The Training Sergeant should be promptly notified whenever the supply of vests in the equipment room needs replenishing.

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Traffic Collision Reporting

502.1 PURPOSE AND SCOPE

The Clayton 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 distribution of the Collision Investigation Manual. The Traffic Sergeant will receive all changes in the state manual and ensure conformity with this policy.

502.3 TRAFFIC COLLISION REPORTING

All traffic collision reports taken by members of this department shall be forwarded to the Traffic Bureau for approval and data entry into the Records Management System. The Patrol Sergeant will be responsible for monthly and quarterly reports on traffic collision statistics to be forwarded to the Patrol Chief of Police, or other persons as required.

502.3.1 COLLISION NARRATIVE FORMAT

A collision narrative may consist of a Report Format or an Investigation Format.

Report Format: (Other headings may be included if appropriate)

NOTIFICATION:

STATEMENTS:

SUMMARY:

AREA OF IMPACT:

CAUSE:

RECOMMENDATIONS:

Investigation Format: (Headings may be removed that are not applicable to the collision reported)

FACTS:

NOTIFICATION:

SCENE DESCRIPTION:

PARTIES:

PHYSICAL EVIDENCE:

HIT AND RUN:

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HAZARDOUS MATERIALS:

OTHER FACTUAL INFORMATION:

STATEMENTS:

OPINIONS AND CONCLUSIONS:

SUMMARY:

AREA OF IMPACT:

INTOXICATION:

CAUSE:

RECOMMENDATIONS:

502.4 REPORTING SITUATIONS

502.4.1 TRAFFIC COLLISIONS INVOLVING CITY VEHICLES

A traffic collision report using an investigation format shall be taken when a City-owned vehicle is involved in a traffic collision upon a roadway or highway or on private property where an injury results. A collision report using the report format narrative may be used for City-owned vehicle collisions that occur upon a roadway or highway that result in property damage only. A general information report may be taken in lieu of a traffic collision report (CHP 555 form) at the direction of a supervisor when the collision occurs on private propertyand there are no injuries. Whenever there is damage to a City vehicle, a Vehicle Damage Report shall be completed and forwarded to the Chief of Police.

Photographs of the collision scene and vehicle damage should be taken at all City-owned vehicle collisions.

502.4.2 TRAFFIC COLLISIONS WITH POLICE DEPARTMENT EMPLOYEES

When an employee of this department, either on-duty or off-duty, is involved in a traffic collision within the jurisdiction of the Clayton Police Department resulting in a serious injury or fatality, the Patrol Sergeant or the Shift Supervisor, shall notify the Traffic Sergeant and may notify the California Highway Patrol for assistance. In the absence of an on-duty supervisor, the senior officer on-duty shall notify the Traffic Sergeant or the Chief of Police.

The term serious injury is defined as any injury that is life-threatening or life-changing or that may result in a fatality.

502.4.3 TRAFFIC COLLISIONS WITH OTHER CITY EMPLOYEES OR OFFICIALS

The Patrol Sergeant or on-duty Shift Supervisor may request assistance from the California Highway Patrol for the investigation of any traffic collision involving any City official or employee where a serious injury or fatality has occurred.

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502.4.4 TRAFFIC COLLISIONS ON PRIVATE PROPERTY
In compliance with the Collision Investigation Manual, traffic collision reports shall not be taken for traffic collisions occurring on private property unless there is a death or injury to any person involved, a hit-and-run violation, or other Vehicle Code violation. Officers should assist the involved parties with the exchange of information if a report is not taken. An Incident Report may be taken at the discretion of any supervisor.

502.4.5 TRAFFIC COLLISIONS ON ROADWAYS OR HIGHWAYS
Traffic collision reports shall be taken when the collision occurs on a roadway or highway within the jurisdiction of this department under any of the following circumstances and in the indicated format:

Report Format:

(a) When there is a minor injury or a request is made by an involved party

(b) Minor injury and non-injury hit and run collisions

(c) DUI related collisions causing property damage only or where only the driver has sustained a minor injury

Investigation Format:

(a) Where there is a fatality or other serious injury

(b) A DUI related collision where there is any involved party with a serious injury

(c) Any on-duty officer involved collision regardless of injury

(d) Any City-owned vehicle collision regardless of injury

502.5 NOTIFICATION OF TRAFFIC BUREAU SUPERVISION

In the event of a serious injury or death related traffic collision, the Shift Supervisor shall notify the Traffic Sergeant to relate the circumstances of the traffic collision and seek assistance from the Traffic Bureau. In the absence of theTraffic Sergeant, the Shift Supervisor or any supervisor may assign a qualified accident investigator to investigate the traffic collision.

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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 Clayton Police Department. Nothing in this policy shall require the Department to tow a vehicle.

510.2 STORAGE AND IMPOUNDS

When circumstances warrant a warning before removal,, the handling employee should, prior to having the vehicle towed, make a good faith effort to notify the owner of the vehicle that it is subject to removal. This may be accomplished by personal contact, telephone or by leaving a notice attached to the vehicle at least 24 hours prior to removal. If a vehicle presents a hazard, such as being abandoned on the roadway, it may be towed immediately.

The responsibilities of those employees towing, storing or impounding a vehicle are listed below.

510.2.1 VEHICLE STORAGE REPORT

Department members requesting towing, storage or impound of a vehicle shall complete CHP Form 180 and accurately record the mileage and a description of property within the vehicle (Vehicle Code § 22850). A copy of the storage report should to be given to the tow truck operator and the original shall be submitted to the Records Bureau as soon as practicable after the vehicle is stored.

510.2.2 REMOVAL FROM TRAFFIC COLLISION SCENES

When a vehicle has been involved in a traffic collision and must be removed from the scene, the officer shall have the driver select a towing company, if possible, and shall relay the request for the specified towing company to the dispatcher. When there is no preferred company requested, a company will be selected from the rotational list of towing companies in Dispatch.

If the owner is incapacitated, or for any reason it is necessary for the Department to assume responsibility for a vehicle involved in a collision, the officer shall request the dispatcher to call the official towing garage for the City of Clayton. The officer will then store the vehicle using a CHP Form 180.

510.2.3 STORAGE AT ARREST SCENES

Whenever a person in charge or in control of a vehicle is arrested, it is the policy of this department to provide reasonable safekeeping by storing the arrestee’s vehicle subject to the exceptions described below. The vehicle, however, shall be stored whenever it is needed for the furtherance of the investigation or prosecution of the case, or when the community caretaker doctrine would reasonably suggest that the vehicle should be stored (e.g., traffic hazard, high-crime area).

The following are examples of situations where consideration should be given to leaving a vehicle at the scene in lieu of storing, provided the vehicle can be lawfully parked and left in a reasonably secured and safe condition:

- Traffic-related warrant arrest.

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- Situations where the vehicle was not used to further the offense for which the driver was arrested.
- Whenever the licensed owner of the vehicle is present, willing, and able to take control of any vehicle not involved in criminal activity.
- Whenever the vehicle otherwise does not need to be stored and the owner requests that it be left at the scene. In such cases, the owner shall be informed that the Department will not be responsible for theft or damages.

510.2.4 IMPOUNDMENT AT SOBRIETY CHECKPOINTS

Whenever a driver is stopped at a sobriety checkpoint and the only violation is that the operator is driving without a valid driver's license, the officer shall make a reasonable attempt to identify the registered owner of the vehicle (Vehicle Code § 2814.2). The officer shall release the vehicle to the registered owner if the person is a licensed driver, or to another licensed driver authorized by the registered owner, provided the vehicle is claimed prior to the conclusion of the checkpoint operation.

If the vehicle is released at the checkpoint, the officer shall list on his/her copy of the notice to appear the name and driver's license number of the person to whom the vehicle is released.

When a vehicle cannot be released at the checkpoint, it shall be towed (Vehicle Code § 22651(p)). When a vehicle is removed at the checkpoint, it shall be released during the normal business hours of the storage facility to the registered owner or his/her agent upon presentation of a valid driver's license and current vehicle registration.

510.2.5 DRIVING A NON-CITY VEHICLE

Vehicles which have been towed by or at the direction of the Department should not be driven by police personnel unless it is necessary to move a vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant or to comply with posted signs.

510.2.6 DISPATCHER'S RESPONSIBILITIES

Upon receiving a request for towing, the dispatcher shall promptly telephone the specified authorized towing service. The officer shall be advised when the request has been made and the towing service has been dispatched.

When there is no preferred company requested, the dispatcher shall call the next firm in rotation from the list of approved towing companies and shall make appropriate entries on that form to ensure the following firm is called on the next request.

510.2.7 RECORDS BUREAU RESPONSIBILITY

Records personnel shall promptly ensure that Concord PD has entered pertinent data from the completed storage form (CHP Form 180) into the Stolen Vehicle System and return the form to the Shift Supervisor for approval (Vehicle Code § 22651.5(b); Vehicle Code § 22851.3(b); Vehicle Code § 22854.5).

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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 computers. Notice shall be sent to all such individuals by first-class mail (Vehicle Code § 22851.3(d); Vehicle Code § 22852(a); Vehicle Code § 14602.6(a)(2)). The notice shall include the following (Vehicle Code § 22852(b)):

(a) The name, address, and telephone number of this Department.

(b) The location of the place of storage and description of the vehicle, which shall include, if available, the name or make, the manufacturer, the license plate number, and the mileage.

(c) The authority and purpose for the removal of the vehicle.

(d) A statement that, in order to receive their post-storage hearing, the owners, or their agents, shall request the hearing in person, in writing, or by telephone within 10 days of the date appearing on the notice.

510.3 TOWING SERVICES

The City of Clayton periodically selects a firm to act as the official tow service and awards a contract to that firm. This firm will be used in the following situations:

(a) When it is necessary to safeguard a vehicle due to the inability of the owner or operator to take the required action.

(b) When a vehicle is being held as evidence in connection with an investigation.

(c) When it is otherwise necessary to store a motor vehicle. This would include situations involving the recovery of stolen or abandoned vehicles, and the removal of vehicles obstructing traffic in violation of state or local regulations.

510.4 VEHICLE INVENTORY

All property in a stored or impounded vehicle shall be inventoried and listed on the vehicle storage form. This includes the trunk and any compartments or containers, even if closed and/or locked. Members conducting inventory searches should be as thorough and accurate as practical in preparing an itemized inventory. These inventory procedures are for the purpose of protecting an owner's property while in police custody, to provide for the safety of officers, and to protect the Department against fraudulent claims of lost, stolen, or damaged property.

510.5 SECURITY OF VEHICLES AND PROPERTY

Unless it would cause an unreasonable delay in the completion of a vehicle impound/storage or create an issue of officer safety, officers should make reasonable accommodations to permit a driver/owner to retrieve small items of value or personal need (e.g., cash, jewelry, cell phone, prescriptions) that are not considered evidence or contraband.

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If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft, or damage, personnel conducting the search shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property from such hazards.

510.6 RELEASE OF VEHICLE

The Department will maintain a listed, 24-hour telephone number to provide information regarding impoundment of vehicles and the right of the registered owner to request a storage hearing. Releases for towed vehicles will be made available during regular, non-emergency business hours (Vehicle Code § 14602.6).

(a) Vehicles removed pursuant to Vehicle Code § 22850 shall be released after proof of current registration is provided by the owner or the person in control of the vehicle and after all applicable fees are paid (Vehicle Code § 22850.3; 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 30-day 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.
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 should promptly advise a supervisor. Supervisors should approve, when appropriate, the release of the vehicle without requiring the registered owner or his/her agent to request a hearing, as described in the Vehicle Impound Hearings Policy.

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Vehicle Impound Hearings

512.1 PURPOSE AND SCOPE

This policy establishes a procedure for the requirement to provide vehicle storage or impound hearings pursuant to Vehicle Code § 22852.

512.2 STORED OR IMPOUND HEARING

When a vehicle is stored or impounded by any member of the Clayton 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 Patrol 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 Chief of Police. The hearing officer will recommend to the appropriate Chief of Police that the fees paid by the registered or legal owner of the vehicle in question or their agent be reimbursed by the Department.

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Impaired Driving

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 Clayton 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 Patrol 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 Patrol 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(a)(2)(C)).

514.5.2 BREATH SAMPLES

The Patrol 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 Patrol Sergeant.

When the arrested person chooses a breath test, the handling officer shall advise the person that the breath-testing equipment does not retain a sample, and the person may, if desired, provide a blood or urine specimen, which will be retained to facilitate subsequent verification testing (Vehicle Code § 23614).

The officer should also require the person to submit to a blood test if the officer has a clear indication that a blood test will reveal evidence of any drug or the combined influence of an

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alcoholic beverage and any drug. Evidence of the officer's belief shall be included in the officer's report (Vehicle Code § 23612(a)(2)(C)).

514.5.3 BLOOD 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.

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 sample shall be packaged, marked, handled, stored and transported as required by the testing facility.

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).

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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 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.

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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.

(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.

Any officer who receives notice of required attendance to an administrative license suspension hearing should promptly notify the prosecuting attorney.

An officer called to testify at an administrative hearing should document the hearing date and DMV file number in a supplemental report. Specific details of the hearing generally should not be included in the report unless errors, additional evidence or witnesses are identified.

514.9 TRAINING

The Training Sergeant should ensure that officers participating in the enforcement of DUI laws receive regular training. Training should include, at minimum, current laws on impaired driving,

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investigative techniques and rules of evidence pertaining to DUI investigations. The Training Sergeant 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):

(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.

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Traffic Citations

516.1 PURPOSE AND SCOPE

This policy outlines the responsibility for traffic citations, the procedure for dismissal, correction, and voiding of traffic citations.

516.2 RESPONSIBILITIES

The Patrol 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.

516.3 DISMISSAL OF TRAFFIC CITATIONS

Employees of this department do not have the authority to dismiss a citation once it has been issued. Only the court has the authority to dismiss a citation that has been issued (Vehicle Code § 40500(d)). Any request from a recipient to dismiss a citation shall be referred to the Traffic Bureau Manager. Upon a review of the circumstances involving the issuance of the traffic citation, the Traffic Bureau Manager may request the Patrol Chief of Police 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. The citation dismissal shall then be forwarded to the Patrol Chief of Police for review.

516.4 VOIDING TRAFFIC CITATIONS

Voiding a traffic citation may occur when a traffic citation has not been completed or where it is completed, but not issued. All copies of the citation shall be presented to a supervisor to approve the voiding of the citation. The citation and copies shall then be forwarded to the Traffic Bureau.

516.5 CORRECTION OF TRAFFIC CITATIONS

When a traffic citation is issued and in need of correction, the officer issuing the citation shall submit the citation and a letter requesting a specific correction to his/her immediate supervisor. The citation and letter shall then be forwarded to the Traffic Bureau. The Traffic Bureau shall prepare a letter of correction to the court having jurisdiction and to the recipient of the citation.

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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 Clayton Police Department. These requests are informal written statements outlining why the notice of parking violation should be dismissed. Copies of documentation relating to the notice of parking violation and the request for dismissal must be mailed to the current mailing address of the processing agency.

(b) If the appellant wishes to pursue the matter beyond administrative review, an administrative hearing may be conducted in person or by written application, at the election of the appellant. Independent referees review the existent administrative file, amendments, and/or testimonial material provided by the appellant and may conduct further investigation or follow-up on their own.

(c) If the appellant wishes to pursue the matter beyond an administrative hearing, a Superior Court review may be presented in person by the appellant after an application for review and designated filing fees have been paid to the Superior Court of California.

516.7.2 TIME REQUIREMENTS

Administrative review or appearance before a hearing examiner will not be provided if the mandated time limits are not adhered to by the violator.

(a) Requests for an administrative review must be postmarked within 21 calendar days of issuance of the notice of parking violation, or within 14 calendar days of the mailing of the Notice of Delinquent Parking Violation (Vehicle Code § 40215(a)).

(b) Requests for administrative hearings must be made no later than 21 calendar days following the notification mailing of the results of the administrative review (Vehicle Code § 40215(b)).

(c) An administrative hearing shall be held within 90 calendar days following the receipt of a request for an administrative hearing, excluding time tolled pursuant to Vehicle Code § 40200 - 40225. The person requesting the hearing may request one continuance, not to exceed 21 calendar days (Vehicle Code § 40215).

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(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.

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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 Clayton 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 Clayton 72-Hour Parking Ordinance shall be marked and noted on the Clayton Police Department Marked Vehicle Card. No case number is required at this time.

A visible chalk mark should be placed on the left rear tire tread at the fender level unless missing tires or other vehicle conditions prevent marking. Any deviation in markings shall be noted on the Marked Vehicle Card. The investigating employee should make a good faith effort to notify the owner of any vehicle subject to towing prior to having the vehicle removed. This may be accomplished by personal contact, telephone or by leaving notice attached to the vehicle at least 24 hours prior to removal.

All Marked Vehicle Cards shall be submitted to the Traffic Bureau for computer data entry.

If a marked vehicle has been moved or the markings have been removed during a 72-hour investigation period, the vehicle shall be marked again for the 72-hour parking violation and a Marked Vehicle Card completed and forwarded to the Traffic Bureau.

524.2.1 MARKED VEHICLE FILE

The Traffic Bureau shall be responsible for maintaining a file for all Marked Vehicle Cards.

Parking control officers assigned to the Traffic Bureau shall be responsible for the follow up investigation of all 72-hour parking violations noted on the Marked Vehicle Cards.

524.2.2 VEHICLE STORAGE

Any vehicle in violation shall be stored by the authorized towing service and a vehicle storage report (CHP form 180) shall be completed by the officer authorizing the storage of the vehicle.

The storage report form shall be submitted to the Records Bureau immediately following the storage of the vehicle. It shall be the responsibility of the Records Bureau to immediately notify the Stolen Vehicle System (SVS) of the Department of Justice in Sacramento (Vehicle Code § 22851.3(b)). Notification may also be made to the National Law Enforcement Telecommunications System (NLETS)(Vehicle Code § 22854.5).

Within 48 hours of the storage of any such vehicle, excluding weekends and holidays, it shall be the responsibility of the Records Bureau to determine the names and addresses of any individuals having an interest in the vehicle through DMV or CLETS computers. Notice to all such individuals shall be sent first-class or certified mail pursuant to Vehicle Code § 22851.3(d).

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Chapter 6 - Investigation Operations

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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 Clayton 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 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.

600.3.1 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 Patrol 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.

600.3.2 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.

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(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.

(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).

600.4 INITIAL INVESTIGATION

600.4.1 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 Shift Supervisor.
4. Make reasonable attempts to locate, identify and interview all available victims, complainants, witnesses and suspects.

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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.

600.4.2 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.

600.5 DISCONTINUATION OF INVESTIGATIONS

The investigation of a criminal case or efforts to seek prosecution should only be discontinued if one of the following applies:

(a) All reasonable investigative efforts have been exhausted, no reasonable belief that the person who committed the crime can be identified, and the incident has been documented appropriately.

(b) The perpetrator of a misdemeanor has been identified and a warning is the most appropriate disposition.

1. In these cases, the investigator shall document that the person was warned and why prosecution was not sought.
2. Warnings shall not be given for felony offenses or other offenses identified in this policy or by law that require an arrest or submission of a case to a prosecutor.

(c) The case has been submitted to the appropriate prosecutor but no charges have been filed. Further investigation is not reasonable nor has the prosecutor requested further investigation.

(d) The case has been submitted to the appropriate prosecutor, charges have been filed, and further investigation is not reasonable, warranted or requested, and there is no need to take the suspect into custody.

(e) Suspects have been arrested, there are no other suspects, and further investigation is either not warranted or requested.

(f) Investigation has proven that a crime was not committed (see the Sexual Assault Investigations Policy for special considerations in these cases).

The Domestic Violence, Child Abuse Sexual Assault Investigations and Adult Abuse policies may also require an arrest or submittal of a case to a prosecutor.

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600.6 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 request that computer forensic examiners assist with seizing computers and related evidence. If a forensic examiner is unavailable, officers should take reasonable steps to prepare for such seizure and use the resources that are available.

600.7 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).

600.7.1 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 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.

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600.7.2 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.

600.8 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 Chief of Police 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 CELLULAR COMMUNICATIONS INTERCEPTION TECHNOLOGY

The Patrol Chief of Police 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.
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.

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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 Adult Abuse policies.

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.

602.2 QUALIFIED INVESTIGATORS

Qualified investigators should be available for assignment of sexual assault investigations. These investigators should:

(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.

602.3 REPORTING

In all reported or suspected cases of sexual assault, a report should be written and assigned for follow-up investigation. This includes incidents in which the allegations appear unfounded or unsubstantiated.

602.4 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

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helpful investigative leads. The Patrol supervisor should weigh the risk of alerting the suspect to the investigation with the need to protect the victim and the public, and to prevent more crimes.

602.5 TRAINING

Subject to available resources, periodic training should be provided to:

(a) Members who are first responders. Training should include:

1. Initial response to sexual assaults.
2. Legal issues.
3. Victim advocacy.
4. Victim's response to trauma.
5. Proper use and handling of the California standardized SAFE kit (Penal Code § 13823.14).

(b) Qualified investigators, who should receive advanced training on additional topics. Advanced training should include:

1. Interviewing sexual assault victims.
2. SART.
3. Medical and legal aspects of sexual assault investigations.
4. Serial crimes investigations.
5. Use of community and other federal and state investigative resources, such as the Violent Criminal Apprehension Program (ViCAP).
6. Techniques for communicating with victims to minimize trauma.

602.6 POLICY

It is the policy of the Clayton 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.

602.7 VICTIM INTERVIEWS

The primary considerations in sexual assault investigations, which begin with the initial call to Dispatch, should be the health and safety of the victim, the preservation of evidence, and 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

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circumstances. Whenever practicable, the follow-up interview should 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.

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 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.

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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.

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 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 evidence has been analyzed or the statute of limitations has run (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).

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.

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(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) Subject to the commitment of sufficient resources to respond to requests for information, 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 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 of case evidence.

(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.

602.8.3 STANDARDIZED SEXUAL ASSAULT FORENSIC MEDICAL EVIDENCE KIT

The Property Room 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).

602.9 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 Patrol supervisor.

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Classification of a sexual assault case as unfounded requires the Patrol 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.

602.10 CASE REVIEW

The Patrol supervisor should ensure case dispositions are reviewed on a periodic basis, at least annually, using an identified group that is independent of the investigation process. The reviews should include an analysis of:

- Case dispositions.
- Decisions to collect biological evidence.
- Submissions of biological evidence for lab testing.

The SART and/or victim advocates should be considered for involvement in this audit. Summary reports on these reviews should be forwarded through the chain of command to the Chief of Police.

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Asset Forfeiture

606.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with designated offenses.

606.1.1 DEFINITIONS

Definitions related to this policy include:

Fiscal agent - The person designated by the Chief of Police to be responsible for securing and maintaining seized assets and distributing any proceeds realized from any forfeiture proceedings. This includes any time the Clayton Police Department seizes property for forfeiture or when the Clayton 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.

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(b) Property related to criminal profiteering (may include gang crimes), to include (Penal Code § 186.2; Penal Code § 186.3):

1. Any property interest, whether tangible or intangible, acquired through a pattern of criminal profiteering activity.

2. All proceeds acquired through a pattern of criminal profiteering activity, including all things of value that may have been received in exchange for the proceeds immediately derived from the pattern of criminal profiteering activity.

Seizure - The act of law enforcement officials taking property, cash or assets that have been used in connection with or acquired by specified illegal activities.

606.2 POLICY

The Clayton 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 Clayton Police Department that all members, including those assigned to internal or external law enforcement task force operations, shall comply with all state and federal laws pertaining to forfeiture.

606.3 ASSET SEIZURE

Property may be seized for forfeiture as provided in this policy.

606.3.1 PROPERTY SUBJECT TO SEIZURE

The following may be seized upon review and approval of a supervisor and in coordination with the forfeiture reviewer:

(a) Property subject to forfeiture authorized for seizure under the authority of a search warrant or court order.

(b) Property subject to forfeiture not authorized for seizure under the authority of a search warrant or court order when any of the following apply (Health and Safety Code § 11471; Health and Safety Code § 11488):

1. The property subject to forfeiture is legally seized incident to an arrest.

2. There is probable cause to believe that the property was used or is intended to be used in a violation of the Uniform Controlled Substances Act and the seizing officer can articulate a nexus between the property and the controlled substance offense that would lead to the item being property subject for forfeiture.

Officers aware of assets that may be forfeitable as a result of criminal profiteering or human trafficking should consider contacting the district attorney regarding a court order to protect the assets (Penal Code § 186.6; Penal Code § 236.6).

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Whenever practicable, a search warrant or court order for seizure prior to making a seizure is the preferred method.

A large amount of money standing alone is insufficient to establish the probable cause required to make a seizure.

606.3.2 PROPERTY NOT SUBJECT TO SEIZURE
The following property should not be seized for forfeiture:

(a) Cash and property that does not meet the forfeiture counsel's current minimum forfeiture thresholds should not be seized.

(b) Real property is not subject to seizure, absent exigent circumstances, without a court order (Health and Safety Code § 11471).

(c) A vehicle which may be lawfully driven on the highway if there is a community property interest in the vehicle by a person other than the suspect and the vehicle is the sole vehicle available to the suspect's immediate family (Health and Safety Code § 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.

(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.

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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.

606.5 MAINTAINING SEIZED PROPERTY

The Property Room Supervisor is responsible for ensuring compliance with the following:

(a) All property received for forfeiture is reasonably secured and properly stored to prevent waste and preserve its condition.

(b) All property received for forfeiture is checked to determine if the property has been stolen.

(c) All property received for forfeiture is retained in the same manner as evidence until forfeiture is finalized or the property is returned to the claimant or the person with an ownership interest.

(d) Property received for forfeiture is not used unless the forfeiture action has been completed.

606.6 FORFEITURE REVIEWER

The Chief of Police will appoint an officer as the forfeiture reviewer. Prior to assuming duties, or as soon as practicable thereafter, the forfeiture reviewer should attend a department-approved course on asset forfeiture.

The responsibilities of the forfeiture reviewer include:

(a) Remaining familiar with forfeiture laws, particularly Health and Safety Code § 11469 et seq. and Penal Code § 186.2 et seq. and the forfeiture policies of the forfeiture counsel.

(b) Serving as the liaison between the Department and the forfeiture counsel and ensuring prompt legal review of all seizures.

(c) Making reasonable efforts to obtain annual training that includes best practices in pursuing, seizing and tracking forfeitures.

(d) 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.

(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

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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 Clayton 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

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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 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).

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Informants

608.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the use of informants.

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 Clayton Police Department for law enforcement purposes. This also includes a person agreeing to supply information to the Clayton Police Department for a benefit (e.g., a quid pro quo in the form of a reduced criminal penalty, money).

608.2 POLICY

The Clayton 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 routinely audited and that payments to informants will be made according to the criteria outlined in this policy.

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. The officer shall compile sufficient information through a background investigation and experience with the informant in order to determine the suitability of the individual, including age, maturity and risk of physical harm, as well as any indicators of his/her reliability and credibility.

Members of this department should not guarantee absolute safety or confidentiality to an informant.

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)

(d) The Chief of Police or the authorized designee

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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.

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, Chief of Police, Patrol 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 Clayton 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.
2. Social contact shall be avoided unless it is necessary to conduct an official investigation, and only with prior approval of the Patrol 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 Patrol 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,

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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.

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 Patrol. The Patrol 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, Chief of Police, Patrol supervisor or their authorized designees.

The Patrol Chief of Police 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 Patrol 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 a supervisor who does not have normal access to the informant files.

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:

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(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

(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. 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

The Patrol supervisor will discuss the above factors with the Patrol Chief of Police and recommend the type and level of payment subject to approval by the Chief of Police.

608.6.1 PAYMENT PROCESS

Approved payments to an informant should be in cash using the following process:

(a) Payments of $500 and under may be paid in cash from a Patrol buy/expense fund.

1. The Patrol supervisor shall sign the voucher for cash payouts from the buy/expense fund.

(b) Payments exceeding $500 shall be made by issuance of a check, payable to the officer who will be delivering the payment.

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1. The check shall list the case numbers related to and supporting the payment.
2. A written statement of the informant's involvement in the case shall be placed in the informant's file.
3. The statement shall be signed by the informant verifying the statement as a true summary of his/her actions in the case.
4. Authorization signatures from the Chief of Police and the City Manager are required for disbursement of the funds.

(c) 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) Clayton Police Department case number
   (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 Patrol 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.

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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.

610.2 POLICY

The Clayton 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.

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.

610.4 EYEWITNESS IDENTIFICATION PROCESS AND FORM

The Patrol 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.

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(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.

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.

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If a photographic lineup is utilized, a copy of the photographic lineup presented to the witness should be included in the case report. In addition, the order in which the photographs were presented to the witness should be documented in the case report.

610.6.1 <B>DOCUMENTATION RELATED TO RECORDINGS</B>
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 <B>DOCUMENTATION RELATED TO BLIND ADMINISTRATION</B>
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 that may validate or invalidate an eyewitness' identification. In photographic lineups, writings or information 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

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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:

1. The length of time the witness observed the suspect.
2. The distance between the witness and the suspect.
3. Whether the witness could view the suspect's face.
4. The quality of the lighting when the suspect was observed by the witness.
5. Whether there were distracting noises or activity during the observation.
6. Any other circumstances affecting the witness's opportunity to observe the suspect.
7. The length of time that has elapsed since the witness observed the suspect.

(c) If safe and practicable, the person who is the subject of the show-up should not be handcuffed or in a patrol vehicle.

(d) When feasible, 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.

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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 Clayton Police Department that is both favorable and material to the current prosecution or defense of a criminal defendant.

612.2 POLICY

The Clayton 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 Clayton 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.

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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:

(a) In the event that a *Pitchess* motion has not already been filed by the criminal defendant or other party pursuant to Evidence Code § 1043, the prosecuting attorney shall be notified of the potential presence of *Brady* information in the officer's personnel file.

(b) The prosecuting attorney should then be requested to file a *Pitchess* motion in order to initiate an in camera review by the court.

(c) Any member who is the subject of such a motion shall be notified in writing that a motion has been filed.

(d) The Custodian of Records shall accompany all relevant files during any in camera inspection and address any issues or questions raised by the court in determining whether any information contained in the files is both material and favorable to the criminal defendant.

(e) If the court determines that there is relevant *Brady* information contained in the files, only that information ordered released will be copied and released to the parties filing the motion.

    1. Prior to the release of any information pursuant to this process, the Custodian of Records should request a protective order from the court limiting the use of such information to the involved case and requiring the return of all copies upon completion of the case.

612.5 INVESTIGATING BRADY ISSUES

If the Department receives information from any source that a member may have issues of credibility, dishonesty or has been engaged in an act of moral turpitude or criminal conduct, the information shall be investigated and processed in accordance with the Personnel Complaints Policy.

612.6 TRAINING

Department members should receive periodic training on the requirements of this policy.

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Unmanned Aerial System (UAS) Operations

613.1 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.

613.1.1 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.

613.2 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.

613.3 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 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.

613.4 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.
- 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.

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- 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.
- Ensuring that established protocols are followed by monitoring and providing periodic reports on the program to the Chief of Police.

613.5 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.

UAS operations should only be conducted during daylight hours and a UAS should not be flown over populated areas without FAA approval.

613.6 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.

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- To harass, intimidate, or discriminate against any individual or group.
- To conduct personal business of any type.

The UAS shall not be weaponized.

613.7 RETENTION OF UAS DATA

Data collected by the UAS shall be retained as provided in the established records retention schedule.

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Warrant Service

614.1 PURPOSE AND SCOPE

This policy establishes guidelines for the planning and serving of arrest and search warrants by members of this department. It is understood that this policy cannot address every variable or circumstance that can arise in the service of a search or arrest warrant, as these tasks can involve rapidly evolving and unique circumstances.

This policy is intended to be used in conjunction with the Operations Planning and Deconfliction Policy, which has additional guidance on planning and serving high-risk warrants.

This policy is not intended to address the service of search warrants on locations or property already secured or routine field warrant arrests by patrol officers.

614.2 POLICY

It is the policy of the Clayton Police Department to balance the safety needs of the public, the safety of department members, privacy interests and other relevant factors when making decisions related to the service of search and arrest warrants.

614.3 OPERATIONS DIRECTOR

The operations director (see the Operations Planning and Deconfliction Policy) shall review all risk assessment forms with the involved supervisor to determine the risk level of the warrant service.

The operations director will also have the responsibility to coordinate service of those warrants that are categorized as high risk. Deconfliction, risk assessment, operational planning, briefing and debriefing should follow guidelines in the Operations Planning and Deconfliction Policy.

614.4 SEARCH WARRANTS

Officers should receive authorization from a supervisor before preparing a search warrant application. Once authorization is received, the officer will prepare the affidavit and search warrant, consulting with the applicable prosecuting attorney as needed. He/she will also complete the risk assessment form and submit it, along with the warrant affidavit, to the appropriate supervisor and the operations director for review and classification of risk (see the Operations Planning and Deconfliction Policy).

614.5 ARREST WARRANTS

If an officer reasonably believes that serving an arrest warrant may pose a higher risk than commonly faced on a daily basis, the officer should complete the risk assessment form and submit it to the appropriate supervisor and the operations director for review and classification of risk (see the Operations Planning and Deconfliction Policy).

If the warrant is classified as high risk, service will be coordinated by the operations director. If the warrant is not classified as high risk, the supervisor should weigh the risk of entry into a residence

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to make an arrest against other alternatives, such as arresting the person outside the residence where circumstances may pose a lower risk.

614.6 WARRANT PREPARATION

If an officer reasonably believes that serving an arrest warrant may pose a higher risk than commonly faced on a daily basis, the officer should complete the risk assessment form and submit it to the appropriate supervisor and the operations director for review and classification of risk (see the Operations Planning and Deconfliction Policy).

If the warrant is classified as high risk, service will be coordinated by the operations director. If the warrant is not classified as high risk, the supervisor should weigh the risk of entry into a residence to make an arrest against other alternatives, such as arresting the person outside the residence where circumstances may pose a lower risk.

614.7 HIGH-RISK WARRANT SERVICE

The operations director or the authorized designee shall coordinate the service of warrants that are categorized as high risk and shall have sole authority in determining the manner in which the warrant will be served, including the number of officers deployed.

The member responsible for directing the service should ensure the following as applicable:

(a) When practicable and when doing so does not cause unreasonable risk, video or photographic documentation is made of the condition of the location prior to execution of a search warrant. The images should include the surrounding area and persons present.

(b) The warrant service is audio- and video-recorded when practicable and reasonable to do so.

(c) Evidence is handled and collected only by those members who are designated to do so. All other members involved in the service of the warrant should alert one of the designated members to the presence of potential evidence and not touch or disturb the items.

(d) Reasonable efforts are made during the search to maintain or restore the condition of the location.

(e) Persons who are detained as part of the warrant service are handled appropriately under the circumstances.

(f) Reasonable care provisions are made for children and dependent adults (see the Child and Dependent Adult Safety Policy).

(g) A list is made of all items seized and a copy provided to the person in charge of the premises if present or otherwise left in a conspicuous place.

(h) A copy of the search warrant is left at the location.

(i) The condition of the property is documented with video recording or photographs after the search.

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614.8 DETENTIONS DURING WARRANT SERVICE

Officers must be sensitive to the safety risks of all persons involved with the service of a warrant. Depending on circumstances and facts present, it may be appropriate to control movements of any or all persons present at a warrant service, including those who may not be the subject of a warrant or suspected in the case. However, officers must be mindful that only reasonable force may be used and weapons should be displayed no longer than the officer reasonably believes is necessary (see the Use of Force Policy).

As soon as it can be determined that an individual is not subject to the scope of a warrant and that no further reasonable suspicion or safety concerns exist to justify further detention, the person should be promptly released.

Officers should, when and to the extent reasonable, accommodate the privacy and personal needs of people who have been detained.

614.9 ACTIONS AFTER WARRANT SERVICE

The supervisor shall ensure that all affidavits, warrants, receipts and returns, regardless of any associated cases, are filed with the issuing judge or magistrate as soon as reasonably possible, but in any event no later than any date specified on the warrant.

614.10 OUTSIDE AGENCIES AND CROSS-JURISDICTIONAL WARRANTS

The operations director will ensure that cooperative efforts with other agencies in the service of warrants conform to existing mutual aid agreements or other memorandums of understanding and will work cooperatively to mitigate risks including, but not limited to, the following:

- Identity of team members
- Roles and responsibilities
- Familiarity with equipment
- Rules of engagement
- Asset forfeiture procedures

Any outside agency requesting assistance in the service of a warrant within this jurisdiction should be referred to the operations director. The director should review and confirm the warrant, including the warrant location, and should discuss the service with the appropriate supervisor from the other agency. The director should ensure that members of the Clayton Police Department are utilized appropriately. Any concerns regarding the requested use of Clayton Police Department members should be brought to the attention of the Chief of Police or the authorized designee. The actual service of the warrant will remain the responsibility of the agency requesting assistance.

If the operations director is unavailable, the Shift Supervisor should assume this role.

If officers intend to serve a warrant outside Clayton Police Department jurisdiction, the operations director should provide reasonable advance notice to the applicable agency, request assistance

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as needed and work cooperatively on operational planning and the mitigation of risks detailed in this policy.

Officers will remain subject to the policies of the Clayton Police Department when assisting outside agencies or serving a warrant outside Clayton Police Department jurisdiction.

614.11 MEDIA ACCESS

No advance information regarding warrant service operations shall be released without the approval of the Chief of Police. Any media inquiries or press release after the fact shall be handled in accordance with the News Media Relations Policy.

614.12 TRAINING

The Training Sergeant should ensure officers receive periodic training on this policy and associated topics, such as legal issues, warrant preparation, warrant service and reporting requirements.

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Operations Planning and Deconfliction

615.1 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 Warrant Service Policy.

615.1.1 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.

615.2 POLICY

It is the policy of the Clayton Police Department to properly plan and carry out high-risk operations, including participation in a regional deconfliction system, in order to provide coordination, enhance the safety of members and the public, decrease the risk of compromising investigations and prevent duplicating efforts.

615.3 OPERATIONS DIRECTOR

The Chief of Police will designate a member of this department to be the operations director.

The operations director will develop and maintain a risk assessment form to assess, plan and coordinate operations. This form should provide a process to identify high-risk operations.

The operations director will review risk assessment forms with involved supervisors to determine whether a particular incident qualifies as a high-risk operation. The director will also have the responsibility for coordinating operations that are categorized as high risk.

615.4 RISK ASSESSMENT

615.4.1 RISK ASSESSMENT FORM PREPARATION

assigned as operational leads for any operation that may qualify as a high-risk operation shall complete a risk assessment form.

When preparing the form, the officer should query all relevant and reasonably available intelligence resources for information about the subject of investigation, others who may be present and the involved location. These sources may include regional intelligence and criminal justice databases, target deconfliction systems, firearm records, commercial databases and property records. Where appropriate, the officer should also submit information to these resources.

The officer should gather available information that includes, but is not limited to:

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(a) Photographs, including aerial photographs, if available, of the involved location, neighboring yards and obstacles.

(b) Maps of the location.

(c) Diagrams of any property and the interior of any buildings that are involved.

(d) Historical information about the subject of investigation (e.g., history of weapon possession or use, known mental illness, known drug use, threats against police, gang affiliation, criminal history).

(e) Historical information about others who may be present at the location (e.g., other criminals, innocent third parties, dependent adults, children, animals).

(f) Obstacles associated with the location (e.g., fortification, booby traps, reinforced doors/windows, surveillance measures, number and type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces, availability of keys/door combinations).

(g) Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service).

(h) Other available options that may minimize the risk to officers and others (e.g., making an off-site arrest or detention of the subject of investigation).

615.4.2 RISK ASSESSMENT REVIEW

Officers will present the risk assessment form and other relevant documents (such as copies of search warrants and affidavits and arrest warrants) to their supervisor and the operations director.

The supervisor and operations director shall confer and determine the level of risk. Supervisors should take reasonable actions if there is a change in circumstances that elevates the risks associated with the operation.

615.4.3 HIGH-RISK OPERATIONS

If the operations director, after consultation with the involved supervisor, determines that the operation is high risk, the operations director should:

(a) Determine what resources will be needed at the location, and contact and/or place on standby any of the following appropriate and available resources:

1. (SWAT)
2. Additional personnel
3. Outside agency assistance
4. Special equipment
5. Medical personnel
6. Persons trained in negotiation
7. Additional surveillance

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8. Canines
9. Property Room or analytical personnel to assist with cataloguing seizures
10. Forensic specialists
11. Specialized mapping for larger or complex locations

(b) Contact the appropriate department members or other agencies as warranted to begin preparation.

(c) Ensure that all legal documents such as search warrants are complete and have any modifications reasonably necessary to support the operation.

(d) Coordinate the actual operation.

615.5 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 officer who is the operations lead 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, but no later than two hours prior to the commencement of the operation. The officer should also enter relevant updated information when it is received.

If any conflict is discovered, the supervisor will contact the involved jurisdiction and resolve the potential conflict before proceeding.

615.6 OPERATIONS PLAN

The operations director should ensure that a written operations plan is developed for all high-risk operations. Plans should also be considered for other operations that would benefit from having a formal plan.

The plan should address such issues as:

(a) Operation goals, objectives and strategies.

(b) Operation location and people:

1. The subject of investigation (e.g., history of weapon possession/use, known mental illness issues, known drug use, threats against police, gang affiliation, criminal history)
2. The location (e.g., fortification, booby traps, reinforced doors/windows, surveillance cameras and/or lookouts, number/type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces,

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availability of keys/door combinations), including aerial photos, if available, and maps of neighboring yards and obstacles, diagrams and other visual aids

3. Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service)

4. Identification of other people who may be present in or around the operation, such as other criminal suspects, innocent third parties and children

(c) Information from the risk assessment form by attaching a completed copy in the operational plan.

1. The volume or complexity of the information may indicate that the plan includes a synopsis of the information contained on the risk assessment form to ensure clarity and highlighting of critical information.

(d) Participants and their roles.

1. An adequate number of uniformed officers should be included in the operation team to provide reasonable notice of a legitimate law enforcement operation.

2. How all participants will be identified as law enforcement.

(e) Whether deconfliction submissions are current and all involved individuals, groups and locations have been deconflicted to the extent reasonably practicable.

(f) Identification of all communications channels and call-signs.

(g) Use of force issues.

(h) Contingencies for handling medical emergencies (e.g., services available at the location, closest hospital, closest trauma center).

(i) Plans for detaining people who are not under arrest.

(j) Contingencies for handling children, dependent adults, animals and other people who might be at the location in accordance with the Child Abuse, Adult Abuse, Child and Dependent Adult Safety and Animal Control policies.

(k) Communications plan

(l) Responsibilities for writing, collecting, reviewing and approving reports.

615.6.1 OPERATIONS PLAN RETENTION

Since the operations plan contains intelligence information and descriptions of law enforcement tactics, it shall not be filed with the report. The operations plan shall be stored separately and retained in accordance with the established records retention schedule.

615.7 OPERATIONS BRIEFING

A briefing should be held prior to the commencement of any high-risk operation to allow all participants to understand the operation, see and identify each other, identify roles and responsibilities and ask questions or seek clarification as needed. Anyone who is not present at the briefing should not respond to the operation location without specific supervisory approval.

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(a) The briefing should include a verbal review of plan elements, using visual aids, to enhance the participants' understanding of the operations plan.

(b) All participants should be provided a copy of the operations plan and search warrant, if applicable. Participating personnel should be directed to read the search warrant and initial a copy that is retained with the operation plan. Any items to be seized should be identified at the briefing.

(c) The operations director shall ensure that all participants are visually identifiable as law enforcement officers.

1. Exceptions may be made by the operations director for officers who are conducting surveillance or working under cover. However, those members exempt from visual identification should be able to transition to a visible law enforcement indicator at the time of enforcement actions, such as entries or arrests, if necessary.

(d) The briefing should include details of the communications plan.

1. It is the responsibility of the operations director to ensure that Dispatch is notified of the time and location of the operation, and to provide a copy of the operation plan prior to officers arriving at the location.

2. If the radio channel needs to be monitored by Dispatch, the dispatcher assigned to monitor the operation should attend the briefing, if practicable, but at a minimum should receive a copy of the operation plan.

3. The briefing should include a communications check to ensure that all participants are able to communicate with the available equipment on the designated radio channel.

615.8 SWAT PARTICIPATION

If the operations director determines that SWAT participation is appropriate, the director and the SWAT supervisor shall work together to develop a written plan. The SWAT supervisor shall assume operational control until all persons at the scene are appropriately detained and it is safe to begin a search. When this occurs, the SWAT supervisor shall transfer control of the scene to the handling supervisor. This transfer should be communicated to the officers present.

615.9 MEDIA ACCESS

No advance information regarding planned operations shall be released without the approval of the Chief of Police. Any media inquiries or press release after the fact shall be handled in accordance with the News Media Relations Policy.

615.10 OPERATIONS DEBRIEFING

High-risk operations should be debriefed as soon as reasonably practicable. The debriefing should include as many participants as possible. This debrief may be separate from any SWAT debriefing.

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615.11 TRAINING

The Training Sergeant should ensure officers and SWAT team members who participate in operations subject to this policy should receive periodic training including, but not limited to, topics such as legal issues, deconfliction practices, operations planning concepts and reporting requirements.

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Chapter 7 - Equipment

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Department Owned and Personal Property

700.1 PURPOSE AND SCOPE

Department employees are expected to properly care for department property assigned or entrusted to them. Employees may also suffer occasional loss or damage to personal or department property while performing their assigned duty. Certain procedures are required depending on the loss and ownership of the item.

700.2 CARE OF DEPARTMENTAL PROPERTY

Employees shall be responsible for the safekeeping, serviceable condition, proper care, use and replacement of department property assigned or entrusted to them. An employee's intentional or negligent abuse or misuse of department property may lead to discipline including, but not limited to the cost of repair or replacement.

(a) Employees shall promptly report through their chain of command, any loss, damage to, or unserviceable condition of any department issued property or equipment assigned for their use.

(b) The use of damaged or unserviceable department property should be discontinued as soon as practical and replaced with comparable Department property as soon as available and following notice to a supervisor.

(c) Except when otherwise directed by competent authority or required by exigent circumstances, department property shall only be used by those to whom it was assigned. Use should be limited to official purposes and in the capacity for which it was designed.

(d) Department property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority.

(e) In the event that any Department property becomes damaged or unserviceable, no employee shall attempt to repair the property without prior approval of a supervisor.

700.3 FILING CLAIMS FOR PERSONAL PROPERTY

Claims for reimbursement for damage or loss of personal property must be made in writing in memo form. This memo is submitted to the employee's immediate supervisor. The supervisor may require a separate written report of the loss or damage.

The supervisor shall direct a memo to the appropriate Sergeant, which shall include the results of his/her investigation and whether the employee followed proper procedures. The supervisor's report shall address whether reasonable care was taken to prevent the loss or damage.

Upon review by staff and a finding that no misconduct or negligence was involved, repair or replacement may be recommended by the Chief of Police who will then forward the claim to the Finance Department.

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The Department will not replace or repair luxurious or overly expensive items (jewelry, exotic equipment, etc.) that are not reasonably required as a part of work.

700.3.1 REPORTING REQUIREMENT
A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.

A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

700.4 LOSS OR DAMAGE OF PROPERTY OF ANOTHER
Officers and other employees intentionally or unintentionally may cause damage to the real or personal property of another while performing their duties. Any employee who damages or causes to be damaged any real or personal property of another while performing any law enforcement functions, regardless of jurisdiction, shall report it as provided below.

(a) A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.

(b) A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

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 Sergeant.

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Personal Communication Devices

702.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of 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 Clayton 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 (see the Information Technology Use Policy for additional guidance).

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 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).

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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. Department-issued or funded PCDs are provided as a convenience to facilitate on-duty performance only. Such devices and the associated telephone number shall remain the sole property of the Department and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

Unless a member is expressly authorized by the Chief of Police or the authorized designee for off-duty use of the PCD, the PCD will either be secured in the workplace at the completion of the tour of duty or will be turned off when leaving the workplace.

702.5 PERSONALLY OWNED PCD

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 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 Clayton 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.

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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.

(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:

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(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.

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Vehicle Maintenance

704.1 PURPOSE AND SCOPE

Employees are responsible for assisting in maintaining Department vehicles so that they are properly equipped, properly maintained, properly refueled and present a clean appearance.

704.2 DEFECTIVE VEHICLES

When a department vehicle becomes inoperative or in need of repair that affects the safety of the vehicle, that vehicle shall be removed from service for repair. Proper documentation shall be promptly completed by the employee who first becomes aware of the defective condition, describing the correction needed. The paperwork shall be promptly forwarded to vehicle maintenance for repair.

704.2.1 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

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- 1 Blood-borne pathogen kit, Incl. protective gloves
-
- 1 Hazardous waste disposal bag
- 1 Traffic Safety Vest
-
- 1 Evidence collection kit
-

If any items are missing and are not in stock in the PD inventory, the patrol officer must notify a supervisor via email so that replacements can be aqcuired.

704.4 VEHICLE REFUELING

Absent emergency conditions or supervisor approval, officers driving patrol vehicles shall not place a vehicle in service that has less than one-quarter tank of fuel. Vehicles shall only be refueled at the authorized location.

704.5 WASHING OF VEHICLES

All units shall be kept clean at all times and weather conditions permitting, shall be washed as necessary to enhance their appearance.

Officers in patrol shall 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.

Employees using a vehicle shall remove any trash or debris at the end of their shift. Confidential material should be placed in a designated receptacle provided for the shredding of this matter.

704.6 NON-SWORN EMPLOYEE USE

Non-sworn employees using marked vehicles shall ensure all weapons are removed from vehicles before going into service. Non-sworn employees shall also prominently display the “out of service” placards or lightbar covers at all times. Non-sworn employees shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

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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 Clayton to provide assigned take-home vehicles.

706.2 POLICY

The Clayton 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 Shift Supervisor 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 OTHER USE OF VEHICLES

Members utilizing a vehicle for any purpose other than their normally assigned duties or normal vehicle assignment (e.g., transportation to training, community event) shall first notify the Shift Supervisor. A notation will be made on the shift assignment roster indicating the member's name and vehicle number.

This subsection does not apply to those who are assigned to vehicle transportation duties to and from the maintenance yard or carwash.

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.

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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.

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 Digital 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 Dispatch. Use of the MDC is governed by the Mobile Digital 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 Chief of Police 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.

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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.

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.

706.3.12 NON-SWORN MEMBER USE
Non-sworn members using marked emergency vehicles shall ensure that all weapons have been removed before going into service. Non-sworn members shall prominently display the "out of service" placards or light bar covers at all times. Non-sworn members shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

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.

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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 Clayton City limits.

(d) Off-street parking will be available at the member's residence.

(e) Vehicles will be locked when not attended.

(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 Clayton is a prime consideration for assignment of a take-home vehicle. Members who reside outside the City of Clayton 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 Chief of Police 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 Chief of Polices 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.

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3. When the member has received permission from the Chief of Police or Chief of Polices.
4. When the vehicle is being used by the Chief of Police, Chief of Polices 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.

(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 Clayton 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.

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706.4.5 MAINTENANCE

Members are responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicles. Cleaning and maintenance supplies will be provided by the Department. 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.

(d) The Department shall be notified of problems with the vehicle and approve any major repairs before they are performed.

(e) When leaving the vehicle at the maintenance facility, the member will complete a vehicle repair card explaining the service or repair, and leave it on the seat or dash.

(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 UNMARKED VEHICLES

Vehicles are assigned to various divisions and their use is restricted to the respective division and the assigned member, unless otherwise approved by a division supervisor. Any member operating an unmarked vehicle shall record vehicle usage on the sign-out log maintained in the division for that purpose. Any use of unmarked vehicles by those who are not assigned to the division to which the vehicle is assigned shall also record the use with the Shift Supervisor on the shift assignment roster.

706.6 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, documented in memorandum format and forwarded to the Shift Supervisor. An administrative investigation should be initiated to determine if there has been any vehicle abuse or misuse.

706.7 TOLL ROAD USAGE

Law enforcement vehicles are not routinely exempted from incurring toll road charges.

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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 Chief of Police within five working days explaining the circumstances.

706.8 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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First Responder Automated External Defibrilator Program - FRDP

707.1 PURPOSE AND SCOPE

The First Responder Automated External Defibrillation Program (FRDP) is regulated in the various State Counties in compliance with Title 22, Division 9, Chapter 1.5 of the California Code of Regulation and EMS Division Policies and Procedures. In accordance with this State Regulation, all County Emergency Medical Services Divisions are required to develop and implement policies regarding the use and approval of FRDP's in their respective County's. This policy will provide officers and supervisors direction and expectations regarding the use of FRDP's in the course and scope of their duties with the Clayton Police Department in order to comply with Contra Costa County EMS FRDP policy.

707.2 PROGRAM OVERVIEW

The intent of the FRDP program is to provide early defibrillation for the unconscious and pulseless patient. Defibrillation at the earliest possible time may prevent or reduce mortality when used in association with basic life support and advanced life support EMS system resources. This program is implemented in the Clayton area authorized by the Contra Costa County Emergency Medical Services Division.

707.3 DEPLOYMENT

On-duty patrol units assigned to the City shall check out an AED from the equipment storage area at the beginning of their shift. The unit shall be checked to make sure it is functional and ready for deployment at the beginning and end of a watch.

This check shall include not just obvious functionality, but also ensure pads for infant and adult are supplied with the AED. The AED shall be stored in the trunk of the vehicle or other location for ready access. Only officers who have successfully completed training are authorized to take an AED in the field. If additional units are available, the on-duty supervisor will keep an AED in the supervisors patrol unit.

Supervisors are responsible to make sure the AED's are exchanged between shift officers with no damage.

Supervisors shall ensure that officers fill out the appropriate Defibrillation Report anytime the AED is used on a patient.

The reports shall be submitted to the AED Program Officer for proper forwarding to the County EMS Department. It shall be the responsibility of the FRDP Program Coordinator to monitor the computer data information within the AED's as recommended by the manufacturer, and to check the AED's for proper equipment supplies on a monthly basis.

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707.4 PROCEDURE FOR USE

PATIENT INDICATIONS:

Unconscious and pulseless.

CONTRAINDICATIONS:

Under 1 year of age

Presence of pulse

Conscious patients

PROCEDURE:

1. All standards of first aid and CPR are to be used in conjunction with AED equipment and actions.

2. Department personnel shall be responsible for accurately assessing the patient to determine if AED use criteria is met.

3. If patient does not meet all AED use criteria, the AED equipment shall not be applied and standard first aid shall be provided.

4. Once applied to the patient, AED equipment shall remain in place until advanced life support personnel with necessary ECG monitoring and defibrillation equipment assume care of the patient.

707.5 PATIENT HAND-OFF/TRANSPORT PROCEDURES

Patients with an AED in place may be released to a paramedic or to an EMT-I with equal training for transport to the hospital.

In cases where an EMT-I ambulance is the transporting unit and the staff is not trained in the use of the device, the FRAP provider must accompany the patient and maintain care responsibility of the AED until release of the patient at the emergency department. Transport personnel will maintain responsibility for all other patient treatment and decisions during the transport to the emergency department.

707.6 DOCUMENTATION REQUIREMENTS

1. An AED Use Report Form shall be submitted to the EMS Division for each case of use of the device.

2. AED Use Report Form shall be submitted to the EMS Division within 72 hours of use.

3. The EMS Division will submit program performance data to the California EMS Authority as required.

707.7 FRDP PROGRAM COORDINATOR

The FRDP shall have a designated program coordinator. The program coordinator shall be responsible for maintaining the AED's in a state of readiness and assure that all program

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documentation requirements are met. The program coordinator shall facilitate annual refresher and new employee training is association with the Training Chief of Police.

707.8 MAINTAINING A STATE OF READINESS

Each FRDP location shall maintain the AED's at their site according to manufacturer standards. The AED's shall be checked for readiness according to manufacturer guidelines and at least once every 30 days.

Checks will include

(a) Assure that all AED's are in a state of readiness

(b) Assure that the "use by" date ion the electrode and battery packets is withing the valid use by date range.

(c) Replace any expired electrode or battery packets outside of the valid use by date range.

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Cash Handling, Security and Management

708.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure department members handle cash appropriately in the performance of their duties.

This policy does not address cash-handling issues specific to the Property and Evidence and Informants policies.

708.2 POLICY

It is the policy of the Clayton Police Department to properly handle and document cash transactions and to maintain accurate records of cash transactions in order to protect the integrity of department operations and ensure the public trust.

708.3 PETTY CASH FUNDS

The Chief of Police shall designate a person as the fund manager responsible for maintaining and managing the petty cash fund.

Each petty cash fund requires the creation and maintenance of an accurate and current transaction ledger and the filing of invoices, receipts, cash transfer forms and expense reports by the fund manager.

708.4 PETTY CASH TRANSACTIONS

The fund manager shall document all transactions on the ledger and any other appropriate forms. Each person participating in the transaction shall sign or otherwise validate the ledger, attesting to the accuracy of the entry. Transactions should include the filing of an appropriate receipt, invoice or cash transfer form. Transactions that are not documented by a receipt, invoice or cash transfer form require an expense report.

708.5 PETTY CASH AUDITS

The fund manager shall perform an audit no less than once every six months. This audit requires that the fund manager and at least one command staff member, selected by the Chief of Police, review the transaction ledger and verify the accuracy of the accounting. The fund manager and the participating member shall sign or otherwise validate the ledger attesting to the accuracy of all documentation and fund accounting. A discrepancy in the audit requires documentation by those performing the audit and an immediate reporting of the discrepancy to the Chief of Police.

Transference of fund management to another member shall require a separate petty cash audit and involve a command staff member.

A separate audit of each petty cash fund should be completed on a random date, approximately once each year by the Chief of Police or the City.

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708.6 ROUTINE CASH HANDLING

Those who handle cash as part of their property or Patrol supervisor duties shall discharge those duties in accordance with the Property and Evidence and Informants policies.

Members who routinely accept payment for department services shall discharge those duties in accordance with the procedures established for those tasks.

708.7 OTHER CASH HANDLING

Members of the Department who, within the course of their duties, are in possession of cash that is not their property or that is outside their defined cash-handling responsibilities shall, as soon as practicable, verify the amount, summon another member to verify their accounting, and process the cash for safekeeping or as evidence or found property, in accordance with the Property and Evidence Policy.

Cash in excess of $1,000 requires immediate notification of a supervisor, special handling, verification and accounting by the supervisor. Each member involved in this process shall complete an appropriate report or record entry.

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Personal Protective Equipment

709.1 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.

709.1.1 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.

709.2 POLICY

The Clayton Police Department endeavors to protect members by supplying certain PPE to members as provided in this policy.

709.3 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.

709.4 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.

709.5 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.

709.6 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.

709.7 RESPIRATORY PROTECTION

The Administration Chief of Police 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.

709.7.1 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.

709.7.2 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.

709.7.3 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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709.7.4 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.

709.7.5 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.

709.7.6 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.

709.8 RECORDS

The Training Sergeant 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.

709.9 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).

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Chapter 8 - Support Services

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Crime Analysis

800.1 PURPOSE AND SCOPE

Crime analysis should provide currently useful information to aid operational personnel in meeting their tactical crime control and prevention objectives by identifying and analyzing methods of operation of individual criminals, providing crime pattern recognition, and providing analysis of data from field interrogations and arrests. Crime analysis can be useful to the Department's long range planning efforts by providing estimates of future crime trends and assisting in the identification of enforcement priorities.

800.2 DATA SOURCES

Crime analysis data is extracted from many sources including, but not limited to:

- Crime reports
- Field Interview cards
- Parole and Probation records
- Computer Aided Dispatch data
- Statewide Integrated Traffic Reporting System (SWITRS)

800.3 CRIME ANALYSIS FACTORS

The following minimum criteria should be used in collecting data for Crime Analysis:

- Frequency by type of crime
- Geographic factors
- Temporal factors
- Victim and target descriptors
- Suspect descriptors
- Suspect vehicle descriptors
- Modus operandi factors
- Physical evidence information

800.4 CRIME ANALYSIS DISSEMINATION

For a crime analysis system to function effectively, information should be disseminated to the appropriate units or persons on a timely basis. Information that is relevant to the operational and tactical plans of specific line units should be sent directly to them. Information relevant to the development of the Department's strategic plans should be provided to the appropriate staff units. When information pertains to tactical and strategic plans, it should be provided to all affected units.

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Property and Evidence

804.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage, and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and identifies those persons authorized to remove and/or destroy property.

804.2 DEFINITIONS

Property - Includes all items of evidence, items taken for safekeeping and found property.

Evidence - Includes items taken or recovered in the course of an investigation that may be used in the prosecution of a case. This includes photographs and latent fingerprints.

Safekeeping - Includes the following types of property:

- Property obtained by the Department for safekeeping such as a firearm
- Personal property of an arrestee not taken as evidence
- Property taken for safekeeping under authority of a law (e.g., Welfare and Institutions Code § 5150 (mentally ill persons))

Found property - Includes property found by an employee or citizen that has no apparent evidentiary value and where the owner cannot be readily identified or contacted.

804.3 PROPERTY HANDLING

Any employee who first comes into possession of any property shall retain such property in his/her possession until it is properly tagged and placed in the designated property locker or storage room along with the property form. Care shall be taken to maintain the chain of custody for all evidence.

Where ownership can be established as to found property with no apparent evidentiary value, such property may be released to the owner without the need for booking. The property form must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the items.

804.3.1 PROPERTY BOOKING PROCEDURE

All property must be booked prior to the employee going off-duty unless otherwise approved by a supervisor. Employees booking property shall observe the following guidelines:

(a) Complete the property form describing each item of property separately, listing all serial numbers, owner’s name, finder's name, and other identifying information or markings.

(b) Mark each item of evidence with the booking employee’s initials and the date booked using the appropriate method so as not to deface or damage the value of the property.

(c) Complete an evidence/property tag and attach it to each package or envelope in which the property is stored.

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(d) Place the case number in the upper right hand corner of the bag.

(e) The original property form shall be submitted with the case report. A copy shall be placed with the property in the temporary property locker or with the property if property is stored somewhere other than a property locker.

(f) When the property is too large to be placed in a locker, the item may be retained in the supply room. Submit the completed property record into a numbered locker indicating the location of the property.

804.3.2 NARCOTICS AND DANGEROUS DRUGS

All narcotics and dangerous drugs shall be booked separately using a separate property record. Paraphernalia as defined by Health and Safety Code § 11364 shall also be booked separately.

The officer seizing the narcotics and dangerous drugs shall place them in the designated locker accompanied by two copies of the form for the Records Bureau and detectives. The remaining copy will be detached and submitted with the case report.

804.3.3 EXPLOSIVES

Officers who encounter a suspected explosive device shall promptly notify their immediate supervisor or the Shift Supervisor. The bomb squad will be called to handle explosive-related incidents and will be responsible for the handling, storage, sampling and disposal of all suspected explosives.

Explosives will not be retained in the police facility. Only fireworks that are considered stable and safe and road flares or similar signaling devices may be booked into property. All such items shall be stored in proper containers and in an area designated for the storage of flammable materials. The Evidence/Property Officer is responsible for transporting to the Fire Department, on a regular basis, any fireworks or signaling devices that are not retained as evidence.

804.3.4 EXCEPTIONAL HANDLING

Certain property items require a separate process. The following items shall be processed in the described manner:

(a) Bodily fluids such as blood or semen stains shall be air dried prior to booking.

(b) License plates found not to be stolen or connected with a known crime, should be released directly to the Evidence/Property Officer, or placed in the designated container for return to the Department of Motor Vehicles. No formal property booking process is required.

(c) All bicycles and bicycle frames require a property record. Property tags will be securely attached to each bicycle or bicycle frame. The property may be released directly to the Evidence/Property Officer, or placed in the bicycle storage area until a Evidence/Property Officer can log the property.

(d) All cash shall be counted in the presence of a supervisor and the envelope initialed by the booking officer and the supervisor. The Shift Supervisor shall be contacted for cash in excess of $1,000 for special handling procedures.

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City property, unless connected to a known criminal case, should be released directly to the appropriate City department. No formal booking is required. In cases where no responsible person can be located, the property should be booked for safekeeping in the normal manner.

804.3.5 RELINQUISHED FIREARMS

Individuals who relinquish firearms pursuant to the provisions of Penal Code § 29850 shall be issued a receipt that describes the firearm, the serial number or other identification of the firearm at the time of relinquishment (Penal Code § 29810).

Relinquished firearms shall be retained for 30 days, after which time they may be destroyed, retained, sold or otherwise transferred, unless (Penal Code § 29810):

(a) A certificate is issued by a judge of a court of record or the District Attorney stating the firearms shall be retained; or

(b) The convicted person provides written notice of an intent to appeal the conviction that necessitated the relinquishment; or

(c) The Automated Firearms System indicates that the firearm was reported lost or stolen.

1. In such event, the firearm shall be restored to the lawful owner as soon as it is no longer needed as evidence, the lawful owner has identified the weapon and provided proof of ownership, and the Department has complied with the requirements of Penal Code § 33850 et seq.

The Evidence/Property Officer shall ensure the Records Supervisor is notified of the relinquished firearm for purposes of updating the Automated Firearms System and the disposition of the firearm for purposes of notifying the California Department of Justice (DOJ) (See the Records Bureau Policy).

804.4 PACKAGING OF PROPERTY

Certain items require special consideration and shall be booked separately as follows:

(a) Narcotics and dangerous drugs

(b) Firearms (ensure they are unloaded and booked separately from ammunition)

(c) Property with more than one known owner

(d) Paraphernalia as described in Health and Safety Code § 11364

(e) Fireworks

(f) Contraband

804.4.1 PACKAGING CONTAINER

Employees shall package all property, except narcotics and dangerous drugs in a suitable container available for its size. Knife boxes should be used to package knives, and syringe tubes should be used to package syringes and needles.

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A property tag shall be securely attached to the outside of all items or group of items packaged together.

804.4.2 PACKAGING NARCOTICS
The officer seizing narcotics and dangerous drugs shall retain such property in his/her possession until it is properly weighed, packaged, tagged, and placed in the designated narcotics locker, accompanied by two copies of the property record. Prior to packaging and if the quantity allows, a presumptive test should be made on all suspected narcotics. If conducted, the results of this test shall be included in the officer's report.

Narcotics and dangerous drugs shall be packaged in an envelope of appropriate size available in the report room. The booking officer shall initial the sealed envelope and the initials covered with cellophane tape. Narcotics and dangerous drugs shall not be packaged with other property.

A completed property tag shall be attached to the outside of the container. The chain of evidence shall be recorded on the back of this tag.

804.5 RECORDING OF PROPERTY
The Evidence/Property Officer receiving custody of evidence or property shall record his/her signature, the date and time the property was received and where the property will be stored on the property control card.

A property number shall be obtained for each item or group of items. Thisnumber shall be recorded on the property tag and the property control card.

Any changes in the location of property held by the Clayton Police Department shall be noted in the property logbook.

804.6 PROPERTY CONTROL
Each time the Evidence/Property Officer receives property or releases property to another person, he/she shall enter this information on the property control card. Officers desiring property for court shall contact the Evidence/Property Officer at least one day prior to the court day.

804.6.1 RESPONSIBILITY OF OTHER PERSONNEL
Every time property is released or received, an appropriate entry on the evidence package shall be completed to maintain the chain of evidence. No property or evidence is to be released without first receiving written authorization from a supervisor or detective.

Request for analysis for items other than narcotics or drugs shall be completed on the appropriate forms and submitted to the Evidence/Property Officer. This request may be filled out any time after booking of the property or evidence.

804.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY
The transporting employee will check the evidence out of property, indicating the date and time on the property control card and the request for laboratory analysis.

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The Evidence/Property Officer releasing the evidence must complete the required information on the property control card and the evidence. The lab forms will be transported with the property to the examining laboratory. Upon delivering the item involved, the officer will record the delivery time on both copies, and indicate the locker in which the item was placed or the employee to whom it was delivered. The original copy of the lab form will remain with the evidence and the copy will be returned to the Records Bureau for filing with the case.

804.6.3 STATUS OF PROPERTY

Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to officers for investigative purposes, or for court, shall be noted on the property control card, stating the date, time and to whom released.

The Evidence/Property Officer shall obtain the signature of the person to whom property is released, and the reason for release. Any employee receiving property shall be responsible for such property until it is properly returned to property or properly released to another authorized person or entity.

The return of the property should be recorded on the property control card, indicating date, time, and the person who returned the property.

804.6.4 AUTHORITY TO RELEASE PROPERTY

The Patrol shall authorize the disposition or release of all evidence and property coming into the care and custody of the Department.

804.6.5 RELEASE OF PROPERTY

All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.

Release of property shall be made upon receipt of an authorized release form, listing the name and address of the person to whom the property is to be released. The release authorization shall be signed by the authorizing supervisor or detective and must conform to the items listed on the property form or must specify the specific item(s) to be released. Release of all property shall be documented on the property form.

With the exception of firearms and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 90 days. During such period, property personnel shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 90 days after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed (Civil Code § 2080.6). The final disposition of all such property shall be fully documented in related reports.

A Evidence/Property Officer shall release the property upon proper identification being presented by the owner for which an authorized release has been received. A signature of the person

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receiving the property shall be recorded on the original property form. After release of all property entered on the property control card, the card shall be forwarded to the Records Bureau for filing with the case. If some items of property have not been released, the property card will remain with the Property Room. Upon release, the proper entry shall be documented in the Property Log.

Under no circumstances shall any firearm, magazine, or ammunition be returned to any individual unless and until such person presents valid identification and written notification from the California Department of Justice that conforms to the provisions of Penal Code § 33865.

The Property Room Supervisor should also make reasonable efforts to determine whether the person is the subject of any court order preventing the person from possessing a firearm and, if so, the firearm should not be released to the person while the order is in effect.

The Department is not required to retain any firearm, magazine, or ammunition longer than 180 days after notice has been provided to the owner that such items are available for return. At the expiration of such period, the firearm, magazine, or ammunition may be processed for disposal in accordance with applicable law (Penal Code § 33875).

804.6.6 DISPUTED CLAIMS TO PROPERTY

Occasionally more than one party may claim an interest in property being held by the Department, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a valid court order or other undisputed right to the involved property.

All parties should be advised that their claims are civil and in extreme situations, legal counsel for the Department may wish to file an interpleader to resolve the disputed claim (Code of Civil Procedure § 386(b)).

804.6.7 CONTROL OF NARCOTICS AND DANGEROUS DRUGS

The Patrol will be responsible for the storage, control and destruction of all narcotics and dangerous drugs coming into the custody of this department, including paraphernalia as described in Health and Safety Code § 11364.

804.6.8 RELEASE OF FIREARM IN DOMESTIC VIOLENCE MATTERS

Within five days of the expiration of a restraining order issued in a domestic violence matter that required the relinquishment of a firearm, the Evidence/Property Officer shall return the weapon to the owner if the requirements of Penal Code § 33850 and Penal Code § 33855 are met unless the firearm is determined to be stolen, evidence in a criminal investigation or the individual is otherwise prohibited from possessing a firearm (Family Code § 6389(g); Penal Code § 33855).

804.6.9 RELEASE OF FIREARMS AND WEAPONS IN MENTAL ILLNESS MATTERS

Firearms and other deadly weapons confiscated from an individual detained for an evaluation by a mental health professional or subject to the provisions of Welfare and Institutions Code § 8100 or Welfare and Institutions Code § 8103 shall be released or disposed of as follows:

(a) If a petition for a hearing regarding the return of a firearm or a weapon has been initiated pursuant to Welfare and Institutions Code § 8102(c), the firearm or weapon

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shall be released or disposed of as provided by an order of the court. If the court orders a firearm returned, the firearm shall not be returned unless and until the person presents valid identification and written notification from the California Department of Justice (DOJ) that conforms to the provisions of Penal Code § 33865.

(b) If no petition has been initiated pursuant to Welfare and Institutions Code § 8102(c) and the firearm or weapon is not retained as evidence, the Department shall make the firearm or weapon available for return. No firearm will be returned unless and until the person presents valid identification and written notification from the California DOJ that conforms to the provisions of Penal Code § 33865.

(c) Unless the person contacts the Department to facilitate the sale or transfer of the firearm to a licensed dealer pursuant to Penal Code § 33870, firearms not returned should be sold, transferred, destroyed, or retained as provided in Welfare and Institutions Code § 8102.

804.6.10 RELEASE OF FIREARMS IN GUN VIOLENCE RESTRAINING ORDER MATTERS
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 the requirements of Penal Code § 33850 et seq. (Penal Code § 18120).

If the restrained person who owns the firearms or ammunition does not wish to have the firearm or ammunition returned, he/she is entitled to sell or transfer title to a licensed dealer, provided that the firearms or ammunition are legal to own or possess and the restrained person has right to title of the firearms or ammunition (Penal Code § 18120).

If a person other than the restrained person claims title to the firearms or ammunition surrendered pursuant to Penal Code § 18120 and the Clayton Police Department determines him/her to be the lawful owner, the firearms or ammunition shall be returned in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18120).

Firearms and ammunition that are not claimed are subject to the requirements of Penal Code § 34000.

804.6.11 RELEASE OF FIREARMS, MAGAZINES, AND AMMUNITION
The Department shall not return any firearm, magazine, or ammunition taken into custody to any individual unless all requirements of Penal Code § 33855 are met.

804.7 DISPOSITION OF PROPERTY

All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The Evidence/Property Officer shall request a disposition or status on all property which has been held in excess of 120 days, and for which no disposition has been received from a supervisor or detective.

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804.7.1 EXCEPTIONAL DISPOSITIONS

The following types of property shall be destroyed or disposed of in the manner, and at the time prescribed by law, unless a different disposition is ordered by a court of competent jurisdiction:

- Weapons declared by law to be nuisances (Penal Code § 29300; Penal Code § 18010; Penal Code § 32750)
- Animals, birds, and related equipment that have been ordered forfeited by the court (Penal Code § 599a)
- Counterfeiting equipment (Penal Code § 480)
- Gaming devices (Penal Code § 335a)
- Obscene matter ordered to be destroyed by the court (Penal Code § 312)
- Altered vehicles or component parts (Vehicle Code § 10751)
- Narcotics (Health and Safety Code § 11474 et seq.)
- Unclaimed, stolen, or embezzled property (Penal Code § 1411)
- Destructive devices (Penal Code § 19000)
- Sexual assault evidence (Penal Code § 680)

804.7.2 UNCLAIMED MONEY

If found or seized money is no longer required as evidence and remains unclaimed after three years, the Department shall cause a notice to be published each week for a period of two consecutive weeks in a local newspaper of general circulation (Government Code § 50050). Such notice shall state the amount of money, the fund in which it is held and that the money will become the property of the agency on a designated date not less than 45 days and not more than 60 days after the first publication (Government Code § 50051).

Any individual item with a value of less than $15.00, or any amount if the depositor/owner's name is unknown, which remains unclaimed for a year or by order of the court, may be transferred to the general fund without the necessity of public notice (Government Code § 50055).

If the money remains unclaimed as of the date designated in the published notice, the money will become the property of this department to fund official law enforcement operations. Money representing restitution collected on behalf of victims shall either be deposited into the Restitution Fund or used for purposes of victim services.

804.7.3 RETENTION OF BIOLOGICAL EVIDENCE

The Property Room Supervisor shall ensure that no biological evidence held by the Department is destroyed without adequate notification to the following persons, when applicable:

(a) The defendant

(b) The defendant’s attorney

(c) The appropriate prosecutor and Attorney General

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(d) Any sexual assault victim

(e) The Patrol Division supervisor

Biological evidence shall be retained for either a minimum period that has been established by law (Penal Code § 1417.9) or that has been established by the Property Room Supervisor, or until the expiration of any imposed sentence that is related to the evidence, whichever time period is greater. Following the retention period, notifications should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice unless a motion seeking an order to retain the sample is filed and served on the Department within 180 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate file. Any objection to, or motion regarding, the destruction of the biological evidence should be retained in the appropriate file and a copy forwarded to the Patrol Division supervisor.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the Chief of Police and the head of the applicable prosecutor's office.

Biological evidence or other crime scene evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations and shall be retained as required in Penal Code § 680. Even after expiration of an applicable statute of limitations, the Patrol Division supervisor should be consulted and the sexual assault victim shall be notified at least 60 days prior to the disposal (Penal Code § 680). Reasons for not analyzing biological evidence shall be documented in writing (Penal Code § 680.3).

804.8 INSPECTIONS OF THE EVIDENCE ROOM

(a) On a monthly basis, the supervisor of the evidence custodian shall make an inspection of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.

(b) Unannounced inspections of evidence storage areas shall be conducted annually as directed by the Chief of Police.

(c) An annual audit of evidence held by the Department shall be conducted by a Chief of Police (as appointed by the Chief of Police) not routinely or directly connected with evidence control.

(d) Whenever a change is made in personnel who have access to the evidence room, an inventory of all evidence/property shall be made by an individual not associated to the property room or function to ensure that records are correct and all evidence property is accounted for.

804.9 SECTION TITLE

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Crime Analysis

805.1 PURPOSE AND SCOPE

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Records Bureau

806.1 PURPOSE AND SCOPE

This policy establishes the guidelines for the operational functions of the Clayton Police Department Records system. The policy addresses department file access and internal requests for case reports.

806.1.1 CASE REPORT NUMBERS

The Clayton Police Department contracts with the Concord Police Department for dispatch and some records related functions. Case numbers are generated by Concord Dispatch via the Computer Aided Dispatch System and using a system shared between the two agencies. As a result, Clayton case number may not be completely sequential (e.g. 1-100), however all case numbers are used only one time and run in an overall sequential manner as outlined in 806.1.1.

806.2 POLICY

It is the policy of the Clayton 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 Administration Chief of Police 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).

(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.

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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).

(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 DOJ pursuant to Penal Code § 34010 (Penal Code § 29810).

(h) Entering into the Automated Firearms System information about each firearm that has been reported stolen, lost, found, recovered, held for safekeeping, or under observation within seven calendar days of the precipitating event (Penal Code § 11108.2).

(i) Maintaining compliance with the state and 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)).

(j) Transmitting data to the Joint Regional Information Exchange System on any suspected multi-mission extremist crimes.

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806.3.3 PROCEDURES
The Police Office Coordinator should establish procedures that address:

(a) Identifying by name persons in reports.

(b) Classifying reports by type of incident or crime.

(c) Tracking reports through the approval process.

(d)

(e)

806.4 DETERMINATION OF FACTUAL INNOCENCE

In any case where a person has been arrested by officers of the Clayton Police Department and no accusatory pleading has been filed, the person arrested may petition the Department to destroy the related arrest records. Petitions should be forwarded to the Administration Supervisor. The Administration Supervisor should promptly contact the prosecuting attorney and request a written opinion as to whether the petitioner is factually innocent of the charges (Penal Code § 851.8). Factual innocence means the accused person did not commit the crime.

Upon receipt of a written opinion from the prosecuting attorney affirming factual innocence, the Administration Supervisor should forward the petition to the Patrol Supervisor and the City Attorney for review. After such review and consultation with the City Attorney, the Patrol Supervisor and the Administration Supervisor shall decide whether a finding of factual innocence is appropriate.

Upon determination that a finding of factual innocence is appropriate, the Administration Supervisor shall ensure that the arrest record and petition are sealed for later destruction and the required notifications are made to the California DOJ and other law enforcement agencies (Penal Code § 851.8).

The Administration Supervisor should respond to a petition with the Department's decision within 45 days of receipt. Responses should include only the decision of the Department, not an explanation of the analysis leading to the decision.

806.5 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 Shift Supervisor.

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.

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806.6 ORIGINAL CASE REPORTS

Generally, original case reports shall not be removed from the Records system. Should an original case report be needed for any reason, the requesting department member shall first obtain authorization from the Police Office Coordinator All original case reports removed from the Records systemshall be recorded on a designated report check-out log, which shall be the only authorized manner by which an original case report may be removed from the Records system.

All original case reports to be removed from the Records systemshall be photocopied and the photocopy retained in the file location of the original case report until the original is returned to the Records system. The photocopied report shall be shredded upon return of the original report to the file.

806.7 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 and the Records Bureau procedure manual.

806.8 ARREST WITHOUT FILING OF ACCUSATORY PLEADING

The Patrol Chief of Police 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 California DOJ is notified.

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Dispatch Proceedures

807.1 PURPOSE AND SCOPE

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Restoration of Firearm Serial Numbers

808.1 PURPOSE AND SCOPE

The primary purpose for restoring firearm serial numbers is to determine the prior owners or origin of the item from which the number has been recovered. Thus, property can be returned to rightful owners or investigations can be initiated to curb illegal trade of contraband firearms. The purpose of this plan is to develop standards, methodologies, and safety protocols for the recovery of obliterated serial numbers from firearms and other objects using procedures that are accepted as industry standards in the forensic community. All personnel who are involved in the restoration of serial numbers will observe the following guidelines. This policy complies with Penal Code § 11108.9.

808.2 PROCEDURE

Any firearm coming into the possession of the Clayton Police Department as evidence, found property, etc., where the serial numbers have been removed or obliterated will be processed in the following manner:

808.2.1 PRELIMINARY FIREARM EXAMINATION

(a) Always keep the muzzle pointed in a safe direction. Be sure the firearm is in an unloaded condition. This includes removal of the ammunition source (e.g., the detachable magazine, contents of the tubular magazine) as well as the chamber contents.

(b) If the firearm is corroded shut or in a condition that would preclude inspection of the chamber contents, treat the firearm as if it is loaded. Make immediate arrangements for a firearms examiner or other qualified examiner to render the firearm safe.

(c) Accurately record/document the condition of the gun when received. Note the positions of the various components such as the safeties, cylinder, magazine, slide, hammer, etc. Accurately record/document cylinder chamber and magazine contents. Package the ammunition separately.

(d) If the firearm is to be processed for fingerprints or trace evidence, process before the serial number restoration is attempted. First record/document important aspects such as halos on the revolver cylinder face or other relevant evidence that might be obscured by the fingerprinting chemicals.

808.2.2 PROPERTY BOOKING PROCEDURE

Any employee taking possession of a firearm with removed/obliterated serial numbers shall book the firearm into property following standard procedures. The employee booking the firearm shall indicate on the property form that serial numbers have been removed or obliterated.

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808.2.3 OFFICER RESPONSIBILITY
The Evidence/Property Officer receiving a firearm when the serial numbers have been removed or obliterated shall arrange for the firearm to be transported to the crime lab for restoration and maintain the chain of evidence.

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 Evidence/Property Officer will complete a Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Tracing Center (NTC) Obliterated Serial Number Trace Request Form (ATF 3312.1-OBL) and forward the form to the NTC in Falling Waters, West Virginia or enter the data into the ATF eTrace system.

808.3 BULLET AND CASING IDENTIFICATION
Exemplar bullets and cartridge cases from the firearm, depending upon acceptance criteria and protocol, may be submitted to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Integrated Ballistic Information Network (NIBIN) which uses the Integrated Ballistic Identification System (IBIS) technology to search the national database and compare with ballistic evidence recovered from other crime scenes.

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Records Maintenance and Release

810.1 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.

810.2 POLICY

The Clayton Police Department is committed to providing public access to records in a manner that is consistent with the California Public Records Act (Government Code § 6250 et seq.).

810.3 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 § 6253).

(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 § 6253).

(g) Determining how the department's website may be used to post public records in accordance with Government Code § 6253.

(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 § 6253.10 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 § 6270.5) is publicly available upon request and posted in a prominent location on the Department’s website.

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810.4 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.

810.4.1 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 § 6253).

The processing of requests for any record is subject to the following (Government Code § 6253):

(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 § 6254.30).

(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 § 6253.1).

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 § 6253.9).

(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.

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

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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 (Government Code § 6255). The written response shall also include the names, titles or positions of each person responsible for the denial.

810.5 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 § 6254.29).

(c) Personnel records, medical records, and similar records which would involve an unwarranted invasion of personal privacy except as allowed by law (Government Code § 6254; 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 to any arrested person or to any person who may be a defendant in a criminal action shall not be disclosed, unless it is required by law (Government Code § 6254; Penal Code § 841.5).

1. Victims of certain offenses (e.g., domestic violence, sexual assault, stalking, human trafficking, 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, or both, pursuant to the requirements and time frames of Family Code § 6228.

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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 § 6254.4.5.

(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 § 6254).

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 § 6254(f).

(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 Attorney, 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 § 6254).

(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 § 6254).

(m) Any memorandum from legal counsel until the pending litigation has been adjudicated or otherwise settled (Government Code § 6254.25).

(n) Records relating to the security of the department's electronic technology systems (Government Code § 6254.19).

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(o) A record of a civilian 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)(8)).

(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 § 6254).

(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 § 831).

810.6 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.

810.7 RELEASED RECORDS TO BE MARKED

The first 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.

810.8 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.

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For the purposes of this requirement, personal identifying information includes an individual's first name or first initial and last name in combination with any one or more of the following:

- Social Security number
- Driver license number, 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
- 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
- Medical information
- Health insurance information
- A username or email address, in combination with a password or security question and answer that permits access to an online account
- Information or data collected by Automated License Plate Reader (ALPR) technology
- Unique biometric data

810.8.1 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.
2. Name and contact information for the Clayton 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 Clayton 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

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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 Clayton 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.

810.8.2 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.
   (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.

810.9 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

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investigative reports are made. Sealed records may be disclosed or used as authorized by Penal Code § 851.92.

810.10 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 § 6254(f)(4)).

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 § 6254(f)(4)).

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.

810.10.1 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 § 6254(f)(4)).

810.10.2 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 § 6254(f)(4)):

(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.

(b) 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

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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.

810.10.3 REDACTION

If the Custodian of Records, in consultation with the Chief of Police or 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 § 6254(f)(4)).

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 § 6254(f)(4)).

810.10.4 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 § 6254(f)(4)):

(a) The person in the recording whose privacy is to be protected, or his/her authorized representative.

(b) If the person is a minor, the parent or legal guardian of the person whose privacy is to be protected.

(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 § 6254(f)(4)).

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 § 6254(f)(4)(A)).

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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 Clayton 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 Clayton 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 Clayton 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, Clayton 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).

812.6.2 HANDLING, TRANSPORTATION AND DESTROYING DIGITAL AND PHYSICAL MEDIA

1. PROCEDURE

a. Storage and Access: Department personnel shall store digital and physical media with physically secure and controlled areas. Access to digital and physical media is to be limited to authorized individuals. If physical restrictions are not feasible then data should be encrypted.

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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 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 of the data.

d. Digital Media Sanitation and Disposal: To sanitize and destroy digital media the media should be overwritten at least three times of degauss digital media using the degaussing magnet after which said media will be destroyed by cutting up or shredding. This is to be done by authorized personnel.

e. Disposal of Physical Media: At the time it is determined that physical media is no longer needed it shall be shredded by authorized personnel.

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).

812.9 PROCEDURE IF MISUSE OF CJI SUSPECTED

Any access and/or dissemination of CJI for unauthorized purposes are considered misues of the system.
Methods of Misuse:

a) Unauthorized requests, receipt, release, interception, dissemination or discussion of CJI
b) Improper use of information obtained from any CJI system and/or related applications and devices
c) Violating the confidentiality of any data record information and using it for personal purposes

Procedure for Suspected Misuse:

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Any suspected misuse of CJI will be handled on a case by case basis.However, the following will occur in all circumstances:

a) The account of the individual user will immediately be suspended to prevent ongoing misuse while under investigation
b) Management will immediately be notified of the suspected misuse
c) An internal investigation will ensue

Upon completion of the Investigation:

If the investigation determines that the misuse was inadvertent:
a) At a minimum, the individual user will be required to undergo additional training on Security Awareness.

If the investigation determines that the misuse was deliberate:
a) The individual may be subject to disciplinary action up to and including termination from employment.
b) The appropriate authorities will be notified and the individual user may be prosecuted under applicable laws.

812.10 POLICIES AND PROCEDURES FOR PHYSICAL SECURITY AND PROTECTION OF CJIS HARDWARE, SOFTWARE, AND MEDIA (CJIS SECURITY POLICY 5.9)
This Physical Security and Protection Policy focuses on the appropriate access control methods needed to protect the full lifecycle of CJI from insider and outsider threats.

Physically Secure Location:

The agency has nine (9) computer terminals with the ability to access.These computers are housed in a restricted non-public area.This area is a controlled locked office(s).

Visitor Access:
There is no unescorted access.All visitors are escorted while in the office.

Authorized Access:
There are two physical access point into the secure area which is authorized before granting access.Authorized personnel must take necessary steps to prevent and protect the agency from

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physical, logical (e.g. permissions within the operating system or firewall, routers, and switches) and electronic breaches.

a) All personnel with CJI physical and logical access must:
1. Meet the minimum personnel screening requirements prior to CJI access
2. Complete security awareness training
3. Properly protect and not share any keys, computer accounts, passwords, etc.
4. Ensure the secured access doors are securely locked after entry or departure.
5. Properly protect from viruses, worms, and other malicious code.
6. Not use personally owned devices on the computer with CJI access.

812.11 DATA BREACH INCIDENT RESPONSE PLAN

Purpose

The Data Breach Incident Response Plan is the City of Concord, Information Technology Departments Standard Operating Procedure (policy) for how to respond to and report a data breach or network / computer related incident at the City of Concord or the Clayton Police Department.A data breach is defined as “confidential data existing in a digital format, which is managed or accessed by the City of Concord or the Clayton Police Department and that is reported lost, stolen, destroyed, or willfully distributed without permission”.Examples of a data breach could include:

- Lost or stolen computer, laptop, tablet, or other digital media storage device
- Virus/malware on computer
- Intrusion detection alert or suspected data compromise
- Intercepted email containing confidential data or report(s)

Incident Response Steps

When staff becomes aware or suspects a data breach the following steps and actions will be taken.

1. In priority order, contact IT in person, via phone, or by email.

a. In Person

i. Network and Operations Manager

ii. Business Systems and Project Management Manager

iii. Systems and Programming Manager

b. Phone

i. Service Desk - 925-671-3189 (7:30AM – 5:30PM)

ii. After Hours Support – 925-471-1848 (5:30PM – 7:30AM)

c. Email: CityAssist@cityofconcord.org

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2. IT staff will document the following
a. Name, phone #, email, and date/time of the person contacting IT to report a suspected data breach
b. Description of the incident including
i. Date and time when the issue was first noticed
ii. Suspected information involved
iii. Equipment involved
iv. Location of the equipment
v. Is the equipment business critical
vi. Name/IP Address of affected system
vii. How the breach was detected

3. IT Staff will determine the following
a. Severity of incident
b. Urgency of response
c. Is the incident real or perceived
d. Is the issue still on-going
e. What data was/is at risk
f. Was CLETS data compromised
g. Business impact should the attack succeed
h. Is the incident coming from inside or outside the trusted network
i. Type of incident
j. Response level

4. IT Staff will take the following actions
a. To secure and prevent further breach activity
i. Mitigate the issue:
1. Remove all network access from the machine(s) immediately (remove network cables or air card, power the machine off using the power button, unplug the power cable, etc.)
2. If lost computing device (i.e. laptop, tablet, smart phone) and Mobile Device Management (MDM) software is installed perform remote security actions that will safeguard the data on the device.
3. Remove, suspend, or alter network credentials that are believed to have been compromised
4. Remove or suspend network access for any individual(s) suspected of causing/leading the data breach
b. Preserve any evidence (event logs, email, infected hard drive, etc.)

5. Notifications and documentation
a. Where applicable, notify affected persons if personally identifiable information was compromised
b. Review response and procedures
c. Prepare a report of the incident to minimally include:
i. When incident occurred

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ii. Cause of incident
iii. Type of incident
iv. Data suspected of being compromised
v. How issue was resolved
vi. Any mitigating issues
vii. Assessment of any damages or costs
viii. If CLETS equipment is suspected of being stolen or misplaced the report must also include:
1. The terminal mnemonic
2. The Concord PD ORI (CA0070400)
ix. Recommendations
1. Changes to procedures to ensure the breach does not reoccur
2. Changes to physical or virtual security measures
d. The above report will be provided to
i. City Manager
ii. Council
iii. Police Chief

6. If a breach of the public safety network or equipment was involved, additionally the Concord Police Department, with the assistance of IT, shall:
a. File a “CLETS IT SECURITY/INCIDENT RESPONSE FORM” report with the CA DOJ
i. CAS@doj.ca.gov
ii. 916-227-0696 fax
b. Notify external agencies if required.
i. CLETS Host Agency (Contra Costa County Sheriff’s Office)

812.12 COC DESKTOP PATCHING POLICIES

The following document summarizes the policies that have been developed for deploying Microsoft updates to Windows desktops and laptops at the City of Concord and the Clayton Police Department.

I. Microsoft Updates Cycle

Microsoft introduces new security bulletins on the 2nd Tuesday of each Month.This includes security updates to resolve potential system vulnerabilities.On the 3rd Monday of the month, Microsoft will release what they call critical updates, which are essentially hotfixes ready for the enterprise.City of Concord IT deploys both security and critical updates to production desktops and laptops. On the 3rd Wednesday of each month, an IT Pilot is performed where all updates from the current month are deployed.On the 3rd Friday, IT will deploy all of the updates to Production desktops and laptops.Updates for Mobile Device Computers (MDC’s) at Concord PD are typically delivered on a quarterly basis.Only security updates approved by the vendor Tritech, who develop the CAD software used by PD, are deployed.

II. Maintenance Windows

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To provide the best possible user experience, software-based policies were created in our Desktop Management Tool called Desktop Central.Desktop Central is the desktop patch management solution for City of Concord.For production desktops and laptops, updates can only be installed between the hours of 13:00 to 23:00 on any day of the week.The primary reason for this is when laptops come online and are patched, we don't want them to be rebooted during business hours.Once a machine has been patched, the user has a grace period of 6 hours before a reboot is forced.A reboot must be forced because we cannot depend upon users to take this action on a consistent basis.With many Microsoft updates, the system might be in an unstable state until the reboot occurs and some updates don't compete installation until after the reboot.Users are also not allowed to skip or delay the updates being deployed for security reasons.A new updates bundle for each month begins on the 3rd Friday of the month beginning at 18:00.This time is ideal because almost every user has left the office at that point and the machines will reboot over the weekend.For machines powered up the following Monday, updates would not begin to install until 13:00 hours.

MDC's at Concord PD and Clayton PD are handled a bit differently.While deployed on a quarterly basis, deployments being on Monday morning at 9:00am.This is typically a quiet time for Patrol officers.MDC's also have a 14 hour grace period to reboot, because we don't want Officers having to reboot the MDC during the shift.Updates can be installed 24 hours a day for MDC's because they might come online at any hour of the day.

III. Communications

IT will send 2 notifications to the users about the scheduled updates from the IT Notifications mailbox.The first communication is the day before on Thursday and also a reminder the day of on Friday.For MDC's, they are also sent on the prior Thursday and Friday before Monday's scheduled deployment.The user will also see a pop-up dialog box on their PC that updates will being installing in 15 minutes.After the 15 minutes is elapsed, the installs will commence.Once the updates are completed, the user will receive multiple notifications about the reboot grace period and how much time is remaining.

812.13 PATCH MANAGEMENT POLICIES

1.1 Purpose

The purpose of this policy is to ensure the City of Concord's, and the Clayton Police Department's computer network and computer systems software are maintained, stable, and secure against computer attacks.

1.2 Scope

The scope of this policy includes all computer systems within the City of Concord, and the Clayton Police Department, that reside on the City's network.

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1.3 Description

Patch management is an important aspect of computer security. Patches are one of the core foundations of security on windows desktop computers. Poorly maintained patch management can leave the City's computer systems vulnerable to malicious activity. The City has a responsibility to maintain up-to-date patches on all computer systems within the City's network.

1.4 Policy

1.4.1 General

- All desktop computer systems that reside on the City's computer network shall be deployed with the latest tested service pack, security patches, and updates at the time of deployment.
- All desktop computer systems that reside on the City's computer network shall have security updates deployed to them based upon criticality of the patch/update/service pack (as defined in Appendix A – Definitions).
- All server computer systems that reside on the City's computer network shall have the most recent tested patches/updates/service packs installed on a monthly basis or manually if the patch/update/service pack is considered to be "critical" by the manufacturer.
- All computer program updates will be evaluated by the City's I.T. staff prior to deployment to all computer systems that would be affected. All deployments will follow the Change Control procedures as outlined by IT Management.Many security updates will be deployed to the City's computer systems on a monthly basis. All program functionality patches/updates/service packs will be deployed on an as needed basis.
- All Network devices (Switches, Routers, Firewalls, VoIP, CCTV) shall be checked for security updates on a quarterly basis.If a security or functional requirement update is needed, it will be scheduled to be applied within thirty (30) calendar days.

1.5 Patches

1.5.1 Patch Types

There are many different types of patches.Patches fall into two main categories, security patches and program application patches. Security patches address vulnerabilities with a program or operating system that could allow the program or operating system to be compromised by a malicious person. Program application patches usually provide new features or repair non-functioning current features of the application.This policy does not cover application "upgrades" that are provided for software enhancements.These will be evaluated and prioritized on a "business" need basis.

1.5.2 Patch Identification

All designated I.T. staff under the guidance of I.T. Management shall monitor security mailing lists, vendor mailing lists, and related web sites for releases of patches/upgrades/service packs related to City owned software applications and operating systems.

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1.5.3 Patch Prioritization

If a patch is identified as affecting a City computer system, it will be evaluated and prioritized to determine the deployment timeline of the patch to the affected computer system(s).

• Critical: If a patch is deemed critical and resolves an exploit that exists in the wild (as defined in Appendix A – Definitions) then immediate testing shall be performed of the patch. Once the patch has been approved by I.T. Management, it shall be deployed.

• Critical (Not in the wild): If a patch is deemed critical and no exploit exists in the wild then testing of the patch shall be performed within ten (10) business days from the time it is made available by the vendor and deployed thereafter.

• Non-critical: If the patch is deemed non-critical then testing of the patch shall be performed within one (1) month from the date it is made available by the vendor, and deployed thereafter.

1.6 Microsoft Updates Cycle

Microsoft introduces new security bulletins on the 2nd Tuesday of each Month.This includes security updates to resolve potential system vulnerabilities.On the 3rd Monday of the month, Microsoft will release what they call critical updates, which are essentially hotfixes ready for the enterprise.City of Concord IT deploys both security and critical updates to production desktops and laptops. On the 2nd Wednesday after Patch Tuesday, an IT Pilot is performed where all updates from the current month are deployed.On the 2nd Friday after Patch Tuesday, IT will deploy all of the updates to Production desktops and laptops.A small period of about a week elapses before they updates are deployed in order to anticipate for any issues or problems that might have surfaced as a result of the latest patch installs.Updates for Mobile Device Computers (MDC's) at Concord PD are typically delivered on a quarterly basis.Only security updates approved by the vendor Tritech, who develop the CAD software used by PD, are deployed due to support constraints stipulated by Tritech.These MDC computers are further secured by a software-based Sophos firewall and a VPN tunnel connection using NetMotion software into the PD network.

1.7 Maintenance Windows

To provide the best possible user experience, software-based policies were created in our Desktop Management Tool called Desktop Central.Desktop Central is the desktop patch management solution for City of Concord.For production desktops and laptops, updates can only be installed between the hours of 13:00 to 23:00 on any day of the week.The primary reason for this is when laptops come online and are patched, we don't want them to be rebooted during business hours.Once a machine has been patched, the user has a grace period of six (6) hours before a reboot is forced.A reboot must be forced because we cannot depend upon users to take this action on a consistent basis.With many Microsoft updates, the system might be in an unstable state until the reboot occurs and some updates don't complete the installation until after the reboot.Users are also not allowed to skip or delay the updates being deployed for security reasons.A new updates

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bundle for each month begins on the 2nd Friday after Patch Tuesday beginning at 18:00.This time is ideal because almost every user has left the office at that point and the machines will reboot close to midnight.For machines powered up the following Monday, updates would not begin to install until 13:00 hours.

MDC's at Concord PD and Clayton PD are handled a bit differently.While deployed on a quarterly basis, deployments being on Monday morning at 09:00.This is typically a quiet time for Patrol officers.MDC's also have a 14 hour grace period to reboot, because we don't want Officers having to reboot the MDC during the shift.They shut down the MDC after the shift ends because the power of the MDC is drawn from the car battery.This satisfies the reboot requirement.Updates can be installed twenty-four (24) hours a day for MDC's because they might come online at any hour of the day.

1.8 Testing

All patches/updates/service packs that are identified as affecting any City computer system shall be tested before deployment.

- Desktop computer testing: An I.T. Pilot is conducted two days before deployment to all Production desktops and laptops.All I.T. staff is informed to report any unexpected behavior to the Desktop Engineer.Many of these I.T. staff members are application owners.
- Server computer testing: Patches that affect server computer systems will be tested on a non-enterprise class server (as defined in Appendix A – Definitions) before deployment.The City of Concord uses Microsoft Windows Server Update Services (WSUS) to manage patch cycles for Windows Servers.

1.9 Reporting

At the end of each week, I.T. Management shall receive a report from the designated I.T. staff reporting all patches that were deployed during that week and the status of the deployed patches.

1.10 Communications

IT will send 2 notifications to the users about the scheduled updates from the IT Notifications mailbox.The first communication is the day before on Thursday and also a reminder the day of on Friday.For MDC's, they are also sent on the prior Thursday and Friday before Monday's scheduled deployment.The user will also see a pop-up dialog box on their PC that updates will being installing in 15 minutes.After the 15 minutes is elapsed, the installs will commence.Once the updates are completed, the user will receive multiple notifications about the reboot grace period and how much time is remaining.

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1.11 Appendix A – Definitions

Prioritization of severity.Prioritizing how serious the issue is that a particular patch/upgrade/service pack may resolve.
Enterprise class server.An enterprise server is a computer system which performs an essential service for a large organization. Examples: servers that service an entire network (more than 100 users).
Exists in the wild.This refers to any exploit, virus, etc. that currently exists on the Internet and is known by the public and can affect the City of Concord's computer systems.

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RAP SHEET AND POLICE DEPARTMENT RECORD SECURITY

813.1 POLICY STATEMENT

(a) **POLICY STATEMENT**

State laws have been enacted to ensure that certain information that comes into the possession of Law Enforcement officials is maintained in such a way that the individual's right of privacy is protected, without hindering the criminal justice system's ability to protect the citizens of the State of California. The Clayton Police Department is committed to ensuring that the acquisition, storage, dissemination, and destruction of such information are done in accordance with the law.

813.2 GENERAL

(a) **GENERAL**

(a) Regulations under Title II, Chapter I, California Administrative Code, have been established to provide for the security of California Department of Justice Rap Sheets.

(b) Database Access Requirements

.1 In order to access state and federal law enforcement databases, including criminal history information, department employees must meet the following criteria:

.01 Must be trained and certified as either a "full access" or a "less than full access" operator.

.001 A "full access" operator is one who can access, enter and delete information from the Department of Justice (DOJ) systems.

.002 A "less than full access" operator is one who may only access the DOJ and other law enforcement systems.

.02 Must have a "need to know and a right to know" the information that is being accessed.

.03 Access of the information must be for one of the following reasons:

.001 An active criminal investigation.

.002 Processing of a criminal case for prosecution purposes.

.003 As defined in sections C.2 through C.4.5 of this Procedure.

(c) Penal Code Sections 11075-11081 have been enacted and require the establishment of the regulations. Penal Code Sections 11140-11144 make it a crime to misuse Rap Sheets. Penal Code Sections 11120-11127 delineate the record review process. Penal Code Section 11105 defines access to criminal history information.

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(d) Penal Code Section 11105.6 was adopted in 1997. It authorizes local law enforcement officials to provide licensed bail agents or bail bond licensees with specified information regarding fugitives sought by the bail agents.

(e) On June 4, 1998, pursuant to SB 468, the Contra Costa County Board of Supervisors authorized local law enforcement agencies to release criminal record information, via CLETS, to County Child Welfare Agency workers. The release of said information shall be for the purpose of assessing any relative agreeing to receive and care for a minor, and all other adults living in the relative's residence.

813.3 DEPARTMENT POLICY

(a) **DEPARTMENTAL POLICY**

(a) For purposes of this General Order, Rap Sheets are defined as "criminal offender record information" maintained by the California Department of Justice, Criminal History Summaries, and any index or summary which would identify a person's criminal history.

(b) Rap Sheet information will not be provided to any agency or person unless they are authorized to receive said information.

.1 Penal Code Section 11105.6 states that law enforcement officials **may** furnish an individual's known aliases and booking photograph, information identifying whether the individual has been convicted of any violent felony, as defined in subdivision (c) of Section 667.5 PC, and any unaltered copy of the booking and property record, excluding any medical information, to a licensed bail agent or bail bond licensee if all the following circumstances exist:

.01 The information is from the record of a person for whom a bench warrant has been issued, or for whom a bail forfeiture has been ordered by a magistrate.

.02 The person described in subdivision (a) is a client of the agent or licensee.

.03 The agent or licensee pays to the law enforcement agency a fee equal to the cost of providing the information.

.04 Any information obtained pursuant to this section is confidential and the recipient bail agent or bail bond licensee shall not disclose its contents, other than for the purpose for which it was acquired. A violation of this subdivision is a misdemeanor.

.2 Information shall not be released pursuant to Section 11105.6 PC without prior permission of the Police Office Coordinator or, in his/her absence, the Administrative Sergeant.

.01 Any release of information shall be in compliance with the provisions of this General Order.

(c) Release of CLETS information to Child Welfare Workers shall be provided in a prompt and timely manner and under the following conditions:

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.1 The Child Welfare Worker shall request a CLETS inquiry from the police jurisdiction where minor's

relative(s) reside.

.2 Request for CLETS reports will only be made by Child Welfare Staff during those hours when the

Records unit is open.

.3 Child Welfare Staff shall maintain the confidentiality of criminal history and securely store and

maintain the records provided to them.

.4 Child Welfare Staff shall provide a case number or other identifying tracking information to the

law enforcement agency.

.5 Release of any information shall be in compliance with the provisions of this General Order.

(d) Penal Code Section 11105.3 authorizes local law enforcement agencies to furnish criminal history information for the purpose of screening prospective residents and prospective and current staff of a regional, county, city or other housing authority. Such requests will be granted, under the following conditions:

.1 The request is made by the chief executive officer of the authority or his/her designee.

.2 The request is in writing and spells out the intended use of the criminal history information.

.3 The requester provides written documentation that the authority operates housing at which

children under the age of 18 years reside or operates housing for persons categorized as aged,

blind, or disabled.

.4 The provisions of this policy also apply to public housing authorities who manage a Section 8

housing program.

.5 Information shall not be released pursuant to Section 11105.3 PC without prior permission of the

Police Office Coordinator or, in his/her absence, the Administrative Sergeant.

.01 Any release of information shall be in compliance with the provisions of this General Order.

(e) Record Security Officer. Police Office Coordinator is designated the "Criminal Records Security Officer" and has the authority and responsibility for seeing that the regulations are adhered to.

.1 Criminal offender record information may be released to authorized persons by the following

designated personnel:

.01 Chief of Police

.02 Administrative Sergeant

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.03 Sergeant

.04 Police Office Coordinator

.2 Those persons authorized to release criminal offender record information will be provided the opportunity to familiarize themselves with the training materials in the proper use and control of criminal offender record information, to be provided by the California Department of Justice, or will attend training sessions in the proper use and control of criminal offender record information.

.3 Record checks shall be conducted on all personnel who have access to the computer system, its terminals, or the stored criminal offender record information.

813.4 RAP SHEET PROCEDURE

(a) **RAP SHEET – PROCEDURE**

(a) Requests for Rap Sheets

.1 Inquiries into the Department of Justice Criminal History System (CHS) can be made from any designated terminal within the department assigned CLETS mnemonic.

.01 Each person making an inquiry will put his/her name and the case number in the routing field.

.001 Automated Rap Sheet printouts obtained will be processed as follows:

.0001 The requesting person will complete the required information as the form is completed on the computer screen.

.0002 If the automated printout is to be released, it shall be stamped with the "Controlled Document" stamp and the release information shall be completed.

.02 Inquiries for investigative reports with no assigned case number will include in the routing field the requesting officer's name and the violation section in lieu of the case number.

.03 If requested, field arrest inquiries will be made by Sworn Personnel.

.001 The sending Sworn Personnel will log the request on the Records Log

.002 All field arrest Rap Sheets will be routed to the requestor

.003 Upon receipt of the Rap Sheet, the requester will log it as received on the Records Log.

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.04 Rap Sheets received by mail will be routed directly to the requesting officer.

.001 Upon receipt the police administrative staff will review and route the Rap Sheet to the requesting person.

.05 Teletype Message Logs will be maintained for three years to satisfy the audit trail requirements of the regulations.

.06 Rap Sheets shall not be requested in other than the above-described manner.

.07 Criminal offender record information may only be reproduced by or under the direction of Records personnel within the physical facilities of the Clayton Police Department.

(b) The requirement for recording each release of Rap Sheet information need not apply to routine procedures, such as inclusion in a complaint package to the District Attorney's Office, provided that the Controlled Document Stamp is affixed and completed to indicate the name of the person and/or agency to receive the Rap Sheet.

(c) Destruction. When a Rap Sheet is received that is not needed, or when one is no longer needed by the department or the person who requested it, it shall be returned to the Rap Sheet Control Designee, who will destroy it. Destruction will be carried out to the extent that the identity of the subject cannot be ascertained.

813.5 ARREST AND MASTER NAME INDEX RECORDS

(a) **POLICE DEPARTMENT ARREST AND MASTER NAME INDEX (MNI) RECORDS** The Clayton Police Department maintains a computerized, alphabetical master name index (MNI) file of all persons who are listed in police reports, arrest reports, citations, field interview cards or any other official document completed by agency personnel during the course and scope of their duties, and when such information is maintained in the main records management database.

.1 The records database automatically assigns a unique MNI to every name that is entered into the system. This MNI shall be used to identify all future records entries for the same individual.

.2 It is the responsibility of Records Bureau personnel, as well as all other department employees who have the authority to enter records into the database, to ensure that all identifying information is entered in an accurate manner. This will ensure that the new information is recorded under the appropriate individual's MNI number.

(b) Access to the records maintained by the Police Department is restricted to Clayton Police Department employees who, by virtue of their assignment, have a need to know and a right to know the information that is being accessed.

(c) Records information that is maintained by the Clayton Police Department shall not be released to any person who is not legally entitled to receive such information.

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(d) Only members of the Clayton Police Department who have authority to access the computerized records may release such information, and only in accordance with departmental policy.

.1 Release of Police Department records information to an outside party shall be documented on a records release log.

(e) The records of juveniles may only be released as ordered by the court

(f) When the records information is no longer needed for official purposes, it shall be placed into a department designated shred bin.

813.6 PENALTIES

(a) **PENALTIES**

(a) Misuse of California Department of Justice Rap Sheet Information is a misdemeanor.

(b) Violation of this General Order or the statutes and regulations regarding record security may result in suspension, dismissal, and/or prosecution.

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Computers and Digital Evidence

814.1 PURPOSE AND SCOPE

This policy establishes procedures for the seizure and storage of computers, personal communications devices (PCDs) digital cameras, digital recorders and other electronic devices that are capable of storing digital information; and for the preservation and storage of digital evidence. All evidence seized and/or processed pursuant to this policy shall be done so in compliance with clearly established Fourth Amendment and search and seizure provisions.

814.2 SEIZING COMPUTERS AND RELATED EVIDENCE

Computer equipment requires specialized training and handling to preserve its value as evidence. Officers should be aware of the potential to destroy information through careless or improper handling, and utilize the most knowledgeable available resources. When seizing a computer and accessories the following steps should be taken:

(a) Photograph each item, front and back, specifically including cable connections to other items. Look for a phone line or cable to a modem for Internet access.

(b) Do not overlook the possibility of the presence of physical evidence on and around the hardware relevant to the particular investigation such as fingerprints, biological or trace evidence, and/or documents.

(c) If the computer is off, do not turn it on.

(d) If the computer is on, do not shut it down normally and do not click on anything or examine any files.

1. Photograph the screen, if possible, and note any programs or windows that appear to be open and running.
2. Disconnect the power cable from the back of the computer box or if a portable notebook style, disconnect any power cable from the case and remove the battery).

(e) Label each item with case number, evidence sheet number, and item number.

(f) Handle and transport the computer and storage media (e.g., tape, discs, memory cards, flash memory, external drives) with care so that potential evidence is not lost.

(g) Lodge all computer items in the Property Room. Do not store computers where normal room temperature and humidity is not maintained.

(h) At minimum, officers should document the following in related reports:

1. Where the computer was located and whether or not it was in operation.
2. Who was using it at the time.
3. Who claimed ownership.

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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 Room to copy the contents to an appropriate form of storage media.

(c) Many kinds of storage media can be erased or damaged by magnetic fields. Keep all media away from magnetic devices, electric motors, radio transmitters or other sources of magnetic fields.

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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 be brought to the Property Room as soon as possible for submission into evidence.

(b) Officers are not authorized to review or copy memory cards. The evidence technicians are the only employees authorized to copy and/or distribute digital media made from the memory cards.

(c) As soon as possible following the collection of evidence, the camera operator is to remove the memory card from their digital camera and place the card into a plastic

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carrier. The card and carrier are then to be placed into a zip-lock type baggie. The camera operator shall write their name and the related case number on the outside of the baggie before placing in the film drop box along with the evidence form.

(d) Evidence technicians will make a copy of the memory card using appropriate storage media. Once they have verified that the images properly transferred to the storage media, the technicians will erase the memory card for re-use. The storage media will be marked as the original.

(e) Officers requiring a copy of the digital files must request a copy on the evidence form when submitted to evidence.

814.5.3 DOWNLOADING OF DIGITAL FILES

Digital information such as video or audio files recorded on devices using internal memory must be downloaded to storage media. The following procedures are to be followed:

(a) Files should not be opened or reviewed prior to downloading and storage.

(b) Where possible, the device should be connected to a computer and the files accessed directly from the computer directory or downloaded to a folder on the host computer for copying to the storage media.

814.5.4 PRESERVATION OF DIGITAL EVIDENCE

(a) Only evidence technicians are authorized to copy original digital media that is held as evidence. The original digital media shall remain in evidence and shall remain unaltered.

(b) Digital images that are enhanced to provide a better quality photograph for identification and investigative purposes must only be made from a copy of the original media.

(c) If any enhancement is done to the copy of the original, it shall be noted in the corresponding incident report.

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Animal Control

820.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for interacting with animals and responding to calls for service that involve animals.

820.2 ANIMAL CONTROL RESPONSIBILITIES

Animal control services are generally the primary responsibility of Animal Control and include:

(a) Animal-related matters during periods when Animal Control is available.

(b) Ongoing or persistent animal nuisance complaints. Such complaints may be scheduled, if reasonable, for handling during periods that Animal Control is available for investigation and resolution.

(c) Follow-up on animal-related calls, such as locating owners of injured animals.

820.3 MEMBER RESPONSIBILITIES

Members who respond to or assist with animal-related calls for service should evaluate the situation to determine the appropriate actions to control the situation.

Due to the hazards of handling animals without proper training and equipment, responding members generally should not attempt to capture or pick up any animal, but should keep the animal under observation until the arrival of appropriate assistance.

Members may consider acting before the arrival of such assistance when:

(a) There is a threat to public safety.

(b) An animal has bitten someone. Members should take measures to confine the animal and prevent further injury.

(c) An animal is creating a traffic hazard.

(d) An animal is seriously injured.

(e) The owner/handler of an animal has been arrested or is incapacitated. In such circumstances, the member should find appropriate placement for the animal.

1. This is only necessary when the arrestee is expected to be in custody for a time period longer than would reasonably allow him/her to properly care for the animal.
2. With the owner’s consent, locating appropriate placement may require contacting relatives or neighbors to care for the animal.
3. If no person can be found or the owner does not or cannot give consent, the animal should be taken to a designated animal care facility.

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820.4 DECEASED ANIMALS

When a member becomes aware of a deceased animal, all reasonable attempts should be made to preliminarily determine if the death of the animal is related to criminal activity.

Deceased animals on public property should be removed, sealed in a plastic bag, and properly disposed of by the responding member.

Members should not climb onto or under any privately owned structure for the purpose of removing a deceased animal.

When handling deceased animals, members should attempt to identify and notify the owner of the final disposition of the animal.

820.5 INJURED ANIMALS

When a member becomes aware of an injured domesticated animal, all reasonable attempts should be made to contact an owner or responsible handler. If an owner or responsible handler cannot be located, the animal should be taken to a veterinarian and notice shall be given to the owner pursuant to the requirements of Penal Code § 597.1.

820.5.1 VETERINARY CARE

The injured animal should be taken to a veterinarian as follows:

(a) During normal business hours, the animal should be taken to an authorized veterinary care clinic.

(b) If after normal business hours, the animal should be taken to the authorized Veterinary Emergency and Critical Care Services Clinic.

(c) An exception to the above exists when the animal is an immediate danger to the community or the owner of the animal is identified and takes responsibility for the injured animal.

Each incident shall be documented and, at minimum, include the name of the reporting party and veterinary hospital and/or person to whom the animal is released.

If Animal Control is not available, the information will be forwarded for follow-up.

820.5.2 INJURED WILDLIFE

Injured wildlife should be referred to the Department of Fish and Wildlife or the Marine Mammal Center as applicable.

820.5.3 RESCUE OF ANIMALS IN VEHICLES

If an animal left unattended in a vehicle appears to be in distress, members may enter the vehicle for the purpose of rescuing the animal. Members should (Penal Code § 597.7(d)):

(a) Make a reasonable effort to locate the owner before entering the vehicle.

(b) Take steps to minimize damage to the vehicle.

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(c) Refrain from searching the vehicle or seizing items except as otherwise permitted by law.

(d) Leave notice on or in the vehicle identifying the location where the animal has been taken and the name and Department of the member involved in the rescue.

(e) Make reasonable efforts to contact the owner or secure the vehicle before leaving the scene.

(f) Take the animal to an animal care facility, a place of safekeeping or, if necessary, a veterinary hospital for treatment.

820.6 POLICY

It is the policy of the Clayton Police Department to be responsive to the needs of the community regarding animal-related issues. This includes enforcing local, state and federal laws relating to animals and appropriately resolving or referring animal-related problems, as outlined in this policy.

820.7 ANIMAL CRUELTY COMPLAINTS

Laws relating to the cruelty to animals should be enforced, including but not limited to Penal Code § 597 et seq. (cruelty to animals, failure to care for animals).

(a) An investigation should be conducted on all reports of animal cruelty.

(b) Legal steps should be taken to protect an animal that is in need of immediate care or protection from acts of cruelty.

820.8 ANIMAL BITE REPORTS

Members investigating an animal bite should obtain as much information as possible for follow-up with the appropriate health or animal authorities. Efforts should be made to capture or otherwise have the animal placed under control. Members should attempt to identify and notify the owner of the final disposition of the animal.

820.9 STRAY DOGS

If a stray dog has a license or can otherwise be identified, the owner should be contacted, if possible. If the owner is contacted, the dog should be released to the owner and a citation may be issued, if appropriate. If a dog is taken into custody, it shall be transported to the appropriate animal care facility.

Members shall provide reasonable treatment to animals in their care (e.g., food, water, shelter).

820.10 DANGEROUS ANIMALS

In the event responding members cannot fulfill a request for service because an animal is difficult or dangerous to handle, the Shift Supervisor will be contacted to determine available resources, including requesting the assistance of animal control services from an allied agency.

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820.11 PUBLIC NUISANCE CALLS RELATING TO ANIMALS

Members should diligently address calls related to nuisance animals (e.g., barking dogs), as such calls may involve significant quality-of-life issues.

820.12 DESTRUCTION OF ANIMALS

When it is necessary to use a firearm to euthanize a badly injured animal or stop an animal that poses an imminent threat to human safety, the Firearms Policy shall be followed. A badly injured animal shall only be euthanized with the approval of a supervisor.

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Jeanne Clery Campus Security Act

822.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines to ensure this department fulfills its obligation in complying with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) as well as applicable California Education Code requirements.

822.2 POLICY

The Clayton Police Department encourages accurate and prompt reporting of all crimes and takes all such reports seriously (20 USC § 1092(f)(1)(C)(iii)). Reports will be accepted in any manner, including in person or in writing, at any Clayton Police Department facility. Reports will be accepted anonymously, by phone or via email or on the institution's website.

It is the policy of the Clayton Police Department to comply with the Clery Act. Compliance with the Clery Act requires a joint effort between the Clayton Police Department and the administration of the institution.

Supervisors assigned areas of responsibility in the following policy sections are expected to be familiar with the subsections of 20 USC § 1092(f) and 34 CFR 668.46 that are relevant to their responsibilities.

822.3 POLICY, PROCEDURE AND PROGRAM DEVELOPMENT

The Chief of Police will:

(a) Ensure that the Clayton Police Department establishes procedures for immediate emergency response and evacuation, including the use of electronic and cellular communication and testing of these procedures (20 USC § 1092(f)(1)(J)(i); 20 USC § 1092(f)(1)(J)(iii)).

(b) Enter into written agreements as appropriate with local law enforcement agencies to (Education Code § 67381.1):

1. Identify roles in the investigation of alleged criminal offenses on campus (20 USC § 1092(f)(1)(C)(ii)).

    (a) This includes identification of the responsibilities for sexual assault, hate crimes and Part 1 violent crime investigations (e.g., willful homicide, forcible rape, robbery or aggravated assault as defined in the FBI's Uniform Crime Reporting (UCR) Handbook), and establishing the specific geographical boundaries of each agency's responsibility, including maps as necessary (Education Code § 67381).

2. Assist in the monitoring and reporting of criminal activity at off-campus student organizations that are recognized by the institution and engaged in by students attending the institution, including student organizations with off-campus housing facilities (20 USC § 1092(f)(1)(G)).

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3. Ensure coordination of emergency response and evacuation procedures, including procedures to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation (20 USC § 1092(f)(1)(J)).

4. Notify the Clayton Police Department of criminal offenses reported to local law enforcement agencies to assist the institution in meeting its reporting requirements under the Clery Act (20 USC § 1092(f)(1)(F)).

5. Notify the Clayton Police Department of criminal offenses reported to local law enforcement agencies to assist in making information available to the campus community in a timely manner and to aid in the prevention of similar crimes. Such disseminated information shall withhold the names of victims as confidential (20 USC § 1092(f)(3)).

(c) Appoint a designee to develop programs that are designed to inform students and employees about campus security procedures and practices, and to encourage students and employees to be responsible for their own security and the security of others (20 USC § 1092(f)(1)(D)).

(d) Appoint a designee to develop programs to inform students and employees about the prevention of crime (20 USC § 1092(f)(1)(E)).

(e) Appoint a designee to develop educational programs to promote the awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault and stalking, and what to do if an offense occurs, including but not limited to, who should be contacted, the importance of preserving evidence and to whom the alleged offense should be reported (20 USC § 1092(f)(8)(B)). The designee shall also develop written materials to be distributed to reporting persons that explains the rights and options provided for under 20 USC § 1092 (20 USC § 1092(f)(8)(C)).

(f) Appoint a designee to make the appropriate notifications to institution staff regarding missing person investigations in order to ensure that the institution complies with the requirements of 34 CFR 668.46(h).

822.3.1 ADDITIONAL REQUIREMENTS

The Chief of Police or the authorized designee will also (Education Code § 67386):

(a) Assist the institution with the development of policies and procedures relating to sexual assault, domestic violence, dating violence and stalking involving a student whether it occurred on- or off-campus including:

1. The differences between standards of proof and defenses in criminal investigations and administrative or disciplinary matters.

2. Victim-centered protocols including privacy protection, responses to reports, interviews, investigations, required notifications and participation by victim advocates and other supporting individuals.

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(b) Assist, as appropriate, with trauma-informed training for campus personnel involved in investigating and adjudicating sexual assault, domestic violence, dating violence and stalking cases.

(c) Assist, as appropriate, in the development of the institution's comprehensive prevention and outreach programs addressing sexual violence, domestic violence, dating violence, and stalking.

(d) Ensure that any reported Part 1 violent crime, sexual assault or hate crime described in Penal Code § 422.55 (whether it occurred on- or off-campus), is reported as soon as practicable to any local law enforcement agency with investigation responsibilities pursuant to a written agreement with the Clayton Police Department or the institution (Education Code § 67380).

1. The identification of the victim shall be withheld, unless the victim consents to being identified after being informed of the right to have his/her personally identifying information withheld. If the victim does not consent to being identified, then the alleged assailant shall not be identified unless the institution determines that the alleged assailant represents a serious or ongoing threat to the safety of the students, employees or the institution, and the immediate assistance of the Clayton Police Department is necessary to contact or detain the assailant (Education Code § 67380).

2. If the institution discloses the identity of the alleged assailant to the Clayton Police Department, the institution must immediately inform the victim of that disclosure (Education Code § 67380).

822.4 RECORDS COLLECTION AND RETENTION

The Records Supervisor is responsible for maintaining Clayton Police Department statistics and making reasonable good-faith efforts to obtain statistics from other law enforcement agencies as necessary to allow the institution to comply with its reporting requirements under the Clery Act (20 USC § 1092(f)(1)(F)). The statistics shall be compiled as follows:

(a) Statistics concerning the occurrence of the following criminal offenses reported to this department or to local police agencies that occurred on campus, in or on non-campus buildings or property, and on public property including streets, sidewalks and parking facilities within the campus or immediately adjacent to and accessible from the campus (20 USC § 1092(f)(1)(F)(i); 34 CFR 668.46(c)):

1. Murder
2. Sex offenses, forcible or non-forcible
3. Robbery
4. Aggravated assault
5. Burglary
6. Motor vehicle theft
7. Manslaughter
8. Arson

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9. Arrests or persons referred for campus disciplinary action for liquor law violations, drug-related violations and weapons possession
10. Dating violence, domestic violence and stalking

(b) Statistics concerning the crimes described in the section above, theft, simple assault, intimidation, destruction, damage or vandalism of property, and other crimes involving bodily injury to any person where the victim was intentionally selected because of his/her actual or perceived race, sex, religion, gender, gender identity, sexual orientation, ethnicity or disability. These statistics should be collected and reported according to the category of prejudice (20 USC § 1092(f)(1)(F)(ii); 34 CFR 668.46(c)).

1. The statistics shall be compiled using the definitions in the FBI's UCR system and modifications made pursuant to the Hate Crime Statistics Act (20 USC § 1092(f)(7); 34 CFR 668.46(c)(9)). For the offenses of domestic violence, dating violence and stalking, such statistics shall be compiled in accordance with the definitions used in the Violence Against Women Act (20 USC § 1092(f)(7); 34 USC § 12291; 34 CFR 668.46(a)). The statistics will be categorized separately as offenses that occur in the following places (20 USC § 1092(f)(12); 34 CFR 668.46(c)(5)):
   (a) On campus.
   (b) In or on a non-campus building or property.
   (c) On public property.
   (d) In dormitories or other on-campus, residential or student facilities.

(c) Statistics will be included by the calendar year in which the crime was reported to the Clayton Police Department (34 CFR 668.46(c)(3)).

(d) Stalking offenses will include a statistic for each year in which the stalking conduct is reported and will be recorded as occurring either at the first location where the stalking occurred or the location where the victim became aware of the conduct (34 CFR 668.46(c)(6)).

(e) Statistics will include the three most recent calendar years (20 USC § 1092(f)(1)(F); 34 CFR 668.46(c)).

(f) The statistics shall not identify victims of crimes or persons accused of crimes (20 USC § 1092(f)(7)).

822.4.1 CRIME LOG

The Records Supervisor is responsible for ensuring a daily crime log is created and maintained as follows (20 USC § 1092(f)(4); 34 CFR 668.46(f)):

(a) The daily crime log will record all crimes reported to the Clayton Police Department, including the nature, date, time and general location of each crime, and the disposition, if known.

(b) All log entries shall be made within two business days of the initial report being made to the Department.

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(c) If new information about an entry becomes available, then the new information shall be recorded in the log not later than two business days after the information becomes available to the police department or security department.

(d) The daily crime log for the most recent 60-day period shall be open to the public for inspection at all times during normal business hours. Any portion of the log that is older than 60 days must be made available within two business days of a request for public inspection. Information in the log is not required to be disclosed when:

1. Disclosure of the information is prohibited by law.
2. Disclosure would jeopardize the confidentiality of the victim.
3. There is clear and convincing evidence that the release of such information would jeopardize an ongoing criminal investigation or the safety of an individual, may cause a suspect to flee or evade detection, or could result in the destruction of evidence. In any of these cases, the information may be withheld until that damage is no longer likely to occur from the release of such information.

822.4.2 COMPILING RECORDS FOR DISCLOSURE REQUIREMENTS

The Records Supervisor is also responsible for compiling the following to allow the institution to comply with its disclosure requirements under Education Code § 67380:

(a) All occurrences reported to the Clayton Police Department and all arrests for crimes that are committed on campus that involve violence, hate violence, theft, destruction of property, illegal drugs, or alcohol intoxication.

(b) All occurrences of noncriminal acts of hate violence reported to the Clayton Police Department for which a written report is prepared.

822.5 INFORMATION DISSEMINATION

It is the responsibility of the Administration Chief of Police to ensure that the required Clery Act disclosures are properly forwarded to campus administration and community members in accordance with institution procedures. This includes:

(a) Procedures for providing emergency notification of crimes or other incidents and evacuations that might represent an imminent threat to the safety of students or employees (20 USC § 1092(f)(3); 34 CFR 668.46(e); 34 CFR 668.46 (g)).

(b) Procedures for notifying the campus community about crimes considered to be a threat to other students and employees in order to aid in the prevention of similar crimes. Such disseminated information shall withhold the names of victims as confidential (20 USC § 1092(f)(3)).

(c) Information necessary for the institution to prepare its annual security report (20 USC § 1092(f)(1); 34 CFR 668.46(b)). This report will include, but is not limited to:

1. Crime statistics and the policies for preparing the crime statistics.

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2. Crime and emergency reporting procedures, including the responses to such reports.
3. Policies concerning security of and access to campus facilities.
4. Crime, dating violence, domestic violence, sexual assault and stalking awareness and prevention programs, including
   (a) Procedures victims should follow.
   (b) Procedures for protecting the confidentiality of victims and other necessary parties.
5. Enforcement policies related to alcohol and illegal drugs.
6. Locations where the campus community can obtain information about registered sex offenders.
7. Emergency response and evacuation procedures.
8. Missing student notification procedures.
9. Information addressing the jurisdiction and authority of campus security including any working relationships and agreements between campus security personnel and both state and local law enforcement agencies.

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Chapter 9 - Custody

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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 Clayton 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 Clayton Police Department prior to being released or transported to a housing or other type of facility.

900.2 GENERAL CRITERIA AND SUPERVISION

No adult should be in temporary custody for longer than six hours.

900.2.1 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).

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.

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900.2.2 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 Corrections Standards Authority (CSA) 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 CSA staff. The review and recommendations of the CSA biennial review shall be forwarded to the City, as required by 15 CCR 1027.

900.2.3 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 Shift Supervisor.

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.

900.3 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 City jail or the appropriate mental health facility.

The officer should promptly notify the Shift Supervisor of any conditions that may warrant immediate medical attention or other appropriate action. The Shift Supervisor shall determine whether the individual will be placed in a cell, immediately released or transported to jail or other facility.

900.3.1 CONSULAR NOTIFICATION

Consular notification may be mandatory when certain foreign nationals are arrested. The Patrol Chief of Police 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

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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.

900.3.2 SCREENING AND PLACEMENT

The officer responsible for an individual in custody shall (15 CCR 1050):

(a) Advise the Shift Supervisor 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.

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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.

(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.

900.4 SAFETY, HEALTH AND OTHER PROVISIONS

900.4.1 TEMPORARY CUSTODY LOGS

Any time an individual is in temporary custody at the Clayton 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 Clayton Police Department.

The Shift Supervisor 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 Shift Supervisor should make periodic checks to ensure all log entries and safety and security checks are made on time.

900.4.2 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).

900.4.3 ATTORNEYS AND BAIL BONDSMEN

(a) An attorney may visit at the request of the individual in custody or a relative (Penal Code § 825).

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(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).

900.4.4 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 Shift Supervisor will retain a record of these reports for inspection purposes (15 CCR 1044).

900.4.5 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.

All perimeter doors to secure areas shall be kept locked at all times, except during routine cleaning, when no individuals in custody are present or in the event of an emergency, such as an evacuation.

900.4.6 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.

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900.4.7 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.

(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).

900.4.8 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 Shift Supervisor 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).

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900.4.9 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 Clayton Police Department. They should be released or transferred to another facility as appropriate.

900.4.10 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.

(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.

900.5 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.

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The use of restraints, other than handcuffs or leg irons, generally should not be used for individuals in temporary custody at the Clayton 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.

900.5.1 PREGNANT ADULTS
Women who are known to be pregnant should be restrained in accordance with the Handcuffing and Restraints Policy.

900.6 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.

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 Shift Supervisor shall be notified whenever an individual alleges that there is a shortage or discrepancy regarding his/her property. The Shift Supervisor shall attempt to prove or disprove the claim.

900.7 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.

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(e) Safety checks by department members shall occur no less than every 15 minutes (15 CCR 1027.5).

1. Safety checks should be at varying times.
2. All safety checks shall be logged.
3. The safety check should involve questioning the individual as to his/her well-being.
4. Individuals who are sleeping or apparently sleeping should be awakened.
5. Requests or concerns of the individual should be logged.

900.7.1 USE OF SOBERING CELL

Inmates who are to be held in the Temporary Holding Facility and who present a threat to their own safety or the safety of others due to their state of intoxication should be placed in a sobering cell until their condition allows for continued processing.

The following guidelines apply when placing any inmate in a sobering cell (15 CCR 1056):

(a) Placement of an inmate into the cell requires approval of the Shift Supervisor.

(b) A cell log shall be initiated every time an inmate is placed in the cell. The log shall be maintained for the entire time the inmate is housed in the cell.

(c) A safety check consisting of direct visual observation sufficient to assess the inmate's well-being and behavior shall occur at least once every 30 minutes. Each safety check shall be documented in the cell log. Supervisors shall check the logs for completeness every two hours and document this action on the cell log.

(d) Under no circumstances shall an inmate be held in a sobering cell for more than six hours without being evaluated by qualified medical personnel to ensure that the inmate does not have an urgent medical issue.

(e) Inmates will be removed from the cell when they no longer pose a threat to their own safety and the safety of others, and are able to continue processing.

900.8 SUICIDE ATTEMPT, DEATH, OR SERIOUS INJURY

The Patrol Chief of Police will ensure procedures are in place to address any suicide attempt, death or serious injury of any individual in temporary custody at the Clayton Police Department. The procedures should include the following:

(a) Immediate request for emergency medical assistance if appropriate

(b) Immediate notification of the Shift Supervisor, Chief of Police and Patrol Chief of Police

(c) Notification of the spouse, next of kin or other appropriate person

(d) Notification of the appropriate prosecutor

(e) Notification of the City Attorney

(f) Notification of the Coroner

(g) Evidence preservation

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(h) In-custody death reviews (15 CCR 1046)

(i) Notification to the Attorney General within 10 days of any death in custody including any reasonably known facts concerning the death (Government Code § 12525)

900.9 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.

(e) Suicide prevention

Eight hours of refresher training shall be completed once every two years (15 CCR 1024).

The Training Sergeant shall maintain records of all such training in the member's training file.

900.10 ASSIGNED ADMINISTRATOR

The Patrol Chief of Police 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

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(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).

900.11 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 Clayton 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.

(i) Transfers between facilities or other entities, such as a hospital, should be accomplished with a custodial escort of the same sex as the person being transferred to assist with his/her personal needs as reasonable.

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).

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.

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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 Clayton Police Department facility. Such items can pose a serious risk to the safety and security of department members, individuals in custody, contractors and the public.

Nothing in this policy is intended to prohibit the otherwise lawful collection of evidence from an individual in custody.

902.1.1 DEFINITIONS

Definitions related to this policy include:

Custody search - An in-custody search of an individual and of his/her property, shoes and clothing, including pockets, cuffs and folds on the clothing, to remove all weapons, dangerous items and contraband.

Physical body cavity search - A search that includes a visual inspection and may include a physical intrusion into a body cavity. Body cavity means the stomach or rectal cavity of an individual, and the vagina of a female person.

Strip search - A search that requires an individual to remove or rearrange some or all of his/her clothing to permit a visual inspection of the underclothing, breasts, buttocks, anus or outer genitalia. This includes monitoring an individual who is changing clothes, where his/her underclothing, buttocks, genitalia or female breasts are visible.

902.2 POLICY

All searches shall be conducted with concern for safety, dignity, courtesy, respect for privacy and hygiene, and in compliance with policy and law to protect the rights of those who are subject to any search.

Searches shall not be used for intimidation, harassment, punishment or retaliation.

902.3 FIELD AND TRANSPORTATION SEARCHES

An officer should conduct a custody search of an individual immediately after his/her arrest, when receiving an individual from the custody of another, and before transporting a person who is in custody in any department vehicle.

Whenever practicable, a custody search should be conducted by an officer of the same sex as the person being searched. If an officer of the same sex is not reasonably available, a witnessing officer should be present during the search.

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902.4 SEARCHES AT POLICE FACILITIES

Custody searches shall be conducted on all individuals in custody, upon entry to the Clayton Police Department facilities. Except in exigent circumstances, the search should be conducted by a member of the same sex as the individual being searched. If a member of the same sex is not available, a witnessing member must be present during the search.

Custody searches should also be conducted any time an individual in custody enters or re-enters a secure area, or any time it is reasonably believed that a search is necessary to maintain the safety and security of the facility.

902.4.1 PROPERTY

Members shall take reasonable care in handling the property of an individual in custody to avoid discrepancies or losses. Property retained for safekeeping shall be kept in a secure location until the individual is released or transferred.

Some property may not be accepted by a facility or agency that is taking custody of an individual from this department, such as weapons or large items. These items should be retained for safekeeping in accordance with the Property and Evidence Policy.

All property shall be inventoried by objective description (this does not include an estimated value). The individual from whom it was taken shall be required to sign the completed inventory. If the individual's signature cannot be obtained, the inventory shall be witnessed by another department member. The inventory should include the case number, date, time, member's Clayton Police Department identification number and information regarding how and when the property may be released.

902.4.2 VERIFICATION OF MONEY

All money shall be counted in front of the individual from whom it was received. When possible, the individual shall initial the dollar amount on the inventory. Additionally, all money should be placed in a separate envelope and sealed. Negotiable checks or other instruments and foreign currency should also be sealed in an envelope with the amount indicated but not added to the cash total. All envelopes should clearly indicate the contents on the front. The department member sealing it should place his/her initials across the sealed flap. Should any money be withdrawn or added, the member making such change shall enter the amount below the original entry and initial it. The amount of money in the envelope should always be totaled and written on the outside of the envelope.

902.5 STRIP SEARCHES

No individual in temporary custody at any Clayton Police Department facility shall be subjected to a strip search unless there is reasonable suspicion based upon specific and articulable facts to believe the individual has a health condition requiring immediate medical attention or is concealing a weapon or contraband. Factors to be considered in determining reasonable suspicion include, but are not limited to:

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(a) The detection of an object during a custody search that may be a weapon or contraband and cannot be safely retrieved without a strip search.

(b) Circumstances of a current arrest that specifically indicate the individual may be concealing a weapon or contraband.

1. A felony arrest charge or being under the influence of a controlled substance should not suffice as reasonable suspicion absent other facts.

(c) Custody history (e.g., past possession of contraband while in custody, assaults on department members, escape attempts).

(d) The individual's actions or demeanor.

(e) Criminal history (i.e., level of experience in a custody setting).

No transgender or intersex individual shall be searched or examined for the sole purpose of determining the individual's genital status. If the individual's genital status is unknown, it may be determined during conversations with the person, by reviewing medical records, or as a result of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).

902.5.1 STRIP SEARCH PROCEDURES

Strip searches at Clayton Police Department facilities shall be conducted as follows (28 CFR 115.115; Penal Code § 4030):

(a) Written authorization from the Shift Supervisor 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 Shift Supervisor.

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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 Shift Supervisor shall include specific and articulable facts and circumstances upon which the reasonable suspicion determination for the search was made.

(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 Shift Supervisor 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 Shift Supervisor authorization does not need to be in writing.

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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 Shift Supervisor 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 Shift Supervisor's approval.
4. A copy of the search warrant.
5. The time, date and location of the search.
6. The medical personnel present.
7. The names, sex and roles of any department members present.
8. Any contraband or weapons discovered by the search.

(f) Copies of the written authorization and search warrant shall be retained and shall be provided to the individual who was searched or other authorized representative upon request. A record of the time, date, place of the search, the name and sex of the person conducting the search and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual's authorized representative.

902.7 TRAINING

The Training Sergeant shall ensure members have training that includes (28 CFR 115.115):

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(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.

902.8 BODY SCANNER SEARCH

If a body scanner is available, a body scan search should be performed on all inmates/arrestees upon entering the secure booking area of the facility. Members (Penal Code § 4030):

(a) Within sight of the visual display of a body scanner that is depicting the body during a scan shall be of the same sex as the person being scanned, except for physicians or licensed medical personnel.

(b) Should ask female inmates if they are pregnant prior to a body scan and should not knowingly use a body scanner on a woman who is pregnant.

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Temporary Holding Facility Proceedures

903.1 POLICY

The Clayton Police Department does not maintain temporary holding facilities for adults or juveniles. The department contracts with the City of Concord for those services via the Concord Police Department Jail. The department also uses Contra Costa County detention facilities for adults meeting the criteria for admittance to their facilities in conjunction with the commission of a criminal act.

Clayton police officers will follow and abide by the requirements of the contracted facilities regarding the temporary or long term holding of adults and/or juveniles.

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Prison Rape Elimination

904.1 PURPOSE AND SCOPE

This policy provides guidance for complying with the Prison Rape Elimination Act of 2003 (PREA) and the implementing regulation that establishes standards (PREA Rule) to prevent, detect, and respond to sexual abuse, harassment, and retaliation against detainees or prisoners in the Clayton Police Department Temporary Holding Facilities (28 CFR 115.111; 15 CCR 1029).

904.1.1 DEFINITIONS

Definitions related to this policy include:

Intersex - A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development (28 CFR 115.5).

Sexual abuse - Any of the following acts, if the detainee does not consent, is coerced into such act by overt or implied threats of violence or is unable to consent or refuse (28 CFR 115.6; 15 CCR 1006):

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva, or anus
- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument
- Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation

Sexual abuse also includes abuse by a staff member, contractor, or volunteer as follows, with or without consent of the detainee, prisoner, or resident:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva, or anus
- Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire
- Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties, or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire
- Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties, or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire

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- Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described above
- Any display by a staff member, contractor, or volunteer of his/her uncovered genitalia, buttocks, or breast in the presence of a detainee, prisoner, or resident
- Voyeurism by a staff member, contractor, or volunteer

Sexual harassment - Repeated and unwelcome sexual advances; requests for sexual favors; verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one detainee, prisoner, or resident that are directed toward another; repeated verbal comments or gestures of a sexual nature to a detainee, prisoner, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures (28 CFR 115.6; 15 CCR 1006).

Transgender - A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth (28 CFR 115.5).

904.2 POLICY

The Clayton Police Department has zero tolerance toward all forms of sexual abuse and sexual harassment (28 CFR 115.111). The Department will not tolerate retaliation against any person who reports sexual abuse or sexual harassment or who cooperates with a sexual abuse or sexual harassment investigation.

The Clayton Police Department will take immediate action to protect detainees and prisoners who are reasonably believed to be subject to a substantial risk of imminent sexual abuse (28 CFR 115.162; 15 CCR 1029).

904.3 PREA COORDINATOR

The Chief of Police shall appoint an upper-level manager with sufficient time and authority to develop, implement, and oversee department efforts to comply with PREA standards in the Clayton Police Department Temporary Holding Facilities (28 CFR 115.111). The PREA Coordinator's responsibilities shall include:

(a) Developing and maintaining procedures to comply with the PREA Rule.

(b) Ensuring that any contract for the confinement of detainees or prisoners includes the requirement to adopt and comply with applicable PREA standards and the PREA Rule, including the obligation to provide incident-based and aggregated data, as required in 28 CFR 115.187 (28 CFR 115.112).

(c) Developing a staffing plan to provide adequate levels of staffing and video monitoring, where applicable, in order to protect detainees and prisoners from sexual abuse (28 CFR 115.113; 15 CCR 1029). This includes documenting deviations and the reasons for deviations from the staffing plan, as well as reviewing the staffing plan a minimum of once per year.

(d) Developing methods for staff to privately report sexual abuse and sexual harassment of detainees and prisoners (28 CFR 115.151).

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(e) Developing a written plan to coordinate response among staff first responders, medical and mental health practitioners, investigators, and department leadership to an incident of sexual abuse (28 CFR 115.165).

(f) Ensuring a protocol is developed for investigating allegations of sexual abuse in the Temporary Holding Facility. The protocol shall include (28 CFR 115.121; 28 CFR 115.122):

1. Evidence collection practices that maximize the potential for obtaining usable physical evidence based on the most recent edition of the U.S. Department of Justice's (DOJ) Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/ Adolescents" or a similarly comprehensive and authoritative protocol.

2. A process to ensure a criminal or administrative investigation is completed on all allegations of sexual abuse or sexual harassment.

3. A process to document all referrals to other law enforcement agencies.

4. Access to forensic medical examinations, without financial cost, for all victims of sexual abuse where appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The efforts to provide SAFEs or SANEs shall be documented.

5. In accordance with security needs, provisions to permit, to the extent available, detainee and prisoner access to victim advocacy services if the detainee or prisoner is transported for a forensic examination to an outside hospital that offers such services.

(g) Ensuring that detainees and prisoners with limited English proficiency and disabilities have an equal opportunity to understand and benefit from efforts to prevent, detect, and respond to sexual abuse and sexual harassment. This includes, as appropriate, access to interpreters and written materials in formats or through methods that provide effective communication to those with disabilities (e.g., limited reading skills, intellectual, hearing, or vision disabilities) (28 CFR 115.116).

1. The agency shall not rely on other detainees or prisoners for assistance except in limited circumstances where an extended delay in obtaining an interpreter could compromise the detainee's or prisoner's safety, the performance of first-response duties under this policy, or the investigation of a prisoner's allegations of sexual abuse, harassment, or retaliation.

(h) Publishing on the department's website:

1. Information on how to report sexual abuse and sexual harassment on behalf of a detainee or prisoner (28 CFR 115.154).

2. A protocol describing the responsibilities of the Department and any other investigating agency that will be responsible for conducting sexual abuse or sexual harassment investigations (28 CFR 115.122).

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(i) Establishing a process that includes the use of a standardized form and set of definitions to ensure accurate, uniform data is collected for every allegation of sexual abuse at facilities under this agency's direct control (28 CFR 115.187; 34 USC § 30303; 15 CCR 1041).

1. The data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence, conducted by DOJ, or any subsequent form developed by DOJ and designated for lockups.

2. The data shall be aggregated at least annually.

(j) Ensuring audits are conducted pursuant to 28 CFR 115.401 through 28 CFR 115.405 for all Temporary Holding Facilities used to house detainees or prisoners overnight (28 CFR 115.193).

(k) Ensuring contractors or others who work in the Temporary Holding Facility are informed of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment (28 CFR 115.132).

(l) Ensuring that information for uninvolved inmates, family, community members, and other interested third parties to report sexual abuse or sexual harassment is publicly posted at the facility (15 CCR 1029).

904.4 REPORTING SEXUAL ABUSE, HARASSMENT, AND RETALIATION

Detainees or prisoners may make reports to any staff member verbally, in writing, privately, or anonymously of any of the following (28 CFR 115.151; 15 CCR 1029):

- Sexual abuse
- Sexual harassment
- Retaliation by other detainees or prisoners or staff for reporting sexual abuse or sexual harassment
- Staff neglect or violation of responsibilities that may have contributed to sexual abuse or sexual harassment

During intake the Department shall notify all detainees and prisoners of the zero-tolerance policy regarding sexual abuse and sexual harassment, and of at least one way to report abuse or harassment to a public or private entity that is not part of the Department and that is able to receive and immediately forward detainee or prisoner reports of sexual abuse and sexual harassment to agency officials. This allows the detainee or prisoner to remain anonymous (28 CFR 115.132; 28 CFR 115.151).

904.4.1 MEMBER RESPONSIBILITIES

Department members shall accept reports from detainees, prisoners and third parties and shall promptly document all reports (28 CFR 115.151; 15 CCR 1029).

All members shall report immediately to the Shift Supervisor any knowledge, suspicion, or information regarding:

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(a) An incident of sexual abuse or sexual harassment that occurs in the Temporary Holding Facility.

(b) Retaliation against detainees or the member who reports any such incident.

(c) Any neglect or violation of responsibilities on the part of any department member that may have contributed to an incident or retaliation (28 CFR 115.161).

No member shall reveal any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment and investigation decisions.

904.4.2 SHIFT SUPERVISOR RESPONSIBILITIES

The Shift Supervisor shall report to the department's designated investigators all allegations of sexual abuse, harassment, retaliation, neglect or violations leading to sexual abuse, harassment or retaliation. This includes third-party and anonymous reports (28 CFR 115.161).

If the alleged victim is under the age of 18 or considered a vulnerable adult, the Shift Supervisor shall also report the allegation as required under mandatory reporting laws and department policy.

Upon receiving an allegation that a detainee or prisoner was sexually abused while confined at another facility, the Shift Supervisor shall notify the head of the facility or the appropriate office of the agency where the alleged abuse occurred. The notification shall be made as soon as possible but no later than 72 hours after receiving the allegation. The Shift Supervisor shall document such notification (28 CFR 115.163).

If an alleged detainee or prisoner victim is transferred from the Temporary Holding Facility to a jail, prison or medical facility, the Department shall, as permitted by law, inform the receiving facility of the incident and the prisoner's potential need for medical or social services, unless the prisoner requests otherwise (28 CFR 115.165).

904.5 INVESTIGATIONS

The Department shall promptly, thoroughly and objectively investigate all allegations, including third-party and anonymous reports, of sexual abuse or sexual harassment. Only investigators who have received department-approved special training shall conduct sexual abuse investigations (28 CFR 115.171).

904.5.1 FIRST RESPONDERS

The first officer to respond to a report of sexual abuse or sexual assault shall (28 CFR 115.164):

(a) Separate the parties.

(b) Establish a crime scene to preserve and protect any evidence. Identify and secure witnesses until steps can be taken to collect any evidence.

(c) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.

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(d) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.

If the first responder is not an officer the responder shall request that the alleged victim not take any actions that could destroy physical evidence and should then notify a law enforcement staff member (28 CFR 115.164).

904.5.2 INVESTIGATOR RESPONSIBILITIES

Investigators shall (28 CFR 115.171):

(a) Gather and preserve direct and circumstantial evidence, including any available physical and biological evidence and any available electronic monitoring data.

(b) Interview alleged victims, suspects and witnesses.

(c) Review any prior complaints and reports of sexual abuse involving the suspect.

(d) Conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.

(e) Assess the credibility of the alleged victim, suspect or witness on an individual basis and not by the person's status as a detainee or a member of the Clayton Police Department.

(f) Document in written reports a description of physical, testimonial, documentary and other evidence, the reasoning behind any credibility assessments, and investigative facts and findings.

(g) Refer allegations of conduct that may be criminal to the District Attorney for possible prosecution, including any time there is probable cause to believe a detainee or prisoner sexually abused another detainee or prisoner in the Temporary Holding Facility (28 CFR 115.178).

(h) Cooperate with outside investigators and remain informed about the progress of any outside investigation.

904.5.3 ADMINISTRATIVE INVESTIGATIONS

Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse. The departure of the alleged abuser or victim from the employment or control of this department shall not be used as a basis for terminating an investigation (28 CFR 115.171).

904.5.4 SEXUAL ASSAULT AND SEXUAL ABUSE VICTIMS

No detainee or prisoner who alleges sexual abuse shall be required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation (28 CFR 115.171(e)).

Detainee or prisoner victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment. Treatment services shall be provided to the victim without financial cost and

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regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident (28 CFR 115.182).

904.5.5 CONCLUSIONS AND FINDINGS

All completed investigations shall be forwarded to the Chief of Police, or if the allegations may reasonably involve the Chief of Police, to the City Manager. The Chief of Police or City Manager shall review the investigation and determine whether any allegations of sexual abuse or sexual harassment have been substantiated by a preponderance of the evidence (28 CFR 115.172).

All personnel shall be subject to disciplinary sanctions up to and including termination for violating this policy. Termination shall be the presumptive disciplinary sanction for department members who have engaged in sexual abuse. All discipline shall be commensurate with the nature and circumstances of the acts committed, the member's disciplinary history and the sanctions imposed for comparable offenses by other members with similar histories (28 CFR 115.176).

All terminations for violations of this policy, or resignations by members who would have been terminated if not for their resignation, shall be criminally investigated unless the activity was clearly not criminal and reported to any relevant licensing body (28 CFR 115.176).

Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with detainees or prisoners and reported to any relevant licensing bodies (28 CFR 115.177). The Chief of Police shall take appropriate remedial measures and consider whether to prohibit further contact with detainees or prisoners by a contractor or volunteer.

904.6 RETALIATION PROHIBITED

All detainees, prisoners and members who report sexual abuse or sexual harassment or who cooperate with sexual abuse or sexual harassment investigations shall be protected from retaliation (28 CFR 115.167). If any other individual who cooperates with an investigation expresses a fear of retaliation, appropriate measures shall be taken to protect that individual.

The Shift Supervisor or the authorized designee shall employ multiple protection measures, such as housing changes or transfers for detainee or prisoner victims or abusers, removal of alleged abusers from contact with victims, and emotional support services for detainees, prisoners or members who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

The Shift Supervisor or the authorized designee shall identify a staff member to monitor the conduct and treatment of detainees, prisoners or members who have reported sexual abuse and of detainees or prisoners who were reported to have suffered sexual abuse. The staff member shall act promptly to remedy any such retaliation. In the case of detainees or prisoners, such monitoring shall also include periodic status checks.

904.7 REVIEWS AND AUDITS

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904.7.1 INCIDENT REVIEWS

An incident review shall be conducted at the conclusion of every sexual abuse investigation, unless the allegation has been determined to be unfounded. The review should occur within 30 days of the conclusion of the investigation. The review team shall include upper-level management officials and seek input from line supervisors and investigators (28 CFR 115.186).

The review shall (28 CFR 115.186):

(a) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual abuse.

(b) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender or intersex identification, status or perceived status; gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility.

(c) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.

(d) Assess the adequacy of staffing levels in that area during different shifts.

(e) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.

The review team shall prepare a report of its findings, including any determinations made pursuant to this section and any recommendations for improvement. The report shall be submitted to the Chief of Police and the PREA Coordinator. The Chief of Police or the authorized designee shall implement the recommendations for improvement or shall document the reasons for not doing so (28 CFR 115.186).

904.7.2 DATA REVIEWS

The facility shall conduct an annual review of collected and aggregated incident-based sexual abuse data. The review should include, as needed, data from incident-based documents, including reports, investigation files and sexual abuse incident reviews (28 CFR 115.187).

The purpose of these reviews is to assess and improve the effectiveness of sexual abuse prevention, detection and response policies, practices and training. An annual report shall be prepared that includes (28 CFR 115.188):

(a) Identification of any potential problem areas.

(b) Identification of any corrective actions taken.

(c) Recommendations for any additional corrective actions.

(d) A comparison of the current year's data and corrective actions with those from prior years.

(e) An assessment of the Department's progress in addressing sexual abuse.

The report shall be approved by the Chief of Police and made readily available to the public through the department website or, if it does not have one, through other means. Material may be

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redacted from the reports when publication would present a clear and specific threat to the safety and security of the Temporary Holding Facility. However, the nature of the redacted material shall be indicated.

All aggregated sexual abuse data from Clayton Police Department facilities and private facilities with which it contracts shall be made readily available to the public at least annually through the department website or, if it does not have one, through other means. Before making aggregated sexual abuse data publicly available, all personal identifiers shall be removed (28 CFR 115.189).

904.8 RECORDS

The Department shall retain all written reports from administrative and criminal investigations pursuant to this policy for as long as the alleged abuser is held or employed by the Department, plus five years (28 CFR 115.171).

All other data collected pursuant to this policy shall be securely retained for at least 10 years after the date of the initial collection unless federal, state or local law requires otherwise (28 CFR 115.189).

904.9 TRAINING

All employees, volunteers and contractors who may have contact with detainees or prisoners shall receive department-approved training on the prevention and detection of sexual abuse and sexual harassment within this facility. The Training Sergeant shall be responsible for developing and administering this training as appropriate, covering at a minimum (28 CFR 115.131):

- The Department's zero-tolerance policy and the right of detainees and prisoners to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.
- The dynamics of sexual abuse and harassment in confinement settings, including which detainees and prisoners are most vulnerable.
- The right of detainees, prisoners and staff members to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.
- Detecting and responding to signs of threatened and actual abuse.
- Communicating effectively and professionally with all detainees and prisoners.
- Compliance with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

Investigators assigned to sexual abuse investigations shall also receive training in conducting such investigations in confinement settings. Training should include (28 CFR 115.134):

- Techniques for interviewing sexual abuse victims.
- Proper use of *Miranda* and *Garrity* warnings.
- Sexual abuse evidence collection in confinement settings.

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- Criteria and evidence required to substantiate a case for administrative action or prosecution referral.

The Training Sergeant shall maintain documentation that employees, volunteers, contractors and investigators have completed required training and that they understand the training. This understanding shall be documented through individual signature or electronic verification.

All current employees and volunteers who may have contact with detainees or prisoners shall be trained within one year of the effective date of the PREA standards. The agency shall provide annual refresher information to all such employees and volunteers to ensure that they understand the current sexual abuse and sexual harassment policies and procedures.

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Chapter 10 - Personnel

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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 Clayton Police Department and that are promulgated and maintained by the Personnel Department.

1000.2 POLICY

In accordance with applicable federal, state, and local law, the Clayton 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 Administration Chief of Police 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 Administration Chief of Police 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 should 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)

(b) Driving record

(c) 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

(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)

(j) Review board or selection committee assessment

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 Clayton 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).

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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
Due to the potential for accessing unsubstantiated, private, or protected information, the Administration Chief of Police shall not require candidates to provide passwords, account information, or access to password-protected social media accounts (Labor Code § 980).

The Administration Chief of Police 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.

Regardless of whether a third party is used, the Administration Chief of Police 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 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).

1000.5.5 RECORDS RETENTION
The background report and all supporting documentation shall be maintained for a minimum of two years and in accordance with the established records retention schedule (Government Code § 12946; 11 CCR 1953).

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

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within 180 days of voluntary separation from the Clayton Police Department, or who is an interim police chief meeting the requirements contained in 11 CCR 1953(f).

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; 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 Personnel Department should maintain validated standards for all positions.

1000.7.1 STANDARDS FOR OFFICERS

Candidates shall meet the minimum standards established by POST (Government Code § 1029; Government Code § 1031; 11 CCR 1950 et seq.):

(a) Free of any felony convictions

(b) Citizen of the United States, or permanent resident alien eligible for and has applied for citizenship

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(c) At least 18 years of age

(d) Fingerprinted for local, state and national fingerprint check

(e) Good moral character as determined by a thorough background investigation (11 CCR 1953)

(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 which might adversely affect the exercise of police powers (11 CCR 1954; 11 CCR 1955)

(h) 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)

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)

1000.8 PROBATIONARY PERIODS

The Administration Chief of Police should coordinate with the Clayton Personnel Department to identify positions subject to probationary periods and procedures for:

(a) Appraising performance during probation.

(b) Assessing the level of performance required to complete probation.

(c) Extending probation.

(d) Documenting successful or unsuccessful completion of probation.

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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 Clayton 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.

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Employees who disagree with their evaluation and who desire to provide a formal response or a rebuttal may do so in writing in the prescribed format and time period.

1002.3.1 RESERVE OFFICER EVALUATIONS
Reserve officer evaluations are covered under the Reserve Officers Policy.

1002.4 FULL TIME PROBATIONARY PERSONNEL
Non-sworn personnel are on probation for 12 months before being eligible for certification as permanent employees. An evaluation is completed every 6 months for all full-time non-sworn personnel during the probationary period.

Sworn personnel are on probation for 12 to 18 months before being eligible for certification as permanent employees. Probationary officers are evaluated every 6 months during the probationary period.

1002.4.1 PERSONNEL ASSIGNED TO REMEDIAL OR FIELD TRAINING
Personnel assigned to remedial or field training are evaluated on a daily, weekly and/or monthly schedule for the duration of the training period.

1002.5 FULL-TIME PERMANENT STATUS PERSONNEL
Permanent employees are subject to three types of performance evaluations:

Regular - An Employee Performance Evaluation shall be completed once each year by the employee's immediate supervisor on the anniversary of the employee’s date of hire except for employees who have been promoted in which case an Employee Performance Evaluation shall be completed on the anniversary of the employee’s date of last promotion.

Transfer - If an employee is transferred from one assignment to another in the middle of an evaluation period and less than six months have transpired since the transfer, then an evaluation shall be completed by the current supervisor with input from the previous supervisor.

Special - A special evaluation may be completed any time the rater and the rater's supervisor feel one is necessary due to employee performance that is deemed less than standard. Generally, the special evaluation will be the tool used to demonstrate those areas of performance deemed less than standard when follow-up action is planned (action plan, remedial training, retraining, etc.). The evaluation form and the attached documentation shall be submitted as one package.

1002.5.1 RATINGS
When completing the Employee Performance Evaluation, the rater will place a check mark in the column that best describes the employee's performance. The definition of each rating category is as follows:

Outstanding - Is actual performance well beyond that required for the position. It is exceptional performance, definitely superior or extraordinary.

Exceeds Standards - Represents performance that is better than expected of a fully competent employee. It is superior to what is expected, but is not of such rare nature to warrant outstanding.

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Meets Standards - Is the performance of a fully competent employee. It means satisfactory performance that meets the standards required of the position.

Needs Improvement - Is a level of performance less than that expected of a fully competent employee and less than standards required of the position. A needs improvement rating must be thoroughly discussed with the employee.

Unsatisfactory - Performance is inferior to the standards required of the position. It is very inadequate or undesirable performance that cannot be tolerated.

Space for written comments is provided at the end of the evaluation in the rater comments section. This section allows the rater to document the employee's strengths, weaknesses, and suggestions for improvement. Any rating under any job dimension marked unsatisfactory or outstanding shall be substantiated in the rater comments section.

1002.6 EVALUATION INTERVIEW

When the supervisor has completed the preliminary evaluation, arrangements shall be made for a private discussion of the evaluation with the employee. The supervisor should discuss the results of the just completed rating period and clarify any questions the employee may have. If the employee has valid and reasonable protests of any of the ratings, the supervisor may make appropriate changes to the evaluation. Areas needing improvement and goals for reaching the expected level of performance should be identified and discussed. The supervisor should also provide relevant counseling regarding advancement, specialty positions and training opportunities. The supervisor and employee will sign and date the evaluation. Permanent employees may also write comments in the Employee Comments section of the performance evaluation report.

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.

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The employee’s completed answers shall be attached to the evaluation. If the employee has expressed any questions or concerns, the receiving supervisor or other authorized individual shall insure that appropriate follow up action is taken.

1002.7 EVALUATION REVIEW

After the supervisor finishes the discussion with the employee, the signed performance evaluation is forwarded to the rater's supervisor (Chief of Police). The Chief of Police shall review the evaluation for fairness, impartiality, uniformity, and consistency. The Chief of Police shall evaluate the supervisor on the quality of ratings given.

1002.8 EVALUATION DISTRIBUTION

The original performance evaluation shall be maintained in the employee's personnel file in the office of the Chief of Police for the tenure of the employee's employment. A copy will be given to the employee and a copy will be forwarded to City Personnel Department.

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Special Assignments and Promotions

1004.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for promotions and for making special assignments within the Clayton Police Department.

1004.2 PROMOTIONAL REQUIREMENTS

Requirements and information regarding any promotional process are available at the Clayton Personnel Department.

1004.2.1 PROMOTIONAL PROCESS

The following criteria apply to the promotional process.

a. Formal announcement and application period, including posting of requirements and minimum qualifications. The Chief of Police shall decide if a promotional process is for internal applicants, external applicants or both.

b. Review and analysis of applications received. Initial applications will be screened and reduced to the most qualified applicants. Incomplete or inaccurate applications may be automatically removed from consideration. Any application that does not demonstrate the minimum requirements for the position may also be eliminated at this stage.

c. Promotional processes limited to internal candidates only will include an administrative evaluation as determined by the Chief of Police. This shall include a review of supervisor recommendations. Each supervisor who has supervised or otherwise been involved with the candidate will submit these recommendations.

d. Formal testing process as determined by the Chief of Police. Testing may include written tests, writing exercises, inbox exercises or other evaluations tools designed to evaluate the abilities desired for the promotional position. The testing process and questions will be approved in advance by the Chief of Police.

e. Formal interview process as determined by the Chief of Police. The interview process may include community oral boards, police department personnel oral boards or other interview processes designed to evaluate the abilities desired for the promotional position. The make up of the oral board panel and the interview questions will be approved in advance by the Chief of Police.

f. Administrative review of all testing and interview results by the Chief of Police and any other staff as designated by the Chief of Police.

g. The most qualified applicants identified by the testing and interview process may proceed to an individual interview with the Chief or Police or the Chief of Police may select a candidate for the position based on the preceding testing process.

h. Applicants are subject to the successful completion of the full background and hiring process as dictated by POST and applicable law prior to appointment. This requirement may be waived

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for internal candidates provided that all legal and POST hiring requirements for the position have been previously met.

i. Appointment by the Chief of Police.

All testing materials, oral board questions and other aspects of the promotional process that would tend to give someone an unfair advantage over other candidates shall be kept confidential to ensure that the candidates' true abilities and knowledge are demonstrated throughout the promotional process. The policy and procedures for all positions may be waived for temporary assignments, emergency situations or for training with the approval of the Chief of Police and City Manager. The promotional process may be altered as needed with the approval of the Chief of Police.

1004.3 POLICY

The Clayton Police Department determines assignments and promotions in a non-discriminatory manner based upon job-related factors and candidate skills and qualifications. Assignments and promotions are made by the Chief of Police.

1004.4 SPECIAL ASSIGNMENT POSITIONS

The following positions are considered special assignments and not promotions:

(a) Special Weapons and Tactics Team member

(b) Investigator

(c) Motorcycle officer

(d) Bicycle Patrol officer

(e) Canine handler

(f) Collision investigator

(g) Field Training Officer

(h) Community Relations/Training Officer

(i) School Resource and/or Drug Abuse Resistance Education (D.A.R.E.) officer

(j) Court Officer

1004.4.1 GENERAL REQUIREMENTS

The following requirements should be considered when selecting a candidate for a special assignment:

(a) Three years of relevant experience

(b) Off probation

(c) Possession of or ability to obtain any certification required by POST or law

(d) Exceptional skills, experience, or abilities related to the special assignment

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1004.4.2 EVALUATION CRITERIA

The following criteria will be used in evaluating candidates for a special assignment:

(a) Presents a professional, neat appearance.

(b) Maintains a physical condition that aids in his/her performance.

(c) Expressed an interest in the assignment.

(d) Demonstrates the following traits:

1. Emotional stability and maturity
2. Stress tolerance
3. Sound judgment and decision-making
4. Personal integrity and ethical conduct
5. Leadership skills
6. Initiative
7. Adaptability and flexibility
8. Ability to conform to department goals and objectives in a positive manner

1004.4.3 SELECTION PROCESS

The selection process for special assignments will include an administrative evaluation as determined by the Chief of Police to include:

(a) Supervisor recommendations - Each supervisor who has supervised or otherwise been involved with the candidate will submit a recommendation.

1. The supervisor recommendations will be submitted to the Chief of Police for whom the candidate will work.

(b) Chief of Police interview - The Chief of Police will schedule interviews with each candidate.

1. Based on supervisor recommendations and those of the Chief of Police after the interview, the Chief of Police will submit his/her recommendations to the Chief of Police.

(c) Assignment by the Chief of Police.

The selection process for all special assignment positions may be waived for temporary assignments, emergency situations, training, and at the discretion of the Chief of Police.

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Grievance Procedure

1006.1 PURPOSE AND SCOPE

It is the policy of this department that all grievances be handled quickly and fairly without discrimination against employees who file a grievance whether or not there is a basis for the grievance. Our Department's philosophy is to promote a free verbal communication between employees and supervisors.

1006.1.1 GRIEVANCE DEFINED

A grievance is any difference of opinion concerning terms or conditions of employment or the dispute involving the interpretation or application of any of the following documents by the person(s) affected:

- The employee bargaining agreement (Memorandum of Understanding)
- This Policy Manual
- City rules 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 allegations of discrimination or harassment subject to the Discriminatory Harassment Policy. Also outside the category of grievances are personnel complaints regarding 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 as set forth in the Personnel Complaint Policy.

1006.2 PROCEDURE

Except as otherwise required under a collective bargaining agreement, if an employee believes that he or she has a grievance as defined above, then that employee shall observe the following procedure:

(a) Attempt to resolve the issue through informal discussion with immediate supervisor.

(b) If after a reasonable amount of time, generally seven days, the grievance cannot be settled by the immediate supervisor, the employee may request an interview with the Chief of Police of the affected division or bureau.

(c) If a successful resolution is not found with the Chief of Police, the employee may request a meeting with the Chief of Police.

(d) If the employee and the Chief of Police are unable to arrive at a mutual solution, then the employee shall proceed as follows:

1. Submit in writing a written statement of the grievance and deliver one copy to the Chief of Police and another copy to the immediate supervisor and include the following information:

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(a) The basis for the grievance (i.e., what are the facts of the case?).

(b) Allegation of the specific wrongful act and the harm done.

(c) The specific policies, rules or regulations that were violated.

(d) What remedy or goal is being sought by this grievance.

(e) The employee shall receive a copy of the acknowledgment signed by the supervisor including the date and time of receipt.

(f) The Chief of Police will receive the grievance in writing. The Chief of Police and the City Manager will review and analyze the facts or allegations and respond to the employee within 14 calendar days. The response will be in writing, and will affirm or deny the allegations. The response shall include any remedies if appropriate. The decision of the City Manager is considered final.

1006.3 EMPLOYEE REPRESENTATION

Employees are entitled to have representation during the grievance process. The representative may be selected by the employee from the appropriate employee bargaining group.

1006.4 GRIEVANCE RECORDS

At the conclusion of the grievance process, all documents pertaining to the process shall be forwarded to Administration for inclusion into a secure file for all written grievances. A second copy of the written grievance will be maintained by the City Manager’s office to monitor the grievance process.

1006.5 GRIEVANCE AUDITS

The Training Sergeant 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 Training 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 Training Sergeant should promptly notify the Chief of Police.

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Anti-Retaliation

1008.1 PURPOSE AND SCOPE

This policy prohibits retaliation against members who identify workplace issues, such as fraud, waste, abuse of authority, gross mismanagement or any inappropriate conduct or practices, including violations that may pose a threat to the health, safety or well-being of members.

This policy does not prohibit actions taken for nondiscriminatory or non-retaliatory reasons, such as discipline for cause.

These guidelines are intended to supplement and not limit members' access to other applicable remedies. Nothing in this policy shall diminish the rights or remedies of a member pursuant to any applicable federal law, provision of the U.S. Constitution, law, ordinance or memorandum of understanding.

1008.2 POLICY

The Clayton Police Department has a zero tolerance for retaliation and is committed to taking reasonable steps to protect from retaliation members who, in good faith, engage in permitted behavior or who report or participate in the reporting or investigation of workplace issues. All complaints of retaliation will be taken seriously and will be promptly and appropriately investigated.

1008.3 RETALIATION PROHIBITED

No member may retaliate against any person for engaging in lawful or otherwise permitted behavior; for opposing a practice believed to be unlawful, unethical, discriminatory or retaliatory; for reporting or making a complaint under this policy; or for participating in any investigation related to a complaint under this or any other policy.

Retaliation includes any adverse action or conduct, including but not limited to:

- Refusing to hire or denying a promotion.
- Extending the probationary period.
- Unjustified reassignment of duties or change of work schedule.
- Real or implied threats or other forms of intimidation to dissuade the reporting of wrongdoing or filing of a complaint, or as a consequence of having reported or participated in protected activity.
- Taking unwarranted disciplinary action.
- Spreading rumors about the person filing the complaint or about the alleged wrongdoing.
- Shunning or unreasonably avoiding a person because he/she has engaged in protected activity.

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1008.4 COMPLAINTS OF RETALIATION

Any member who feels he/she has been retaliated against in violation of this policy should promptly report the matter to any supervisor, command staff member, Chief of Police or the City Personnel Manager.

Members shall act in good faith, not engage in unwarranted reporting of trivial or minor deviations or transgressions, and make reasonable efforts to verify facts before making any complaint in order to avoid baseless allegations. Members shall not report or state an intention to report information or an allegation knowing it to be false, with willful or reckless disregard for the truth or falsity of the information or otherwise act in bad faith.

Investigations are generally more effective when the identity of the reporting member is known, thereby allowing investigators to obtain additional information from the reporting member. However, complaints may be made anonymously. All reasonable efforts shall be made to protect the reporting member's identity. However, confidential information may be disclosed to the extent required by law or to the degree necessary to conduct an adequate investigation and make a determination regarding a complaint. In some situations, the investigative process may not be complete unless the source of the information and a statement by the member is part of the investigative process.

1008.5 SUPERVISOR RESPONSIBILITIES

Supervisors are expected to remain familiar with this policy and ensure that members under their command are aware of its provisions.

The responsibilities of supervisors include, but are not limited to:

(a) Ensuring complaints of retaliation are investigated as provided in the Personnel Complaints Policy.

(b) Receiving all complaints in a fair and impartial manner.

(c) Documenting the complaint and any steps taken to resolve the problem.

(d) Acknowledging receipt of the complaint, notifying the Chief of Police via the chain of command and explaining to the member how the complaint will be handled.

(e) Taking appropriate and reasonable steps to mitigate any further violations of this policy.

(f) Monitoring the work environment to ensure that any member making a complaint is not subjected to further retaliation.

(g) Periodic follow-up with the complainant to ensure that retaliation is not continuing.

(h) Not interfering with or denying the right of a member to make any complaint.

(i) Taking reasonable steps to accommodate requests for assignment or schedule changes made by a member who may be the target of retaliation if it would likely mitigate the potential for further violations of this policy.

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1008.6 COMMAND STAFF RESPONSIBILITIES

The Chief of Police should communicate to all supervisors the prohibition against retaliation.

Command staff shall treat all complaints as serious matters and shall ensure that prompt actions take place, including but not limited to:

(a) Communicating to all members the prohibition against retaliation.

(b) The timely review of complaint investigations.

(c) Remediation of any inappropriate conduct or condition and instituting measures to eliminate or minimize the likelihood of recurrence.

(d) The timely communication of the outcome to the complainant.

1008.7 WHISTLE-BLOWING

California law protects members who (Labor Code § 1102.5; Government Code § 53296 et seq.):

(a) Report a violation of a state or federal statute or regulation to a government or law enforcement agency, including the member's supervisor or any other member with the authority to investigate the reported violation.

(b) Provide information or testify before a public body if the member has reasonable cause to believe a violation of law occurred.

(c) Refuse to participate in an activity that would result in a violation of a state or federal statute or regulation.

(d) File a complaint with a local agency about gross mismanagement or a significant waste of funds, abuse of authority, or a substantial and specific danger to public health or safety. Members shall exhaust all available administrative remedies prior to filing a formal complaint.

(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.

1008.7.1 DISPLAY OF WHISTLE-BLOWER LAWS

The Department shall display a notice to members regarding their rights and responsibilities under the whistle-blower laws, including the whistle-blower hotline maintained by the Office of the Attorney General (Labor Code § 1102.8).

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1008.8 RECORDS RETENTION AND RELEASE

The Records Supervisor shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

1008.9 TRAINING

The policy should be reviewed with each new member.

All members should receive periodic refresher training on the requirements of this policy.

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Reporting of Employee Convictions

1010.1 PURPOSE AND SCOPE

Convictions of certain offenses may restrict or prohibit an employee's ability to properly perform official duties. Therefore, all employees shall be required to promptly notify the Department of any past and current criminal convictions.

1010.2 DOMESTIC VIOLENCE CONVICTIONS, OUTSTANDING WARRANTS AND RESTRAINING ORDERS

California and federal law prohibit individuals convicted of, or having an outstanding warrant for, certain offenses and individuals subject to certain court orders from lawfully possessing a firearm. Such convictions and court orders often involve allegations of the use or attempted use of force or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC § 922; Penal Code § 29805).

All members are responsible for ensuring that they have not been disqualified from possessing a firearm by any such conviction or court order and shall promptly report any such conviction or court order to a supervisor, as provided in this policy.

1010.3 OTHER CRIMINAL CONVICTIONS 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 contendre 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.

1010.4 REPORTING PROCEDURE

All members of this department and all retired officers with an identification card issued by the Department shall promptly notify their immediate supervisor (or the Chief of Police in the case of retired officers) in writing of any past or current criminal arrest, outstanding warrant 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.

1010.5 PROCEDURE FOR RELIEF

Pursuant to Penal Code § 29855, a peace officer may petition the court for permission to carry a firearm following a conviction under state law. Federal law, however, does not provide for any such similar judicial relief and the granting of a state court petition under Penal Code § 29855 will not relieve one of the restrictions imposed by federal law. Therefore, relief for any employee falling under the restrictions imposed by federal law may only be obtained by expungement of the conviction. Each employee shall seek relief from firearm restrictions on their own time and through their own resources.

Pursuant to Family Code § 6389(h), an individual may petition the court for an exemption to any restraining order, which would thereafter permit the individual to carry a firearm as a part of their employment. Relief from any domestic violence or other restriction shall also be pursued through the employee's own resources and on the employee's own time.

Pending satisfactory proof of relief from any legal restriction imposed on an employee's duties, the employee may be placed on administrative leave, reassigned or disciplined. The Department may, but is not required to return an employee to any assignment, reinstate any employee or reverse any pending or imposed discipline upon presentation of satisfactory proof of relief from any legal restriction set forth in this policy.

1010.5.1 NOTIFICATION REQUIREMENTS

The Administration Supervisor 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).

The Administration Supervisor 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).

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Drug- and Alcohol-Free Workplace

1012.1 PURPOSE AND SCOPE

The purpose of this policy is to establish clear and uniform guidelines regarding drugs and alcohol in the workplace.

1012.2 POLICY

It is the policy of this department to provide a drug- and alcohol-free workplace for all members.

1012.3 GENERAL GUIDELINES

Alcohol and drug use in the workplace or on department time can endanger the health and safety of department members and the public. Such use shall not be tolerated (41 USC § 8103).

Members who have consumed an amount of an alcoholic beverage or taken any medication, or combination thereof, that would tend to adversely affect their mental or physical abilities shall not report for duty. Affected members shall notify the Shift Supervisor or appropriate supervisor as soon as the member is aware that he/she will not be able to report to work. If the member is unable to make the notification, every effort should be made to have a representative contact the supervisor in a timely manner. If the member is adversely affected while on-duty, he/she shall be immediately removed and released from work (see Work Restrictions in this policy).

1012.3.1 USE OF MEDICATIONS

Members should avoid taking any medications that will impair their ability to safely and completely perform their duties. Any member who is medically required or has a need to take any such medication shall report that need to his/her immediate supervisor prior to commencing any on-duty status.

No member shall be permitted to work or drive a vehicle owned or leased by the Department while taking any medication that has the potential to impair his/her abilities, without a written release from his/her physician.

Possession of medical marijuana or being under the influence of marijuana on- or off-duty is prohibited and may lead to disciplinary action.

1012.3.2 USE OF MARIJUANA

Possession of marijuana, including medical marijuana, or being under the influence of marijuana on- or off-duty is prohibited and may lead to disciplinary action.

1012.4 MEMBER RESPONSIBILITIES

Members shall report for work in an appropriate mental and physical condition. Members are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on department premises or on department time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

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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).

1012.5 EMPLOYEE ASSISTANCE PROGRAM

There may be available a voluntary employee assistance program to assist those who wish to seek help for alcohol and drug problems (41 USC § 8103). Insurance coverage that provides treatment for drug and alcohol abuse also may be available. Employees should contact the Personnel Department, their insurance providers or the employee assistance program for additional information. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

1012.6 WORK RESTRICTIONS

If a member informs a supervisor that he/she has consumed any alcohol, drug or medication that could interfere with a safe and efficient job performance, the member may be required to obtain clearance from his/her physician before continuing to work.

If the supervisor reasonably believes, based on objective facts, that a member is impaired by the consumption of alcohol or other drugs, the supervisor shall prevent the member from continuing work and shall ensure that he/she is safely transported away from the Department.

1012.7 REQUESTING SCREENING TESTS

The supervisor may request an employee to submit to a screening test under the following circumstances:

(a) The supervisor reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs that are impairing his/her ability to perform duties safely and efficiently.

(b) The employee discharges a firearm, other than by accident, in the performance of his/her duties.

(c) During the performance of his/her duties, the employee drives a motor vehicle and becomes involved in an incident that results in bodily injury to him/herself or another person, or substantial damage to property.

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1012.7.1 SUPERVISOR RESPONSIBILITY

The supervisor shall prepare a written record documenting the specific facts that led to the decision to request the test, and shall inform the employee in writing of the following:

(a) The test will be given to detect either alcohol or drugs, or both.

(b) The result of the test is not admissible in any criminal proceeding against the employee.

(c) The employee may refuse the test, but refusal may result in dismissal or other disciplinary action.

1012.7.2 SCREENING TEST REFUSAL

An employee may be subject to disciplinary action if he/she:

(a) Fails or refuses to submit to a screening test as requested.

(b) After taking a screening test that indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested, that he/she took the controlled substance as directed, pursuant to a current and lawful prescription issued in his/her name.

(c) Violates in provisions of this policy.

1012.8 COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT

No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving a member, the Department will take appropriate disciplinary action, up to and including dismissal, and/or requiring the member to satisfactorily participate in a drug abuse assistance or rehabilitation program (41 USC § 8104).

1012.9 CONFIDENTIALITY

The Department recognizes the confidentiality and privacy due to its members. Disclosure of any information relating to substance abuse treatment, except on a need-to-know basis, shall only be with the express written consent of the member involved or pursuant to lawful process.

The written results of any screening tests and all documents generated by the employee assistance program are considered confidential medical records and shall be maintained separately from the employee's other personnel files.

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Sick Leave

1014.1 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).

1014.2 POLICY

It is the policy of the Clayton Police Department to provide eligible employees with a sick leave benefit.

1014.2.1 ILLNESS WHILE ON-DUTY

When an employee becomes ill and must leave work, they shall notify a supervisor, on or off-duty, without delay. Unless the illness is of an extreme nature and the employee is the only person on-duty, he or she shall make arrangements for another officer to work the vacant shift. If the employee is unable to fill the vacant shift, a supervisor shall be called in to resolve the vacancy.

1014.3 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 or other 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.

1014.3.1 NOTIFICATION

All members should notify the Shift Supervisor 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).

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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.

1014.4 EXTENDED ABSENCE

Members absent from duty for more than three consecutive days may be required to furnish a statement from a health care provider supporting the need to be absent and/or the ability to return to work. Members on an extended absence shall, if possible, contact their supervisor at specified intervals to provide an update on their absence and expected date of return.

Nothing in this section precludes a supervisor from requiring, with cause, a health care provider's statement for an absence of three or fewer days after the first three days of paid sick leave are used in a 12-month period.

1014.5 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 Personnel Department 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.

1014.6 REQUIRED NOTICES

The Personnel Manager 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.

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Communicable Diseases

1016.1 PURPOSE AND SCOPE

This policy provides general guidelines to assist in minimizing the risk of department members contracting and/or spreading communicable diseases.

1016.1.1 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 Clayton Police Department. (See the exposure control plan for further details to assist in identifying whether an exposure has occurred.)

1016.2 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.

   (b) Needleless systems and sharps injury protection.

3. Airborne transmissible disease mandates including (8 CCR 5199):

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(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).

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).

1016.3 EXPOSURE PREVENTION AND MITIGATION

1016.3.1 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.

(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.

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(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.

1016.3.2 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).

1016.4 POST EXPOSURE

1016.4.1 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.

1016.4.2 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

(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)

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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).

1016.4.3 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.

1016.4.4 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).

1016.4.5 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.

(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).

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(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.

1016.5 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.

1016.6 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.

1016.7 POLICY

The Clayton 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.

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Smoking and Tobacco Use

1018.1 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 Clayton 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.

1018.2 POLICY

The Clayton 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).

1018.3 SMOKING AND TOBACCO USE

Smoking and tobacco use by members is prohibited anytime members are in public view representing the Clayton Police Department.

It shall be the responsibility of each member to ensure that no person under his/her supervision smokes or uses any tobacco product inside City facilities and vehicles.

1018.4 ADDITIONAL PROHIBITIONS

No person shall use tobacco products within 20 feet of a main entrance, exit or operable window of any public building (including any department facility), or buildings on the campuses of the University of California, California State University and California community colleges, whether present for training, enforcement or any other purpose (Government Code § 7596 et seq.).

1018.4.1 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 Clayton 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 Clayton 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 COMPLAINTS

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.

Inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule 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.

1020.3.1 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.

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1020.3.2 COMPLAINT CLASSIFICATIONS
Personnel complaints shall be classified in one of the following categories:

Informal - A matter in which the Shift Supervisor is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member.

Formal - A matter in which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or referred to the chief depending on the seriousness and complexity of the investigation.

Incomplete - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the chiefsuch matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

1020.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

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. 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, signatures, photographs or physical evidence may be obtained as necessary.

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).

1020.5 DOCUMENTATION
Supervisors shall ensure that all formal and informal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

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All complaints and inquiries should also be documented in a log that records and tracks complaints. The log shall include the nature of the complaint and the actions taken to address the complaint.

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 formal complaint, a complaint form is completed.

  1. The original complaint form will be directed to the Shift Supervisor of the accused member, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.

  2. 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 Chief of Police or the Chief of Police, who will initiate appropriate action.

(b) Responding to all complainants 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.

  (b) If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the Shift Supervisor and the Chief of Police

(d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Shift Supervisor and the Chief of Police are notified via the chain of command as soon as practicable.

(e) Promptly contacting the Personnel Department and the Shift Supervisor for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.

(f) Forwarding unresolved personnel complaints to the Shift Supervisor and the Chief of Police, who will determine whether to contact the complainant or assign the complaint for investigation.

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(g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.

(h) Investigating a complaint as follows:

1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.

2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.

(i) Ensuring that the procedural rights of the accused member are followed (Government Code § 3303 et seq.).

(j) Ensuring interviews of the complainant are generally conducted during reasonable hours.

1020.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or an outside investigator, 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 Clayton 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.

(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).

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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:

Introduction - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.

Synopsis - Provide a brief summary of the facts giving rise to the investigation.

Summary - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

Evidence - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section.

Conclusion - A recommendation regarding further action or disposition should be provided.

Exhibits - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

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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.

Sustained - 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 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.

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).

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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

(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 Clayton 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.The Chief of Police may accept or modify any classification or recommendation for disciplinary action.

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1020.10.1 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 investigatorfor 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.

1. 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.

2. 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.

1020.10.2 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)).

1020.10.3 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:

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(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.

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 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

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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.

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Seat Belts

1022.1 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).

1022.1.1 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.

1022.2 WEARING OF SAFETY RESTRAINTS

All members shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this department while on- or off-duty, or in any privately owned vehicle while on-duty. The member driving such a vehicle shall ensure that all other occupants, including non-members, are also properly restrained.

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a seat belt would endanger the member or the public. Members must be prepared to justify any deviation from this requirement.

1022.3 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.

1022.4 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.

1022.5 POLICY

It is the policy of the Clayton 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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1022.6 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).

1022.7 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.

1022.8 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.

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Body Armor

1024.1 PURPOSE AND SCOPE

The purpose of this policy is to provide law enforcement officers with guidelines for the proper use of body armor.

1024.2 POLICY

It is the policy of the Clayton Police Department to maximize officer safety through the use of body armor in combination with prescribed safety procedures. While body armor provides a significant level of protection, it is not a substitute for the observance of officer safety procedures.

1024.3 ISSUANCE OF BODY ARMOR

The Administration supervisor shall ensure that body armor is issued to all officers when the officer begins service at the Clayton Police Department and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The Administration supervisor shall establish a body armor replacement schedule and ensure that replacement body armor is issued pursuant to the schedule or whenever the body armor becomes worn or damaged to the point that its effectiveness or functionality has been compromised.

1024.3.1 USE OF SOFT BODY ARMOR

Generally, the use of body armor is required subject to the following:

(a) Officers shall only wear agency-approved body armor.

(b) Officers shall wear body armor anytime they are in a situation where they could reasonably be expected to take enforcement action.

(c) Officers may be excused from wearing body armor when they are functioning primarily in an administrative or support capacity and could not reasonably be expected to take enforcement action.

(d) Body armor shall be worn when an officer is working in uniform or taking part in Department range training.

(e) An officer may be excused from wearing body armor when he/she is involved in undercover or plainclothes work that his/her supervisor determines could be compromised by wearing body armor, or when a supervisor determines that other circumstances make it inappropriate to mandate wearing body armor.

Bluestone Safety Custom Fit load bearing vests are authorized for use. This is an external vest carrier in which you insert your ballistic panels into. This is an optional item and any costs associated are the responsibility of the officer. If purchased, the following specifications must be followed:

- Your Firearm, Magazines and Taser must stay on your duty belt and cannot be incorporated into the vest.

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- Your name plate will be embroidered cloth. The vest can be ordered with a Velcro strip for your name to be attached.
- No mollies will be exposed, so when ordering your vest ensure you are doing so only the mollies needed to attache the equipment you wish to wear on your vest.

1024.3.2 INSPECTIONS OF BODY ARMOR

Supervisors should ensure that body armor is worn and maintained in accordance with this policy through routine observation and periodic documented inspections. Annual inspections of body armor should be conducted by an authorized designee for fit, cleanliness, and signs of damage, abuse and wear.

1024.3.3 CARE AND MAINTENANCE OF SOFT BODY ARMOR

Soft body armor should never be stored for any period of time in an area where environmental conditions (e.g., temperature, light, humidity) are not reasonably controlled (e.g., normal ambient room temperature/humidity conditions), such as in automobiles or automobile trunks.

Soft body armor should be cared for and cleaned pursuant to the manufacturer's care instructions provided with the soft body armor. The instructions can be found on labels located on the external surface of each ballistic panel. The carrier should also have a label that contains care instructions. Failure to follow these instructions may damage the ballistic performance capabilities of the armor. If care instructions for the soft body armor cannot be located, contact the manufacturer to request care instructions.

Soft body armor should not be exposed to any cleaning agents or methods not specifically recommended by the manufacturer, as noted on the armor panel label.

Soft body armor should be replaced in accordance with the manufacturer's recommended replacement schedule.

1024.4 RANGEMASTER RESPONSIBILITIES

The Rangemaster should:

(a) Monitor technological advances in the body armor industry for any appropriate changes to Department approved body armor.

(b) Assess weapons and ammunition currently in use and the suitability of approved body armor to protect against those threats.

(c) Provide training that educates officers about the safety benefits of wearing body armor.

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Personnel Records

1026.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual member's name.

1026.2 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).

1026.3 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 maintained.

(e) Discipline records, including copies of sustained personnel complaints.

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 two years (Government Code § 26202; Government Code § 34090).

2. Disciplinary action resulting from a sustained civilian's complaint 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).

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

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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.

1026.4 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.

1026.5 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

Investigation files arising out of civilian’s complaints shall be maintained pursuant to the established records retention schedule and for a period of at least five 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 two years (Government Code § 26202; Government Code § 34090).

1026.6 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).

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(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.

1026.7 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.

1026.7.1 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.

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.

1026.7.2 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

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false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement (Penal Code § 832.7).

1026.8 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 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.

1026.9 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

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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.

1026.10 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)(2)):

- 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, or 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)(7) or other law, the following records shall be made available for public inspection upon request (Penal Code § 832.7):

(a) Records relating to the report, investigation, or findings of:

1. The discharge of a firearm at another person by an officer.

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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.

(b) Records relating to an incident where a sustained finding (see the Personnel Complaints Policy) was made by the department or oversight agency regarding:

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 sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

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)(3)).

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)(4) against the officer. 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 sustained finding of the qualified allegation against another officer that is subject to release (Penal Code § 832.7(b)(4)).

1026.10.1 REDACTION

The Custodian of Records, in consultation with the Chief of Police or authorized designee, shall redact the following portions of records made available for release (Penal Code § 832.7(b)(5)):

(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 complainants 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 misconduct and serious 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

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)(6)).

1026.10.2 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

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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

1026.10.3 NOTICE OF DELAY OF RECORDS

When there is justification for delay of disclosure of records relating to the discharge of a firearm or use of force resulting in death or in great bodily injury during an active criminal investigation, 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.

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

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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 use of serious force by officers.

In cases where an action to compel disclosure is brought pursuant to Government Code § 6258, 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)(7)).

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Request for Change of Assignment

1028.1 PURPOSE AND SCOPE

It is the intent of the Department that all requests for change of assignment are considered equally. To facilitate the selection process, the following procedure is established whereby all such requests will be reviewed on an equal basis as assignments are made.

1028.2 REQUEST FOR CHANGE OF ASSIGNMENT

Personnel wishing a change of assignment are to complete a memorandum outlining the request for a change of assignment. The memorandum should then be forwarded through the chain of command to their Sergeant.

1028.2.1 PURPOSE OF MEMORANDUM

The memorandum is intended to aid employees in listing their qualifications for specific assignments. All relevant experience, education and training should be included when completing the memorandum.

All assignments an employee is interested in should be included in the memorandum.

The memorandum will remain in effect until the end of the calendar year in which it was submitted. Effective January 1st of each year, employees still interested in new positions will need to complete and submit a new memorandum requesting the change of assignment. The memorandums will be retained in the involved employee's supervisors working file and incorporated into their annual evaluation for documentation.

1028.3 SUPERVISOR'S COMMENTARY

The officer's immediate supervisor shall review the memorandum and make appropriate comments via a separate memorandum before forwarding it to the Chief of Police for consideration. If the officer's immediate supervisor does not receive the memorandum, the Chief of Police will initial the form and return it to the employee without consideration.

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Commendations and Awards

1030.1 PURPOSE AND SCOPE

This policy provides general guidelines for recognizing commendable or meritorious acts of members of the Clayton Police Department and individuals from the community.

1030.2 POLICY

It is the policy of the Clayton 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.

1030.3 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.

1030.4 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.

1030.4.1 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.

1030.4.2 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:

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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 person submitting the documentation.

1030.4.3 PROCESSING DOCUMENTATION

Documentation regarding the meritorious or commendable act of a member of the Department should be forwarded to the appropriate Chief of Police for his/her review. The Chief of Police 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 Administration secretary 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 Administration Chief of Police. The documentation will be signed by the Chief of Police 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.

1030.5 AWARDS

Awards may be bestowed upon members of the Department and individuals from the community. These awards include:

- Award of Merit.
- Award of Valor.
- Lifesaving Award.
- Meritorious Conduct.

Criteria for each award and the selection, presentation and display of any award are determined by the Chief of Police.

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Fitness for Duty

1032.1 PURPOSE AND SCOPE

All officers are required to be free from any physical, emotional, or mental condition which might adversely affect the exercise of peace officer powers. The purpose of this policy is to ensure that all officers of this department remain fit for duty and able to perform their job functions (Government Code § 1031).

1032.2 EMPLOYEE RESPONSIBILITIES

(a) It shall be the responsibility of each member of this department to maintain good physical condition sufficient to safely and properly perform essential duties of their position.

(b) Each member of this department shall perform his/her respective duties without physical, emotional, and/or mental constraints.

(c) During working hours, all employees are required to be alert, attentive, and capable of performing his/her assigned responsibilities.

(d) Any employee who feels unable to perform his/her duties shall promptly notify a supervisor. In the event that an employee believes that another employee is unable to perform his/her duties, such observations and/or belief shall be promptly reported to a supervisor.

1032.3 SUPERVISOR RESPONSIBILITIES

(a) A supervisor observing an employee, or receiving a report of an employee who is perceived to be, unable to safely perform his/her duties due to a physical or mental condition shall take prompt and appropriate action in an effort to resolve the situation.

(b) Whenever feasible, the supervisor should attempt to ascertain the reason or source of the problem and in all cases a preliminary evaluation should be made in an effort to determine the level of inability of the employee to perform his/her duties.

(c) In the event the employee appears to be in need of immediate medical or psychiatric treatment, all reasonable efforts should be made to provide such care.

(d) In conjunction with the Shift Supervisor or employee's available Chief of Police, a determination should be made whether or not the employee should be temporarily relieved from his/her duties.

(e) The Chief of Police shall be promptly notified in the event that any employee is relieved from duty.

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1032.4 NON-WORK RELATED CONDITIONS

Any employee suffering from a non-work related condition which warrants a temporary relief from duty may be required to use sick leave or other paid time off (PTO) in order to obtain medical treatment or other reasonable rest period.

1032.5 WORK RELATED CONDITIONS

Any employee suffering from a work related condition which warrants a temporary relief from duty shall be required to comply with personnel rules and guidelines for processing such claims.

Upon the recommendation of the Shift Supervisor or unit supervisor and concurrence of a Chief of Police, any employee whose actions or use of force in an official capacity result in death or serious injury to another may be temporarily removed from regularly assigned duties and/or placed on paid administrative leave for the wellbeing of the employee and until such time as the following may be completed:

(a) A preliminary determination that the employee's conduct appears to be in compliance with policy and, if appropriate.

(b) The employee has had the opportunity to receive necessary counseling and/or psychological clearance to return to full duty.

1032.6 PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS

(a) Whenever circumstances reasonably indicate that an employee is unfit for duty, the Chief of Police may serve that employee with a written order to undergo a physical and/or psychological examination in cooperation with Personnel Department 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.

(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.

1032.7 LIMITATION ON HOURS WORKED

Absent emergency operations members should not work more than:

- 16 hours in one day (24 hour) period or
- 30 hours in any 2 day (48 hour) period or
- 84 hours in any 7 day (168 hour) period

Except in very limited circumstances members should have a minimum of 8 hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve to off-duty status any member who has exceeded the above guidelines.

Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, general overtime and any other work assignments.

1032.8 APPEALS

An employee who is separated from paid employment or receives a reduction in salary resulting from a fitness for duty examination shall be entitled to an administrative appeal as outlined in the Personnel Complaints Policy.

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Meal Periods and Breaks

1034.1 PURPOSE AND SCOPE

This policy regarding meals and breaks, insofar as possible shall conform to the policy governing all City employees that has been established by the City Manager.

1034.1.1 MEAL PERIODS

Sworn employees and dispatchers shall remain on duty subject to call during meal breaks. All other employees are not on call during meal breaks unless directed otherwise by a supervisor.

Uniformed patrol and traffic officers shall request clearance from Dispatch prior to taking a meal period. Uniformed officers shall take their breaks within the City limits unless approved by a supervisor or on assignment outside of the City.

The time spent for the meal period shall not exceed the authorized time allowed.

1034.1.2 15 MINUTE BREAKS

Each employee is entitled to a 15 minute break, near the mid point, for each four-hour work period. Only one 15 minute break shall be taken during each four hours of duty. 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 Dispatch.

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Lactation Break Policy

1035.1 PURPOSE AND SCOPE

The purpose of this policy is to provide reasonable accommodations to employees desiring to express breast milk for the employee's infant child (Labor Code § 1034).

1035.2 POLICY

It is the policy of this department to provide, in compliance with the Fair Labor Standards Act, reasonable break time and appropriate facilities to accommodate any employee desiring to express breast milk for her nursing infant child (29 USC § 207; Labor Code § 1030).

1035.3 LACTATION BREAK TIME

A rest period should be permitted each time the employee has the need to express breast milk (29 USC § 207; 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 Dispatch or a supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt department operations (Labor Code § 1032).

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

1035.4 PRIVATE LOCATION

The Department will make reasonable efforts to accommodate employees with the use of an appropriate room or other location to express milk in private. Such room or place should be in close proximity to the employee's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view and free from intrusion from co-workers and the public (29 USC § 207; Labor Code § 1031).

Employees occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other employees should avoid interrupting an employee during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.

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1035.5 STORAGE OF EXPRESSED MILK

Any employee storing expressed milk in any authorized refrigerated area within the Department shall clearly label it as such and shall remove it when the employee ends her shift.

1035.5.1 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).

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Payroll Records

1036.1 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.

1036.2 POLICY

The Clayton Police Department maintains timely and accurate payroll records.

1036.3 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.

1036.4 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 Administration as established by the City payroll procedures.

1036.5 RECORDS

The Administration Chief of Police 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).

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Overtime Compensation Requests

1038.1 PURPOSE AND SCOPE

It is the policy of the Department to compensate non-exempt salaried employees who work authorized overtime either by payment of wages as agreed and in effect through the Memorandum of Understanding (MOU), or by the allowance of accrual of compensatory time off. In order to qualify for either, the employee must complete and submit a Request for Overtime Payment as soon as practical after overtime is worked.

1038.1.1 DEPARTMENT POLICY

Because of the nature of police work, and the specific needs of the Department, a degree of flexibility concerning overtime policies must be maintained.

Non-exempt employees are not authorized to volunteer work time to the Department. All requests to work overtime shall be approved in advance by a supervisor. If circumstances do not permit prior approval, then approval shall be sought as soon as practical during the overtime shift and in no case later than the end of shift in which the overtime is worked.

Short periods of work at the end of the normal duty day (e.g., less than one hour in duration) may be handled unofficially between the supervisor and the employee by flexing a subsequent shift schedule to compensate for the time worked rather than by submitting requests for overtime payments. If the supervisor authorizes or directs the employee to complete a form for such a period, the employee shall comply.

The individual employee may request compensatory time in lieu of receiving overtime payment, however, the employee may not exceed 150 hours of compensatory time.

1038.2 REQUEST FOR OVERTIME COMPENSATION

Employees shall submit all overtime compensation requests to their immediate supervisors as soon as practicable for verification and forwarding to the Administration Division.

Failure to submit a request for overtime compensation in a timely manner may result in discipline.

1038.2.1 EMPLOYEES RESPONSIBILITY

Employees shall complete the requests immediately after working the overtime and turn them in to their immediate supervisor or the Shift Supervisor. Employees submitting overtime cards for on-call pay when off duty shall submit cards to the Shift Supervisor the first day after returning for work.

1038.2.2 SUPERVISORS RESPONSIBILITY

The supervisor who verifies the overtime earned shall verify that the overtime was worked before approving the request.

After the entry has been made on the employee's time card, the overtime payment request form is forwarded to the employee's Chief of Police for final approval.

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1038.3 ACCOUNTING FOR OVERTIME WORKED

Employees are to record the actual time worked in an overtime status. In some cases, the Memorandum of Understanding provides that a minimum number of hours will be paid, (e.g., two hours for Court, four hours for outside overtime). The supervisor will enter the actual time worked.

1038.3.1 ACCOUNTING FOR PORTIONS OF AN HOUR

When accounting for less than a full hour, time worked shall be rounded up to the nearest quarter of an hour as indicated by the following chart:

TIME WORKED	INDICATE ON CARD
1 to 15 minutes	.25
16 to 30 minutes	.50
31 to 45 minutes	.75
46 to 60 minutes	1 hour

1038.3.2 VARIATION IN TIME REPORTED

Where two or more employees are assigned to the same activity, case, or court trial and the amount of time for which payment is requested varies from that reported by the other officer, the Shift Supervisor or other approving supervisor may require each employee to include the reason for the variation on the back of the overtime payment request.

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Outside Employment

1040.1 PURPOSE AND SCOPE

In order to avoid actual or perceived conflicts of interest for departmental employees engaging in outside employment, all employees shall obtain written approval from the Chief of Police prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the Chief of Police in accordance with the provisions of this policy.

1040.1.1 DEFINITIONS

Outside Employment - Any member of this department who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this department for services, product(s) or benefits rendered. For purposes of this section, the definition of outside employment includes those employees who are self-employed and not affiliated directly with this department for services, product(s) or benefits rendered.

Outside Overtime - Any member of this department who performs duties or services on behalf of an outside organization, company, or individual within this jurisdiction. Such outside overtime shall be requested and scheduled directly through this department so that the Department may be reimbursed for the cost of wages and benefits.

1040.2 OBTAINING APPROVAL

No member of this department may engage in any outside employment without first obtaining prior written approval of the Chief of Police. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy may lead to disciplinary action.

In order to obtain approval for outside employment, the employee must complete an Outside Employment Application which shall be submitted to the employee's immediate supervisor. The application will then be forwarded through channels to the Chief of Police for consideration.

If approved, the employee will be provided with a copy of the approved permit. Unless otherwise indicated in writing on the approved permit, a permit will be valid through the end of the calendar year in which the permit is approved. Any employee seeking to renew a permit shall submit a new Outside Employment Application in a timely manner.

Any employee seeking approval of outside employment, whose request has been denied, shall be provided with a written reason for the denial of the application at the time of the denial (Penal Code § 70(e)(3)).

1040.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

If an employee's Outside Employment Application is denied or withdrawn by the Department, the employee may file a written notice of appeal to the Chief of Police within ten days of the date of denial.

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If the employee's appeal is denied, the employee may file a grievance pursuant to the procedure set forth in the current Memorandum of Understanding (MOU).

1040.2.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT PERMITS
Any outside employment permit may be revoked or suspended under the following circumstances:

(a) Should an employee's performance at this department decline to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of competency, the Chief of Police may, at his or her discretion, revoke any previously approved outside employment permit(s). That revocation will stand until the employee's performance has been reestablished at a satisfactory level and his/her supervisor recommends reinstatement of the outside employment permit

(b) Suspension or revocation of a previously approved outside employment permit may be included as a term or condition of sustained discipline

(c) If, at any time during the term of a valid outside employment permit, an employee's conduct or outside employment conflicts with the provisions of department policy, the permit may be suspended or revoked

(d) When an employee is unable to perform at a full duty capacity due to an injury or other condition, any previously approved outside employment permit may be subject to similar restrictions as those applicable to the employee's full time duties until the employee has returned to a full duty status

1040.3 PROHIBITED OUTSIDE EMPLOYMENT
Consistent with the provisions of Government Code § 1126, the Department expressly reserves the right to deny any Outside Employment Application submitted by an employee seeking to engage in any activity which:

(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

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1040.3.1 OUTSIDE SECURITY AND PEACE OFFICER EMPLOYMENT

Consistent with the provisions of Penal Code § 70, and because it would further create a potential conflict of interest, no member of this department may engage in any outside or secondary employment as a private security guard, private investigator or other similar private security position.

Any private organization, entity or individual seeking special services for security or traffic control from members of this department must submit a written request to the Chief of Police in advance of the desired service. Such outside extra duty overtime assignments will be assigned, monitored and paid through the Department.

(a) The applicant will be required to enter into an indemnification agreement prior to approval.

(b) The applicant will further be required to provide for the compensation and full benefits of all employees requested for such outside security services.

(c) Should such a request be approved, any employee working outside overtime shall be subject to the following conditions:

1. The officer(s) shall wear the departmental uniform/identification.
2. The officer(s) shall be subject to the rules and regulations of this department.
3. No officer may engage in such outside employment during or at the site of a strike, lockout, picket, or other physical demonstration of a labor dispute.
4. Compensation for such approved outside security services shall be pursuant to normal overtime procedures.
5. Outside security services shall not be subject to the collective bargaining process.
6. No officer may engage in outside employment as a peace officer for any other public agency without prior written authorization of the Chief of Police.

1040.3.2 OUTSIDE OVERTIME ARREST AND REPORTING PROCEDURE

Any employee making an arrest or taking other official police action while working in an approved outside overtime assignment shall be required to complete all related reports in a timely manner pursuant to department policy. Time spent on the completion of such reports shall be considered incidental to the outside overtime assignment.

1040.3.3 SPECIAL RESTRICTIONS

Except for emergency situations or with prior authorization from the Division Commander, undercover officers or officers assigned to covert operations shall not be eligible to work overtime or other assignments in a uniformed or other capacity which might reasonably disclose the officer's law enforcement status.

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1040.4 DEPARTMENT RESOURCES

Employees are prohibited from using any department equipment or resources in the course of or for the benefit of any outside employment. This shall include the prohibition of access to official records or databases of this department or other agencies through the use of the employee's position with this department.

1040.4.1 REVIEW OF FINANCIAL RECORDS

Employees approved for outside employment expressly agree that their personal financial records may be requested and reviewed/audited for potential conflict of interest (Government Code § 3308; Government Code § 1126). Prior to providing written approval for an outside employment position, the Department may request that an employee provide his/her personal financial records for review/audit in order to determine whether a conflict of interest exists. Failure of the employee to provide the requested personal financial records could result in denial of the off-duty work permit. If, after approving a request for an outside employment position, the Department becomes concerned that a conflict of interest exists based on a financial reason, the Department may request that the employee provide his/her personal financial records for review/audit. If the employee elects not to provide the requested records, his/her off-duty work permit may be revoked pursuant to the Revocation/Suspension of Outside Employment Permits section of this policy.

1040.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS

If an employee terminates his or her outside employment during the period of a valid permit, the employee shall promptly submit written notification of such termination to the Chief of Police through channels. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing to the Chief of Police any material changes in outside employment including any change in the number of hours, type of duties, or demands of any approved outside employment. Employees who are uncertain whether a change in outside employment is material are advised to report the change.

1040.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY

Department members engaged in outside employment who are placed on disability leave or modified/light-duty shall inform their immediate supervisor in writing within five days whether or not they intend to continue to engage in such outside employment while on such leave or light-duty status. The immediate supervisor shall review the duties of the outside employment along 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:

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(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 Clayton Police Department, a request (in writing) may be made to the Chief of Police to restore the permit.

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Occupational Disease and Work-Related Injury Reporting

1042.1 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.

1042.1.1 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.).

1042.2 POLICY

The Clayton 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.).

1042.3 RESPONSIBILITIES

1042.3.1 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).

1042.3.2 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.

1042.3.3 CHIEF OF POLICE RESPONSIBILITIES

The Chief of Police 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 Administration Chief of Police 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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1042.3.4 CHIEF OF POLICE RESPONSIBILITIES

The Chief of Police shall review and forward copies of the report to the Personnel Department. Copies of the report and related documents retained by the Department shall be filed in the member's confidential medical file.

1042.4 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 Chief of Police through the chain of command and a copy sent to the Administration Chief of Police.

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.

1042.5 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.

1042.5.1 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.

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Personal Appearance Standards

1044.1 PURPOSE AND SCOPE

In order to project uniformity and neutrality toward the public and other members of the department, employees shall maintain their personal hygiene and appearance to project a professional image appropriate for this department and for their assignment.

1044.2 GROOMING STANDARDS

Unless otherwise stated and because deviations from these standards could present officer safety issues, the following appearance standards shall apply to all employees, except those whose current assignment would deem them not appropriate, and where the Chief of Police has granted exception.

1044.2.1 HAIR

Hairstyles of all members shall be neat in appearance. For male sworn members, hair must not extend below the top edge of the uniform collar while assuming a normal stance.

For female sworn members, hair must be no longer than the horizontal level of the bottom of the uniform patch when the employee is standing erect, worn up or in a tightly wrapped braid or ponytail.

1044.2.2 MUSTACHES AND GOATEES

Short and neatly trimmed mustaches and goatees may be worn. Mustaches and goatees shall be neatly styled and groomed at all times. Mustaches shall not extend below the corners of the mouth by more than 1/2" and will not extend below the lower lip. Goatees shall not exceed 3/8" in equal length.

1044.2.3 SIDEBURNS

Sideburns shall not extend below the bottom of the outer ear opening (the top of the earlobes) and shall be trimmed and neat.

1044.2.4 FACIAL HAIR

Facial hair other than sideburns, mustaches, goatees, and eyebrows, shall not be worn unless authorized by the Chief of Police or his or her designee.

1044.2.5 FINGERNAILS

Fingernails extending beyond the tip of the finger can pose a safety hazard to officers or others. For this reason, fingernails shall be trimmed so that no point of the nail extends beyond the tip of the finger.

1044.2.6 JEWELRY

For the purpose of this policy, jewelry refers to rings, earrings, necklaces, bracelets, wristwatches, and tie tacks or tie bars. Jewelry shall present a professional image and may not create a safety

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concern for the department member or others. Jewelry that depicts racial, sexual, discriminatory, gang-related, or obscene language is not allowed.

(a) Necklaces shall not be visible above the shirt collar.

(b) Earrings shall be small and worn only in or on the earlobe.

(c) One ring or ring set may be worn on each hand of the department member. No rings should be of the type that would cut or pose an unreasonable safety risk to the member or others during a physical altercation, if the member is assigned to a position where that may occur.

(d) One small bracelet, including a bracelet identifying a medical condition, may be worn on one arm.

(e) Wristwatches shall be conservative and present a professional image.

(f) Tie tacks or tie bars worn with civilian attire shall be conservative and present a professional image.

1044.2.7 COSMETICS

The use of facial cosmetics shall be conservative and consistent with the professional image of the department.

There shall be no odors coming from a person, either natural or added, that affects the work environment to the extent that it interferes with the duties of any person.

1044.3 TATTOOS

While on duty or representing the Department in any official capacity, Officers may have visible tattoos on their arms if they are not offensive. Any tattoo located on areas of the body other than the arms must be covered/or concealed.The manner and method of concealment of an unauthorized tattoo shall be subject to the approval or the Chief of Police. At no time while on duty or representing the Department in any official capacity, shall any offensive tattoo or body art be visible (examples of offensive tattoos would include, but not be limited to those which depict racial, sexual, discriminatory, gang related, or obscene language, either in words,images or symbols).

1044.4 BODY PIERCING OR ALTERATION

Body piercing or alteration to any area of the body visible in any authorized uniform or attire that is a deviation from normal anatomical features and which is not medically required is prohibited. Such body alteration includes, but is not limited to:

(a) Tongue splitting or piercing.

(b) The complete or transdermal implantation of any material other than hair replacement.

(c) Abnormal shaping of the ears, eyes, nose or teeth

(d) Branding or scarification.

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1044.5 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). 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 should 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.

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Uniform Regulations

1046.1 PURPOSE AND SCOPE

The uniform policy of the Clayton 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

The Uniform and Equipment Specifications manual is maintained and periodically updated by the Chief of Police or his/her designee. That manual should be consulted regarding authorized equipment and uniform specifications. This manual is attached to this policy. See attachment: Uniform specifications updated.pdf

The Clayton Police Department will provide uniforms for all employees required to wear them in the manner, quantity and frequency agreed upon in the respective employee group's collective bargaining agreement.

1046.2 WEARING AND CONDITION OF UNIFORM AND EQUIPMENT

Police employees wear the uniform to be identified as the law enforcement authority in society. The uniform also serves an equally important purpose to identify the wearer as a source of assistance in an emergency, crisis or other time of need.

(a) Uniform and equipment shall be maintained in a serviceable condition and shall be ready at all times for immediate use. Uniforms shall be neat, clean, and appear professionally pressed.

(b) All peace officers of this department shall possess and maintain at all times, a serviceable uniform and the necessary equipment to perform uniformed field duty.

(c) Personnel shall wear only the uniform specified for their rank and assignment.

(d) The uniform is to be worn in compliance with the specifications set forth in the department's uniform specifications that are maintained separately from this policy.

(e) All supervisors will perform periodic inspections of their personnel to ensure conformance to these regulations.

(f) Civilian attire shall not be worn in combination with any distinguishable part of the uniform.

(g) Uniforms are only to be worn while on duty, while in transit to or from work, for court, or at other official department functions or events.

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(h) If the uniform is worn while in transit, an outer garment shall be worn over the uniform shirt so as not to bring attention to the employee while he/she is off-duty.

(i) Employees are not to purchase or drink alcoholic beverages while wearing any part of the department uniform, including the uniform pants.

(j) Mirrored sunglasses will not be worn with any Department uniform.

(k) Visible jewelry, other than those items listed below, shall not be worn with the uniform unless specifically authorized by the Chief of Police or the authorized designee.

1. Wrist watch
2. Wedding ring(s), class ring, or other ring of tasteful design. A maximum of one ring/set may be worn on each hand
3. Medical alert bracelet

1046.2.1 DEPARTMENT ISSUED IDENTIFICATION

The Department issues each employee an official department identification card bearing the employee's name, identifying information and photo likeness. All employees shall be in possession of their department issued identification card at all times while on duty or when carrying a concealed weapon.

(a) Whenever on duty or acting in an official capacity representing the department, employees shall display their department issued identification in a courteous manner to any person upon request and as soon as practical.

(b) Officers working specialized assignments may be excused from the possession and display requirements when directed by their Chief of Police.

1046.3 UNIFORM CLASSES

1046.3.1 CLASS A UNIFORM

The Class A uniform is to be worn on special occasions such as funerals, graduations, ceremonies, or as directed. The Class A uniform is required for all sworn personnel. The Class A uniform includes the standard issue uniform with:

(a) Long sleeve shirt with tie

(b) Ike Jacket - Optional

(c) Class A uniform hat - Optional

(d) Duty belt with firearm, holster, and a single handcuff case

(e) Polished shoes

Boots with pointed toes are not permitted.

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1046.3.2 CLASS B UNIFORM
All officers will possess and maintain a serviceable Class B uniform at all times.

The Class B uniform will consist of the same garments and equipment as the Class A uniform with the following exceptions:

(a) The long or short sleeve shirt may be worn with the collar open. No tie is required

(b) A navy blue or black crew neck t-shirt must be worn with the uniform

(c) All shirt buttons must remain buttoned except for the last button at the neck

(d) Shoes for the Class B uniform may be as described in the Class A uniform

(e) Approved all black unpolished shoes may be worn

(f) Baseball style cap or campaign style hat may be worn as needed

Boots with pointed toes are not permitted

1046.3.3 CLASS C UNIFORM
The Class C uniform may be established to allow field personnel cooler clothing during the summer months or special duty. The Chief of Police will establish the regulations and conditions for wearing the Class C Uniform and the specifications for the Class C Uniform.

1046.3.4 SPECIALIZED UNIT UNIFORMS
The Chief of Police may authorize special uniforms to be worn by officers in specialized units such as Canine Team, SWAT, Bicycle Patrol, Motor Officers and other specialized assignments.

1046.3.5 FOUL WEATHER GEAR
The Uniform and Equipment Specifications lists the authorized uniform jacket and rain gear.

1046.4 INSIGNIA AND PATCHES

(a) Shoulder Patches - The authorized shoulder patch supplied by the Department shall be machine stitched to the sleeves of all uniform shirts and jackets, three-quarters of an inch below the shoulder seam of the shirt and be bisected by the crease in the sleeve.

(b) Service stripes, stars, etc. - Service stripes and other indicators for length of service may be worn on long sleeved shirts and jackets. They are to be machine stitched onto the uniform. The bottom of the service stripe shall be sewn the width of one and one-half inches above the cuff seam with the rear of the service stripes sewn on the dress of the sleeve. The stripes are to be worn on the left sleeve only.

(c) The regulation nameplate, or an authorized sewn on cloth nameplate, shall be worn at all times while in uniform. The nameplate shall display the employee's first initial and last name. If the employee desires other than the legal first name, the employee must receive approval from the Chief of Police. The nameplate shall be worn and placed

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above the right pocket located in the middle, bisected by the pressed shirt seam, with equal distance from both sides of the nameplate to the outer edge of the pocket.

(d) When a jacket is worn, the nameplate or an authorized sewn on cloth nameplate shall be affixed to the jacket in the same manner as the uniform.

(e) Assignment Insignias - Assignment insignias, (SWAT, FTO, etc.) may be worn as designated by the Chief of Police.

(f) Flag Pin - A flag pin may be worn, centered above the nameplate.

(g) Badge - The department issued badge,, must be worn and visible at all times while in uniform. A cloth embroidered badge may be worn on special events shirts only.

(h) Rank Insignia - The designated insignia indicating the employee's rank must be worn at all times while in uniform. The Chief of Police may authorize exceptions.

1046.4.1 MOURNING BADGE

Uniformed employees shall wear a black mourning band across the uniform badge whenever a law enforcement officer is killed in the line of duty. The following mourning periods will be observed:

(a) An officer of this department - From the time of death until midnight on the 14th day after the death.

(b) An officer from this or an adjacent county - From the time of death until midnight on the day of the funeral.

(c) Funeral attendee - While attending the funeral of an out of region fallen officer.

(d) National Peace Officers Memorial Day (May 15th) - From 0001 hours until 2359 hours.

(e) As directed by the Chief of Police.

1046.5 CIVILIAN ATTIRE

There are assignments within the Department that do not require the wearing of a uniform because recognition and authority are not essential to their function. There are also assignments in which the wearing of civilian attire is necessary.

(a) All employees shall wear clothing that fits properly, is clean and free of stains, and not damaged or excessively worn.

(b) All male administrative, investigative and support personnel who elect to wear civilian clothing to work shall wear button style shirts with a collar, slacks or suits that are moderate in style.

(c) All female administrative, investigative, and support personnel who elect to wear civilian clothes to work shall wear dresses, slacks, shirts, blouses, or suits which are moderate in style.

(d) The following items shall not be worn on duty:

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1. T-shirt alone
2. Open toed sandals or thongs
3. Swimsuit, tube tops, or halter-tops
4. Spandex type pants or see-through clothing
5. Distasteful printed slogans, buttons or pins

(e) Variations from this order are allowed at the discretion of the Chief of Police or designee when the employee's assignment or current task is not conducive to the wearing of such clothing.

(f) No item of civilian attire may be worn on duty that would adversely affect the reputation of the Clayton Police Department or the morale of the employees.

1046.6 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS

Unless specifically authorized by the Chief of Police, Clayton 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 Clayton Police Department to do any of the following (Government Code §§ 3206 and 3302):

(a) Endorse, support, oppose, or contradict any political campaign or initiative.

(b) Endorse, support, oppose, or contradict any social issue, cause, or religion.

(c) Endorse, support, or oppose, any product, service, company or other commercial entity.

(d) Appear in any commercial, social, or non-profit publication, or any motion picture, film, video, public broadcast, or any website.

1046.7 OPTIONAL EQUIPMENT - MAINTENANCE, AND REPLACEMENT

(a) Any of the items listed in the Uniform and Equipment Specifications as optional shall be purchased totally at the expense of the employee. No part of the purchase cost shall be offset by the Department for the cost of providing the Department issued item.

(b) Maintenance of optional items shall be the financial responsibility of the purchasing employee. For example, repairs due to normal wear and tear.

(c) Replacement of items listed in this order as optional shall be done as follows:

1. When the item is no longer functional because of normal wear and tear, the employee bears the full cost of replacement.
2. When the item is no longer functional because of damage in the course of the employee's duties, it shall be replaced following the procedures for the

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replacement of damaged personal property (see the Department Owned and Personal Property Policy).

1046.7.1 RETIREE BADGES

The Chief of Police may issue identification in the form of a badge, insignia, emblem, device, label, certificate, card or writing that clearly states the person has honorably retired from the Clayton 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 Clayton Police Department and will be revoked in the event of misuse or abuse (Penal Code § 538d).

1046.8 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES

Clayton 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.

Clayton 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.

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Police Explorers

1048.1 PURPOSE AND SCOPE

Cadets work under direct supervision, perform a variety of routine and progressively more advanced tasks in an apprenticeship program in preparation for a career in law enforcement.

1048.2 EDUCATION REQUIREMENTS

Cadets are required to maintain a minimum grade point average of 2.0 ("C" grade) for all courses taken. Cadets shall complete six semester units of college course work per semester and senior cadets shall complete 12 units per semester.

1048.3 PROGRAM COORDINATOR

The Training Bureau Manager will serve as the Program Coordinator. This supervisor will be responsible for tracking the educational and job performance of cadets as well as making their individual assignments throughout the Department. He/she will also monitor the training provided for all cadets and review all decisions affecting job assignments,status for compensation, school attendance and performance evaluations.

1048.3.1 PROGRAM ADVISORS

The Program Coordinator may select individual officers to serve as advisors for the Cadet Program. These officers will serve as mentors for each cadet. Cadets will bring special requests, concerns, and suggestions to their program advisor for advice or direction before contacting the Program Coordinator. One advisor may be designated as the Coordinator's assistant to lead scheduled meetings and training sessions involving the cadets. Multiple cadets may be assigned to each program advisor. Program advisors are not intended to circumvent the established chain of command. Any issues that may be a concern of the individual's supervisor should be referred back to the Program Coordinator.

1048.4 ORIENTATION AND TRAINING

Newly hired cadets will receive an orientation of the organization and facilities before reporting to their first assignment. On-the-job training will be conducted in compliance with the Cadet Training Manual. Training sessions will be scheduled as needed to train cadets for as many assignments as possible. In addition to job-specific training, information will be offered to prepare cadets to compete successfully in the police officer selection process, as well as the academy training. All training will focus on improving job performance, as well as preparation to become police officers. These meetings will also offer an opportunity to receive continuous feedback regarding progress of the program.

1048.5 CADET UNIFORMS

Each cadet will be provided two uniforms meeting the specifications described in the Uniform Manual for non-sworn employees.

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1048.6 ROTATION OF ASSIGNMENTS

Rotating job assignments should occur on a regular basis to enhance the career development for each cadet. Department needs and concerns will take precedence over individual considerations with the final decision resting with the Training Bureau Manager.

In general, senior cadets will be assigned to positions requiring more technical skill or responsibility, as well as serving to train cadets for new assignments or those newly hired.

1048.7 RIDE-ALONG PROCEDURES

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 Shift Supervisor. Applicable waivers must be signed in advance of the ride-along. Cadets shall wear their uniform while participating on a ride-along.

1048.8 PERFORMANCE EVALUATIONS

Performance evaluations for all cadets shall be completed monthly during their first year on probation. Upon successful completion of probation, cadets and senior cadets will be evaluated on a yearly basis to assess their current job performance and their potential as police officers.

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Nepotism and Conflicting Relationships

1050.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure equal opportunity and effective employment practices by avoiding actual or perceived favoritism, discrimination or actual or potential conflicts of interest by or between members of this department. These employment practices include: recruiting, testing, hiring, compensation, assignment, use of facilities, access to training opportunities, supervision, performance appraisal, discipline and workplace safety and security.

1050.1.1 DEFINITIONS

Business relationship - Serving as an employee, independent contractor, compensated consultant, owner, board member, shareholder, or investor in an outside business, company, partnership, corporation, venture or other transaction, where the Department employee's annual interest, compensation, investment or obligation is greater than $250.

Conflict of interest - Any actual, perceived or potential conflict of interest in which it reasonably appears that a department employee's action, inaction or decisions are or may be influenced by the employee's personal or business relationship.

Nepotism - The practice of showing favoritism to relatives over others in appointment, employment, promotion or advancement by any public official in a position to influence these personnel decisions.

Personal relationship - Includes marriage, cohabitation, dating or any other intimate relationship beyond mere friendship.

Public official - A supervisor, officer or employee vested with authority by law, rule or regulation or to whom authority has been delegated.

Relative - An employee's parent, stepparent, spouse, domestic partner, significant other, child (natural, adopted or step), sibling or grandparent.

Subordinate - An employee who is subject to the temporary or ongoing direct or indirect authority of a supervisor.

Supervisor - An employee who has temporary or ongoing direct or indirect authority over the actions, decisions, evaluation and/or performance of a subordinate employee.

1050.2 RESTRICTED DUTIES AND ASSIGNMENTS

The Department will not prohibit all personal or business relationships between employees. However, in order to avoid nepotism or other inappropriate conflicts, the following reasonable restrictions shall apply (Government Code § 12940):

(a) 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.

1050.2.1 EMPLOYEE RESPONSIBILITY

Prior to entering into any personal or business relationship or other circumstance which the employee knows or reasonably should know could create a conflict of interest or other violation of this policy, the employee shall promptly notify his/her uninvolved, next highest level of supervisor.

Whenever any employee is placed in circumstances that would require the employee to take enforcement action or provide official information or services to any relative or individual with whom the employee is involved in a personal or business relationship, the employee shall promptly notify his/her uninvolved, immediate supervisor. In the event that no uninvolved supervisor is immediately available, the employee shall promptly notify dispatch to have another uninvolved employee either relieve the involved employee or minimally remain present to witness the action.

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1050.2.2 SUPERVISOR'S RESPONSIBILITY

Upon being notified of, or otherwise becoming aware of any circumstance that could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps to promptly mitigate or avoid such violations whenever possible. Supervisors shall also promptly notify the Chief of Police of such actual or potential violations through the chain of command.

1050.2.3 CITY PERSONNEL RULES

In the event of any conflict between this policy and City Personnel Rules regarding anti-fraternization policies, as outlined in City Council Resolution 04-2010, City personnel rules shall prevail except in cases where the departmental policy is more restrictive.

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Department Badges

1052.1 PURPOSE AND SCOPE

The Clayton Police Department badge and uniform patch as well as the likeness of these items and the name of the Clayton Police Department are property of the Department and their use shall be restricted as set forth in this policy.

1052.2 POLICY

The uniform badge shall be issued to department members as a symbol of authority and the use and display of departmental badges shall be in strict compliance with this policy. Only authorized badges issued by this department shall be displayed, carried or worn by members while on duty or otherwise acting in an official or authorized capacity.

1052.2.1 FLAT BADGE

Sworn officers, with the written approval of the Chief of Police may purchase, at his/her own expense, a flat badge capable of being carried in a wallet. The use of the flat badge is subject to all the same provisions of departmental policy as the uniform badge.

(a) An officer may sell, exchange, or transfer the flat badge he/she purchased to another officer within the Clayton 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.

1052.2.2 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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1052.2.3 RETIREE UNIFORM BADGE
Upon honorable retirement employees may purchase his/her assigned duty badge for display purposes. It is intended that the duty badge be used only as private memorabilia as other uses of the badge may be unlawful or in violation of this policy.

1052.3 UNAUTHORIZED USE

Except as required for on-duty use by current employees, no badge designed for carry or display in a wallet, badge case or similar holder shall be issued to anyone other than a current or honorably retired peace officer.

Department badges are issued to all sworn employees and 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.

1052.4 PERMITTED USE BY EMPLOYEE GROUPS

The likeness of the department badge shall not be used without the expressed authorization of the Chief of Police and shall be subject to the following:

(a) The employee associations may use the likeness of the department badge for merchandise and official association business provided they are used in a clear representation of the association and not the Clayton 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.

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Temporary Modified-Duty Assignments

1054.1 PURPOSE AND SCOPE

This policy establishes procedures for providing temporary modified-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.

1054.2 POLICY

Subject to operational considerations, the Clayton Police Department may identify temporary modified-duty assignments for employees who have an injury or medical condition resulting in temporary work limitations or restrictions. A temporary assignment allows the employee to work, while providing the Department with a productive employee during the temporary period.

1054.3 GENERAL CONSIDERATIONS

Priority consideration for temporary modified-duty assignments will be given to employees with work-related injuries or illnesses that are temporary in nature. Employees having disabilities covered under the Americans with Disabilities Act (ADA) or the California Fair Employment and Housing Act (Government Code § 12940 et seq.) shall be treated equally, without regard to any preference for a work-related injury.

No position in the Clayton Police Department shall be created or maintained as a temporary modified-duty assignment.

Temporary modified-duty assignments are a management prerogative and not an employee right. The availability of temporary modified-duty assignments will be determined on a case-by-case basis, consistent with the operational needs of the Department. Temporary modified-duty assignments are subject to continuous reassessment, with consideration given to operational needs and the employee's ability to perform in a modified-duty assignment.

The Chief of Police or the authorized designee may restrict employees working in temporary modified-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.

Temporary modified-duty assignments shall generally not exceed a cumulative total of 1,040 hours in any one-year period.

1054.4 PROCEDURE

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.

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Employees seeking a temporary modified-duty assignment should submit a written request to their Chief of Polices or the authorized designees. The request should, as applicable, include a certification from the treating medical professional containing:

(a) An assessment of the nature and probable duration of the illness or injury.

(b) The prognosis for recovery.

(c) The nature and scope of limitations and/or work restrictions.

(d) A statement regarding any required workplace accommodations, mobility aids or medical devices.

(e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

The Chief of Police will make a recommendation through the chain of command to the Chief of Police regarding temporary modified-duty assignments that may be available based on the needs of the Department and the limitations of the employee. The Chief of Police or the authorized designee shall confer with the Personnel Department or the City Attorney as appropriate.

Requests for a temporary modified-duty assignment of 20 hours or less per week may be approved and facilitated by the Shift Supervisor or Chief of Police, with notice to the Chief of Police.

1054.5 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 Chief of Police.

1054.5.1 EMPLOYEE RESPONSIBILITIES

The responsibilities of employees assigned to temporary modified duty shall include, but not be limited to:

(a) Communicating and coordinating any required medical and physical therapy appointments in advance with their supervisors.

(b) Promptly notifying their supervisors of any change in restrictions or limitations after each appointment with their treating medical professionals.

(c) Communicating a status update to their supervisors no less than once every 30 days while assigned to temporary modified duty.

(d) Submitting a written status report to the Chief of Police that contains a status update and anticipated date of return to full-duty when a temporary modified-duty assignment extends beyond 60 days.

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1054.5.2 SUPERVISOR RESPONSIBILITIES
The employee's immediate supervisor shall monitor and manage the work schedule of those assigned to temporary modified duty.

The responsibilities of supervisors shall include, but not be limited to:

(a) Periodically apprising the Chief of Police of the status and performance of employees assigned to temporary modified duty.

(b) Notifying the Chief of Police 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.

1054.6 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.

1054.7 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)). A pregnant employee shall not be involuntarily transferred to a temporary modified-duty assignment. Nothing in this policy limits a pregnant employee's right to a temporary modified-duty assignment if required under Government Code § 12945.

1054.7.1 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.

1054.8 PROBATIONARY EMPLOYEES
Probationary employees who are assigned to a temporary modified-duty assignment shall have their probation extended by a period of time equal to their assignment to temporary modified duty.

1054.9 MAINTENANCE OF CERTIFICATION AND TRAINING
Employees assigned to temporary modified duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided that the certification, training or qualifications are not in conflict with any medical limitations or restrictions. Employees

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who are assigned to temporary modified duty shall inform their supervisors of any inability to maintain any certification, training or qualifications.

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Employee Speech, Expression and Social Networking

1058.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with employee use of social networking sites and to provide guidelines for the regulation and balancing of employee speech and expression with the needs of the Department.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected or privileged under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws. For example, this policy does not limit an employee from speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, about matters of public concern, such as misconduct or corruption.

Employees are encouraged to consult with their supervisor regarding any questions arising from the application or potential application of this policy.

1058.1.1 APPLICABILITY

This policy applies to all forms of communication including but not limited to film, video, print media, public or private speech, use of all internet services, including the World Wide Web, e-mail, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, video, and other file-sharing sites.

1058.2 POLICY

Public employees occupy a trusted position in the community, and thus, their statements have the potential to contravene the policies and performance of this department. Due to the nature of the work and influence associated with the law enforcement profession, it is necessary that employees of this department be subject to certain reasonable limitations on their speech and expression. To achieve its mission and efficiently provide service to the public, the Clayton Police Department will carefully balance the individual employee’s rights against the Department’s needs and interests when exercising a reasonable degree of control over its employees’ speech and expression.

1058.3 SAFETY

Employees should consider carefully the implications of their speech or any other form of expression when using the internet. Speech and expression that may negatively affect the safety of the Clayton 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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- Disclosing a photograph and name or address of an officer who is working undercover.
- Disclosing the address of a fellow officer.
- Otherwise disclosing where another officer can be located off-duty.

1058.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT

To meet the department's safety, performance and public-trust needs, the following are prohibited unless the speech is otherwise protected (for example, an employee speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, on a matter of public concern):

(a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation or professionalism of the Clayton 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 Clayton Police Department and tends to compromise or damage the mission, function, reputation or professionalism of the Clayton 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 Clayton 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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(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 Clayton Police Department on any personal or social networking or other website or web page, without the express authorization of the Chief of Police.

(h) Accessing websites for non-authorized purposes, or use of any personal communication device, game device or media device, whether personally or department-owned, for personal purposes while on-duty, except in the following circumstances:

1. When brief personal communication may be warranted by the circumstances (e.g., inform family of extended hours).
2. During authorized breaks such usage should be limited as much as practicable to areas out of sight and sound of the public and shall not be disruptive to the work environment.

Employees must take reasonable and prompt action to remove any content, including content posted by others, that is in violation of this policy from any web page or website maintained by the employee (e.g., social or personal website).

1058.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

While employees are not restricted from engaging in the following activities as private citizens or as authorized members of a recognized bargaining unit or officer associations, employees may not represent the Clayton Police Department or identify themselves in any way that could be reasonably perceived as representing the Clayton 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 Clayton 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

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bargaining unit or officer associations, on political subjects and candidates at all times while off-duty.

However, employees may not use their official authority or influence to interfere with or affect the result of an election or a nomination for office. Employees are also prohibited from directly or indirectly using their official authority to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes (5 USC § 1502).

1058.5 PRIVACY EXPECTATION

Employees forfeit any expectation of privacy with regard to e-mails, texts, or anything published or maintained through file-sharing software or any internet site (e.g., Facebook) 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).

1058.6 CONSIDERATIONS

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Chief of Police or authorized designee should consider include:

(a) Whether the speech or conduct would negatively affect the efficiency of delivering public services.

(b) Whether the speech or conduct would be contrary to the good order of the Department or the efficiency or morale of its members.

(c) Whether the speech or conduct would reflect unfavorably upon the Department.

(d) Whether the speech or conduct would negatively affect the member's appearance of impartiality in the performance of his/her duties.

(e) Whether similar speech or conduct has been previously authorized.

(f) Whether the speech or conduct may be protected and outweighs any interest of the Department.

1058.7 TRAINING

Subject to available resources, the Department should provide training regarding employee speech and the use of social networking to all members of the Department.

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Performance History Audits

1059.1 PURPOSE AND SCOPE

Performance History Audits are collections of data designed to assist supervisors evaluating the performance of their employees. Performance History Audits can help identify commendable performance as well as early recognition of training needs and other potential issues. While it is understood that the statistical compilation of data may be helpful to supervisors, it cannot account for, and must be carefully balanced with the many variables in law enforcement such as:

- An officer's ability to detect crime.
- An officer's work ethic.
- An officer's work assignment and shift.
- An officer's physical abilities, stature, etc.
- Randomness of events.

1059.2 RESPONSIBILITIES

Under the authority of the Chief of Police, the Professional Standards Unit is responsible for collecting performance indicators and other relevant data to generate and provide a quarterly Performance History Audit Report for each officer to the appropriate Chief of Police. Though generated quarterly, each Performance History Audit will contain data from a one-year time period.

The Chief of Police will also forward a copy of each Performance History Audit Report to the Office of the City Attorney for review and retention as attorney work product and confidential personnel information.

1059.3 COMPONENTS OF PERFORMANCE HISTORY AUDITS

Performance History Audits will include the following components:

- Performance indicators
- Data analysis
- Employee review
- Follow-up monitoring

1059.4 PERFORMANCE INDICATORS

Performance indicators represent the categories of employee performance activity that the Chief of Police of Clayton Police Department has determined may be relevant data for the generation and analysis of Performance History Audits. Performance indicators may include but are not limited to:

(a) The frequency and findings of use of force incidents.

(b) Frequency of involvement and conduct during vehicle pursuits.

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(c) Frequency and findings of citizen complaints.

(d) Number of commendations, compliments and awards (citizen and Department).

(e) Claims and civil suits related to the employee's actions or alleged actions.

(f) Canine bite incidents.

(g) Internal Affairs investigations.

(h) Frequency and reasons for District Attorney case rejections.

(i) Intentional or accidental firearm discharges (regardless of injury).

(j) Vehicle collisions.

(k) Missed court appearances.

(l) Documented counseling memos.

1059.5 COMPILATION OF DATA

The Professional Standards Unit will utilize secure systems and other confidential methods to compile and track information regarding performance indicators for each officer during each quarter in order to prepare Performance History Audit Reports.

1059.6 EMPLOYEE NOTIFICATION AND RESPONSE

The Professional Standards Unit will notify each officer prior to retaining any performance indicator for entry into a Performance History Audit Report. The affected officer may submit a written comment within 10 days regarding each performance indicator. Any such written comment will be attached to the related performance indicator in such a way as to be readily noticed by supervisors reviewing a Performance History Audit Report.

1059.7 DATA ANALYSIS AND ACTION

Upon receipt, the Chief of Police will review each Performance History Audit Report and determine whether it should be provided to an officer's immediate supervisor for further consideration. The officer's immediate supervisor will carefully review the Performance History Audit Report with the officer to assess any potential trends or other issues which may warrant informal counseling, additional training or a recommendation for other action, including discipline. The officer shall date and sign the Performance History Audit Report and may be provided a copy of the report upon request.

If a supervisor determines that an officer's performance warrants action beyond informal counseling, the supervisor shall advise the Chief of Police of such recommendation. If the Chief of Police concurs with the recommendation of the supervisor, he/she shall take steps to initiate the appropriate action.

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If discipline or other adverse action is initiated against an officer as a result of a Performance History Audit, the officer shall be entitled to all rights and processes set forth in the Personnel Complaints Policy.

1059.8 CONFIDENTIALITY OF DATA

Information, data and copies of material compiled to develop Performance History Audit Reports shall be considered confidential as part of the employee's personnel file and will not be subject to discovery or release except as provided by law. Access to the data in the system will be governed under the same process as access to an officer's personnel file as outlined in the Department Peace Officer Personnel Files Policy.

1059.9 RETENTION AND PURGING

Except as incorporated in separate training or disciplinary records, all performance indicators and Performance History Audit Reports shall be purged from the Professional Standards Unit and all other locations within the Department one year from the date generated. The City Attorney however, shall retain a copy of Performance History Audit Reports for an additional one year period as attorney work product.

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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 Clayton 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 Clayton 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 Administration Chief of Police 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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(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 ADMINISTRATION CHIEF OF POLICE RESPONSIBILITIES

The responsibilities of the Administration Chief of Police 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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(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 Administration Chief of Police.

(e) Notifying the Administration Chief of Police 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 Administration Chief of Police via the chain of command.

The Administration Chief of Police 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 Administration Chief of Police 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 Administration Chief of Police should work with the Training Sergeant 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 Sergeant 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/stretches 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.

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Line-of-Duty Deaths

1061.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of the Clayton 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.

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.

1061.2 POLICY

It is the policy of the Clayton 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.

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 Shift Supervisor and Dispatch.

  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 Shift Supervisor should ensure that notifications are made in accordance with the Officer-Involved Shootings and Deaths and Major Incident Notification policies as applicable.

(c) If the member has been transported to the hospital, the Shift Supervisor 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

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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

Survivors should be notified as soon as possible in order to avoid the survivors hearing about the incident in other ways.

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, Shift Supervisor or the authorized designee should select at least two members to conduct notification of survivors, one of which may be the Department Chaplain.

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.

(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.

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(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 Clayton 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.

Supervisors should direct members not to disclose any information outside the Department regarding the deceased member or the incident.

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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 Chief of Police 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.

(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.

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(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 Clayton 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.

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 Chief of Police. The following should be considered when selecting the Survivor Support Liaison:

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- 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.

(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.

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(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.

(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.

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(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 Clayton Police Department members can attend funeral services as possible.

The mutual aid coordinator should perform his/her duties in accordance with the Mutual Aid and Outside Agency Assistance Policy.

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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.

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:

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(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 PUBLIC 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.

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.

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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.

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Attachments

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Uniform specifications updated.pdf

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CLAYTON POLICE DEPARTMENT UNIFORM SPECIFICATIONS EFFECTIVE 05/27/2020

Class A Uniforms

Ike Jacket – Flying Cross – 32189 100% wool – LAPD Blue **(optional)**

Wool Pant – Flying Cross – 32289 100% wool – LAPD Blue

Long Sleeves Shirt- Flying Cross – 100% wool – LAPD Blue

Mens – 20W9586

Womens – 120W9586

Tie-Black Clip-on

Class B Uniforms

Pants

5.11 STRYKE® PDU®CLASS-B CARGO PANT – Midnight Navy

5.11 STRYKE™ CLASS-A PDU® PANT – Midnight Navy

5.11 TWILL PDU® CARGO CLASS-B PANT – Midnight Navy
Flying Cross – LAPD Wash and Wear 100% Polyester

Mens – 32221

Womens – 35233

Shorts: (Seasonal – May-October unless authorized by Chief of Police)

5.11 STRYKE 11" short – 73327 – Dark Navy (STRYKE PDU uniform)

5.11 TACLITE PRO 11' short – 73308 – Dark Navy (Twill PDU uniform)

Shirts:

5.11 STRYKE™ CLASS-B PDU® LONG SLEEVE SHIRT/SHORT SLEEVE SHIRT – Midnight Navy

5.11 STRYKE™ CLASS-A PDU® LONG SLEEVE/SHORT SLEEVE SHIRT – Midnight Navy

5.11 TWILL PDU TWILL PDU® CLASS-B LONG SLEEVE/SHORT SLEEVE SHIRT – Midnight Navy

Flying Cross- Wash and Wear Poly Rayon – LAPD Blue

Mens – short sleeve 98R6686, long sleeve 48W6686

Womens – short sleeve 254R6686, long sleeve 204W6686

Footwear:

Black police boots with black laces & black soles

Black shoes with black laces & black soles

- When worn with shorts, shoes must be less than or equal to 6" tall and worn with black socks

Duty Jacket:

Flying Cross – Black Waterproof, 59131WP

BELTS/ DUTY GEAR:

Black Basket weave finish
Nickle/Silver finish for Officers
Brass finish for Sergeants

EXTERNAL VEST CARRIERS

Blauer ArmorSkin System with base shirt, style/color to match approved shirts

Bluestone Custom Load Bearing Vest (BCE-Custom or BCE-Custom-Half-Molle)

SPECIAL EVENT UNIFORMS:

Blauer Colorblock Performance Polo – Dark Navy with Hi-Vis Yellow, #8133, with embroidered cloth badge and 5.11 approved pants or patrol shorts.

ADMINISTRATIVE STAFF UNIFORMS

Shirts:

Flying Cross Wash and Wear Poly Rayon -White short or long sleeve Light Blue Polo
with approved embroidered badge

Pants or patrol shorts listed above

NALOXONE PROGRAM DEPLOYMENT (LEOP) FORM.pdf

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CCC LEIFI PROTOCOL MANUAL (2014-2015 VERSION).pdf

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Commission on Peace Officer Standards and Training Hate Crimes Model Policy 2019.pdf

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Hate Crime Checklist.pdf

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HATE CRIME CHECKLIST

VICTIM

Victim Type:

☐ **Individual**
Legal name (Last, First): _____
Other Names used (AKA): _____

☐ **School, business or organization**
Name: _____
Type: _____
(e.g., non-profit, private, public school)
Address: _____

☐ **Faith-based organization**
Name: _____
Faith: _____
Address: _____

Target of Crime (Check all that apply):

☐ Person ☐ Private property ☐ Public property

☐ Other _____

Nature of Crime (Check all that apply):

☐ Bodily injury ☐ Threat of violence

☐ Property damage

☐ Other crime: _____

Property damage - estimated value _____

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)
☐ Other: _____

Specify disability (be specific):

_____

_____

Actual or Perceived Bias – Victim's Statement:

☐ Actual bias [Victim actually has the indicated characteristic(s)].

☐ Perceived bias [Suspect believed victim had the indicated characteristic(s)].

If perceived, explain the circumstances in narrative portion of Report.

Reason for Bias:

Do you feel you were targeted based on one of these characteristics?
☐ Yes ☐ No *Explain in narrative portion of Report.*

Do you know what motivated the suspect to commit this crime?
☐ Yes ☐ No *Explain in narrative portion of Report.*

Do you feel you were targeted because you associated yourself with an individual or a group?
☐ Yes ☐ No *Explain in narrative portion of Report.*

Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)?
☐ Yes ☐ No *Describe in narrative portion of Report.*

Are there Indicators the suspect is affiliated with a criminal street gang?
☐ Yes ☐ No *Describe in narrative portion of Report.*

Bias Indicators (Check all that apply):

☐ Hate speech ☐ Acts/gestures ☐ Property damage ☐ Symbol used
☐ Written/electronic communication ☐ Graffiti/spray paint ☐ Other: _____

Describe with exact detail in narrative portion of Report.

HISTORY

Relationship Between Suspect & Victim:

Suspect known to victim? ☐ Yes ☐ No
Nature of relationship: _____
Length of relationship: _____
If Yes, describe in narrative portion of Report

☐ Prior reported incidents with suspect? Total # _____
☐ Prior unreported incidents with suspect? Total # _____
Restraining orders? ☐ Yes ☐ No
If Yes, describe in narrative portion of Report
Type of order: _____ Order/Case# _____

WEAPONS

Weapon(s) used during incident? ☐ Yes ☐ No Type: _____
Weapon(s) booked as evidence? ☐ Yes ☐ No
Automated Firearms System (AFS) Inquiry attached to Report? ☐ Yes ☐ No

HATE CRIME CHECKLIST

EVIDENCE

Witnesses present during incident? ☐ Yes ☐ No Statements taken? ☐ Yes ☐ No

Evidence collected? ☐ Yes ☐ No

Photos taken? ☐ Yes ☐ No

Total # of photos: _____ D#: _____

Taken by: _____ Serial #: _____

Recordings: ☐ Video ☐ Audio ☐ Booked

Suspect identified: ☐ Field ID ☐ By photo ☐ Known to victim

OBSERVATIONS

VICTIM	SUSPECT
☐ Tattoos	☐ Tattoos
☐ Shaking	☐ Shaking
☐ Unresponsive	☐ Unresponsive
☐ Crying	☐ Crying
☐ Scared	☐ Scared
☐ Angry	☐ Angry
☐ Fearful	☐ Fearful
☐ Calm	☐ Calm
☐ Agitated	☐ Agitated
☐ Nervous	☐ Nervous
☐ Threatening	☐ Threatening
☐ Apologetic	☐ Apologetic
☐ Other observations: _____	☐ Other observations: _____

ADDITIONAL QUESTIONS (Explain all boxes marked "Yes" in narrative portion of report):

Has suspect ever threatened you? ☐ Yes ☐ No

Has suspect ever harmed you? ☐ Yes ☐ No

Does suspect possess or have access to a firearm? ☐ Yes ☐ No

Are you afraid for your safety? ☐ Yes ☐ No

Do you have any other information that may be helpful? ☐ Yes ☐ No

Resources offered at scene: ☐ Yes ☐ No Type: _____

MEDICAL

Victim	Suspect	
☐	☐	Declined medical treatment
☐	☐	Will seek own medical treatment
☐	☐	Received medical treatment

Authorization to Release Medical Information, Form 05.03.00, signed? ☐ Yes ☐ No

Paramedics at scene? ☐ Yes ☐ No Unit # _____

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

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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.

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.

THE POLICE CHIEFS' ASSOCIATION

CONTRA COSTA COUNTY, CALIFORNIA

PROTOCOL FOR

LAW ENFORCEMENT INVOLVED FATAL INCIDENTS

2014

Dedication

The Contra Costa County Police Chiefs' Association dedicates this manual to the memory of Contra Costa County Deputy District Attorney Robert Hole who passed away in August of 2012. For over 30 years, Bob held the unique position of "investigative prosecutor" (a term he coined, and which aptly fit).

In the early 1980's Bob recognized that one of the most important functions for the county's law enforcement agencies was the investigation of Officer-Involved Shootings, and other law enforcement actions which resulted in death or serious injuries to either officers or civilians. Working in conjunction with the Police Chiefs Association, Bob was instrumental in establishing a county-wide policy to investigate these cases which to this day are known as "Protocols." For the next three decades, Bob directed hundreds of such investigations at all hours of the day and night, in all parts of the county, and in all types of weather. He was a meticulous taskmaster, and he ensured that every possible investigative avenue was explored.

Every year there is an average of 20 or so "Protocols," the majority of which are Officer-Involved shootings. Bob was always the first to respond to protocol investigations, and he was always the last to leave. Bob literally "Wrote the Book" on the investigation of such cases, and he had more experience in this unique area than virtually any other person in the entire state. Bob's mentoring of law enforcement on probes of this nature will ensure that our county will benefit for decades to come.

Bob's systems approach to such investigations proved to be extremely effective and it ensures that many of the county's most sensitive cases are thoroughly investigated by very experienced investigators working with a deputy district attorney. The "Protocol" concept has since been copied nationwide.

Bob also taught classes on Search Warrants, Search and Seizure, and on Officer-Involved Shooting investigations. Thousands of investigators, officers, and deputies attended his courses. Literally hundreds of investigators throughout California had Bob's cell phone number, and he made it clear that he was available to offer advice at any hour of the day or night, and he did so on hundreds of occasions.

Bob was cantankerous, opinionated, and never at a loss for words. With Bob you always knew where you stood, and he was never afraid to ask the tough questions, or point out the deficiencies in the investigative efforts. Bob was the ultimate mentor who was totally committed to his profession, and his personal quest for justice. His contributions to the county cannot be overstated.

Paul Mulligan
District Attorney's Office
Chief of Inspectors

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HISTORY OF THE PROTOCOL

Ref 1

In the 1970's and early 1980's, the number of law enforcement related civilian fatalities increased around the country and in Contra Costa County during arrests, vehicle pursuits, and other types of law enforcement activity. At the same time, more law enforcement officers were killed while on duty as the result of both attacks on them, and as the result of auto accidents. Not only were the numbers of civilian and officer fatalities rising; but the incidents drew greater scrutiny from both inside and outside of law enforcement. The impact of such incidents was widespread, both in terms of legal and societal consequences. As a result, the investigation of such cases became considerably more complicated, and challenging.

In early 1982 the members of the Contra Costa County Police Chiefs' Association recognized these trends, and collectively concluded that the interests of everyone would best be served by a standardized system to investigate law enforcement involved fatal incidents throughout Contra Costa County. The members wanted a fair and thorough investigative process which would promptly gather all the relevant facts of each incident while simultaneously recognizing the legal rights and responsibilities of the involved individuals and agencies. In addition, for the first time the process was designed to address the emotional needs of those involved.

It was very important to the Chiefs that these investigations were viewed as being highly credible and impartial. From the beginning, the Chiefs favored using a multi-agency system for the Criminal Investigation of such incidents and they soon decided that all agencies investigating each fatal incident would have equal standing and authority within the investigative process. They believed this would produce the best and most credible investigative product, would maximize the use of investigative resources and skills, and would provide the impartiality that was critical to the integrity of the process.

To establish the new investigative system, a collaborative effort by officials representing all the County's law enforcement agencies began in 1982. The first step was a lengthy and intense meeting with the county's chiefs which helped identify and define many of the issues and expectations for the new system. In the beginning of the process, there was often heated debate among the chiefs on various issues and approaches, as many held very strong opinions as to how the Protocol process should work.

The first draft of the proposed new Protocol was then distributed countywide to be reviewed by a wide variety of personnel in various ranks and assignments in all the County's law enforcement agencies. These reviews resulted in many suggestions, criticisms, and comments. At a subsequent Chiefs' meeting the collective input was considered, after which the second draft was created and again distributed to all agencies. This evolutionary process continued through several more drafts, ending two years after it began when the ninth draft was unanimously approved and implemented in March of 1984. That document, which became commonly known as "The Protocol," was formally titled the "Officer-Involved Fatal Incident Protocol."

That first version of the Protocol contained some revolutionary provisions which drew

skepticism from outsiders. One was the broad range of fatal incidents to which the Protocol process applied, and another was the clear delineation of the three investigative formats. The most radical was the provision that an *ad hoc* multi-agency task force would conduct the Criminal Investigation of each incident, and that all involved agencies would have equal standing in the management of the investigations. The past three decades, and hundreds of investigations later, have shown the skeptics were wrong; those provisions (among others) are the principal reasons for the Protocol's well-acknowledged and lasting success.

The original 1984 Protocol edition was superseded in November 1989 and March 1991 by two slightly revised editions which contained a few substantive changes that clarified and strengthened previous editions. The Protocol's title remained unchanged.

This 2007 version was created through the same collaborative and evolutionary process that was used to create the original Protocol. It contained significant changes, and included a number of enhancements to various previous provisions to clarify, strengthen and build upon the 1984 Protocol's solid and enduring foundation. That version was formatted and reorganized to make its content more accessible and readable. The Table of Contents had considerably more detail (its Section D also serves as a substitute for an Index) and it referred readers to both a page number and a Reference Number (abbreviated "**Ref**") indicating where each topic can be located. For cross-referencing purposes, Reference Numbers were added throughout the Protocol's text to guide readers to other relevant provisions. The Protocol's title has been changed from "Officer-Involved Fatal Incident Protocol" to "Law Enforcement Involved Fatal Incident Protocol" because:

1. not all peace officers are referred to as "officers"

2. the Protocol also applies to non-sworn employees of law enforcement agencies in some situations

3. some fatalities occur in connection with law enforcement activities and operations rather than from the conduct of any specific law enforcement individual(s).

Substantively, the fourth edition of the Protocol:

1. extended the application of the Protocol to a broader range of law enforcement involved fatalities, and provided for investigative participation by out-of-county law enforcement agencies.
2. created investigative manpower resource pools of Crime Scene Investigators (CSIs), Vehicle Collision Investigators, and Protocol Investigators.
3. enhanced the structure of the Protocol's multi-agency criminal investigative system
4. contained six very useful Attachments:
    - an expanded *Patrol Supervisors' LEIF Checklist for Shootings and Generic Incidents*
    - a *Patrol Supervisors' LEIF Checklist for Fatal Vehicle Collisions*

- a *Supervisors' LEIF Checklist for Custodial Institutional Deaths*
- a *CSI Checklist - Before The Crime Lab Arrives*
- an *Autopsy Evidence Collection Checklist*
- a Sheriff/Coroner's Office document entitled *Death Investigation Roles of the Coroner and Law Enforcement Agencies*

Very significantly, the fundamental elements of the original Protocol were retained, and some were enhanced, through the revisions. Among them:

1. the need for high quality investigations
2. the establishment of three investigative formats (Criminal, Administrative and Civil Litigation), each having its own specified goals and investigative procedural rules and each its own staffing;
3. the recognition and explanation of the rights and authorities of the Criminal and Administrative formats and of the law enforcement personnel with whom they have investigative contact;
4. the designation of the Sheriff's Crime Lab to process, collect, document and examine physical evidence; and
5. the use of public Coroner's Inquests following fatal incidents to inform the public, the media, and the decedent's family of the facts of each incident.

Since 1984, approximately 350 cases have been investigated under the Protocol format. While the majority of those cases involved fatalities and were therefore investigated under the Protocol's mandatory invocation provision, a significant number of investigations were performed under a provision that allows agencies to request that a Protocol investigation be initiated on a variety of non-fatal law enforcement involved incidents - even in some incidents where no injuries at all were involved.

Deputy District Attorney Bob Hole was the author of the original 1984 Protocol, the revised versions in 1989 and 1991, and the 2005-2007 fourth edition. Five members of the Police Chiefs' Association constituted a Protocol Revision Committee that collaborated with Bob Hole on the fourth edition. Those members were then **Chief Ron Ace** of Concord (who was also the Chairman of the Chiefs' Association until his retirement from the Concord Police Department in May 2005); then **Chief Dave Cutaia** of Martinez (Chairman of the Chief's Association from May 2005 to May 2006); then **District Attorney Robert Kochly**; then **Chief Doug Krathwohl** of San Pablo; and then **Sheriff Warren Rupf**. Gratitude is extended to Lana Fisher of the Information Technology Office of the City of Concord who formatted the Protocol's fourth edition, and to Debbie Peña, Executive Secretary to then Concord Police Chief David Livingston, who did the proofreading.

In adopting the 2007 edition, the Chiefs' Association recognized and expressed its appreciation to the members of the 1984 Chiefs' Association, all of whom were responsible for the creation of this very successful system. The "1984 Chiefs" created a model with high standards, and they provided clear guidelines as to when the process should be initiated by an agency. Some set aside personal or institutional egos and territorialism for the ultimate benefit of everyone. They had the foresight to create and adopt Protocol provisions which

would still be valid and in use more than three decades later, and would still be fully supported by the county's law enforcement executives. The beneficiaries of their efforts have been the residents and the law enforcement personnel and agencies of Contra Costa County, and many other jurisdictions inside and outside of California which adopted various forms of the Protocol format.

In August of 2014, the manual was revised. The key addition was the adoption of a policy by the Police Chiefs' Association concerning when an officer involved in a critical incident was allowed to view a recording of the event. The chiefs also formally recognized Deputy District Attorney Robert Hole's by dedicating the manual to him.

MEMBERS OF THE CONTRA COSTA COUNTY POLICE CHIEFS' ASSOCIATION

Ref 2

The substantive changes in this fifth edition of the Protocol manual were approved by the members of the Chiefs' Association in August of 2014. The years "2005" and "2007" following the Chiefs' names below indicate when the various Chiefs approved the fourth edition of the Protocol. The year "1984" identifies the "founding father" Chiefs who were responsible for the creation and implementation of the first Protocol.

Antioch Police Department

Chief Allan Cantando 2014
Chief Jim Hyde 2007
Chief Mark Moczulski 2005
Chief Len Herendeen 1984

Bay Area Rapid Transit District Police Department

Chief Kenton Rainey 2014
Chief Gary Gee 2005, 2007
Chief Harold Taylor 1984

Brentwood Police Department

Chief Mark Evenson 2007 and 2014
Chief Mike Davies 2005
Chief James Frank 1984

California Highway Patrol, Contra Costa (Martinez) Office

Captain Chris Costigan 2014
Captain Jim Cahoon 2005, 2007
Captain Ron Oliver 1984

Clayton Police Department

Chief Chris Thorsen 2014
Chief Dan Lawrence 2007
Chief Gary Knox 1984

Concord Police Department

Chief Guy Swanger 2014
Chief David Livingston 2005, 2007
Chief George Straka 1984

Contra Costa Community College District Police Services

Chief Charles Gibson 2007, 2014
Chief Joseph McKeown 1984

Contra Costa County District Attorney

District Attorney Mark A. Peterson 2014
District Attorney Robert Kochly 2005, 2007
District Attorney William A. O'Malley 1984

Contra Costa County Sheriff

Sheriff David Livingston 2014
Sheriff Warren Rupf 2005, 2007
Sheriff Richard Rainey 1984

East Bay Regional Park District Department of Public Safety

Chief Tim Anderson 2005, 2007, 2014
Chief Larry Olson 1984

El Cerrito Police Department

Chief Sylvia Moir 2014
Chief Scott Kirkland 2005, 2007
Chief Patrick Reeve 1984

Hercules Police Department

Chief Bill Goswick 2014
Chief Fred Deltorchio 2005, 2007
Chief Russell Quinn 1984

Kensington Police Department

Chief Greg Harman 2014
Interim Chief Brown Taylor 2007
Chief Barry Garfield 2005
Chief Jack Christian 1984

Martinez Police Department

Interim Chief Eric Ghisletta 2014
Chief Dave Cutaia 2005, 2007
Chief Jack Garner 1984

Moraga Police Department

Chief Robert Priebe 2014

Chief Mark Ruppenthal 2005, 2007
Chief Larry Olson 1984

Pinole Police Department

Chief Neil Gang 2014
Chief Jim Rose 2005, 2007
Chief Theodore Barnes 1984

Pittsburg Police Department

Chief Brian Addington 2014
Chief Aaron Baker 2005, 2007
Chief Leonard Castiglioni 1984

Pleasant Hill Police Department

Chief John Moore 2014
Chief Peter Dunbar 2007
Acting Chief John Moore 2005
Chief James Nunes 1984

Richmond Police Department

Chief Chris Magnus 2007, 2014
Acting Chief Terry Hudson 2005
Chief Earnest Clements 1984

San Pablo Police Department

Chief Lisa Rosales 2014
Chief Joseph P. Aita 2007
Chief Douglas Krathwohl 2005
Chief David Sylstra 1984

San Ramon Police Department

(This department began operations on July 1, 2007)
Chief Joe Gorton 2014
Chief Scott Holder 2007

Walnut Creek Police Department

Chief Thomas Chaplin 2014
Chief Tom Soberanes 2005, 2007
Chief Karel Swanson 1984

A. PROLOGUE

Ref 3

Fatal incidents involving law enforcement personnel and law enforcement operations place extraordinary demands upon law enforcement agencies and their personnel. In addition to the knowledge, skill and resources required to investigate civilian homicide cases, Law Enforcement-Involved Fatal (LEIF) incidents present unique and often difficult

complexities and challenges.

Many LEIF cases attract considerable attention and scrutiny from family members, segments of the public, the news media, and from various civilian and governmental organizations, institutions and agencies. Occasionally, such incidents will spark riots or other disturbances resulting in significant injuries or deaths to civilians or law enforcement, looting, and extensive property damage.

The right of the public to know what occurred often requires a meticulous balancing of such rights against investigative necessities, and also a consideration of the privacy rights of the individuals involved in such cases.

Often, some members of the public are skeptical or distrustful of the ability of Law Enforcement Agencies (LEAs) to investigate incidents involving employees of their own departments. This is one of the key reasons why such investigations must be impartial, and viewed as true “fact finding missions” regardless of where the facts take the inquiries.

Some of our country’s persistent and profound social problems often are significant factors in encounters between law enforcement and civilians. These factors include mental health issues and the availability of treatment; poverty; language difficulties; actual and presumed biases; scarcity of governmental resources; use of intoxicants; the proliferation of deadly weapons, illegal drugs and criminal street gangs; and the increasing propensity of people to resort to violence to address problems.

LEIF incidents may result in negative social, civil, administrative and/or criminal law consequences for law enforcement agencies and officers, but the possibility of such consequences cannot be allowed to inappropriately affect the pursuit of the truth that is the ultimate goal of the investigation of all LEIF incidents.

During the Criminal, Administrative and Civil Litigation investigations of LEIF incidents, the rights and obligations of Law Enforcement Personnel (as the result of statutes, case law and employment agreements) must be reconciled with the law enforcement officers’ personal rights and obligations under the federal and state constitutions, statutes and case law. This can be a significant investigative complication not encountered during law enforcement’s investigations of purely civilian conduct.

Unless resolved in advance, confusion and even conflict can occur among the involved officers and agencies due to a variety of factors including unfamiliarity with the Protocol process; unawareness of the LEIF guidelines and the three separate investigative functions; individual and/or institutional personalities; training; prior experience; and limited resources. Issues involving the management of the investigation can delay and compromise in-progress investigations and may have long-term detrimental effects upon both the instant and future LEIF incidents.

Because these and other demands and complications exist, the Protocol was developed and has been periodically updated by the Contra Costa County Police Chiefs’ Association to serve as a guide for the investigation of law enforcement involved fatal

incidents in Contra Costa County.

B. SUMMARY OF THE PROTOCOL'S MAJOR PROVISIONS

Ref 4

This Protocol applies to incidents within Contra Costa County in which:

1-fatalities of civilians occur "actually or conceivably as a result of" (defined in **REF 8**) conduct of law enforcement personnel, or "actually or conceivably as a result of" law enforcement operations or activities;

2-fatalities of law enforcement personnel which occur "actually or conceivably as a result of" conduct of another person or which occur while on-duty (with some specific exceptions). When incidents fit within any of those categories, use of this Protocol is mandatory. For other incidents involving law enforcement personnel or activities that do not meet the mandatory criteria, involved Member Agencies can optionally invoke the Protocol. Affiliate Protocol Members and Participating *ad hoc* Agencies (i.e. law enforcement agencies which are not members of the Chiefs' Association) may request that Member Agencies invoke the Protocol process for incident(s) which occurred in their respective jurisdiction(s).

Three investigative formats (designated the Criminal Investigation, the Administrative Investigation, and the Civil Litigation Investigation) are defined and differentiated by their goals, staffing and procedural authorities. The latter two investigations are performed by the Employer Law Enforcement Agency, that is, the agency whose operation, activity or employee is involved in the fatality. The Criminal Investigation is performed by an *ad hoc* Multi-Agency Task Force (MATF) (**Ref 157**) staffed by investigators from the (1) Employer Agency, (2) the Venue agency within whose territorial jurisdiction the incident occurred, (3) the District Attorney's Office, (4) the Sheriff's Criminalistics Laboratory, (5) involved out-of county Employer LEAs in the capacity of Affiliate Protocol Members (**Ref 57**) or Participating *ad hoc* Agencies (**Ref 58)**, and (6) other agencies as needed. Within each *ad hoc* MATF, the Venue Agency(ies), Employer Agency(ies) and the District Attorney, and their investigators, have equal investigative authority and standing.

Due to the nature of Criminal Investigation and its possible consequences, it is required to adhere to the most stringent standards for acquiring its investigative products (such as physical evidence, statements and observations). As a result, the Criminal Investigation has investigative priority over the other two formats. The other two formats have full and timely access to the Criminal Investigation's products and are free to investigate for their own purposes as long as it does not conflict with the Criminal Investigation.

The Protocol provides many procedural guidelines for the conduct of the Criminal Investigation and some for the Administrative Investigation.

Law Enforcement Personnel have the right to be represented and/or supported by an attorney or someone else during Protocol investigations. They may choose to provide statements, physical evidence and other relevant material and information to Criminal

Investigators and/or Administrative Investigators consensually, or they may choose to provide such material and information to Administrative Investigators only when compelled to do so under the authority of the *Lybarger/Garrity/Kalkines* cases (**Ref 52**).

After each LEIF, a public Coroner's Inquest will normally be held to present the facts of the incident to the public, the news media, the decedent's family and other interested parties.

C. POLICY

Ref 5

The Chief Executive Officers [1] of the law enforcement agencies of Contra Costa County, acting together as the Contra Costa County Police Chiefs' Association, continue to strongly believe that justice for everyone is best served by ensuring that Law Enforcement Involved Fatal Incidents occurring within Contra Costa County are investigated under the provisions of this Protocol system. It is the policy of the Contra Costa County Police Chiefs' Association, and of its individual Chief Executive Officer members, that such incidents shall be investigated under the provisions of this Protocol with professionalism, objectivity, fairness, thoroughness, compassion, and adherence to legal rights.

While this Protocol represents the understanding and agreement among Member Agencies and Affiliate Protocol Members about how Law Enforcement Involved Fatal Incidents are to be investigated, this Protocol is neither a statute, ordinance nor regulation and it is not intended to increase the civil or criminal liability of Members, Affiliate Protocol Members and Participating *ad hoc* Agencies or their employees, and it shall not be construed as creating any mandatory obligations to, or on behalf of, third parties. Members, Affiliate Protocol Members and Participating *ad hoc* Agencies expect that its provisions will be followed when Protocol incidents occur but it is anticipated that agencies may make minor modifications, which will not affect the Protocol's basic principles, to meet agency requirements.

D. DEFINITIONS AND ABBREVIATIONS

Ref 6

1. **"Actors".** See **"LEA Actors"** at **Ref 48**. **Ref 7**

2. **"Actually or conceivably a factor"** **Ref 8**
   "Actually or conceivably a result"

b

These phrases define the nexus that is required for mandatory Protocol invocation purposes between

- civilian deaths **and** either the conduct of a "Law Enforcement Person" **or** the operations or activities of a Law Enforcement Agency. **REF 69-81**

[1] The term "Chief Executive Officers" refers to the Chiefs of Police of Contra Costa County's various cities, towns, and districts; the elected Sheriff; the elected District Attorney; and the Captain of the California Highway Patrol's Contra Costa Office.

- deaths of anyone from vehicle collisions **and** either the conduct of a "Law Enforcement Person" **or** the operations or activities of a Law Enforcement Agency. **REF 82-93**
- deaths of LEOs **and** the conduct of a person or law enforcement operations or activities. **REF 94-103**
- specified on-duty and off-duty deaths of Non Sworn Personnel **and** the conduct of another person **or** the operations or activities of a Law Enforcement Agency. **REF 104-113**
- Deaths of anyone from the crash or operation of aircraft or watercraft under control of a Law Enforcement Person. **Ref 114**

As used in these phrases, the word "**conceivably**" means "possibly, believably, credibly, plausibly or feasibly" and the word "**factor**" means an "element, fact or circumstance".

3. **"*ad hoc*"**. As used in the Protocol, this Latin term means "for the specific purpose, case, or situation at hand and for no other". In the Protocol it does not have its alternative meaning which is "improvised and often impromptu". **Ref 9**

4. **"Administrative Investigation."** This type of investigation is performed by Employer Agencies for administrative (i.e. non-criminal) purposes. See **Refs 150, 301-315** for specifics. **Ref 10**

5. "**Administrative Investigators".** These investigators are assigned by the Employer LEA(s) to conduct Administrative Investigations. **Ref 11**

6. "**Affiliate Protocol Members"**. These are out-of-county LEAs which have accepted an invitation to participate in Protocol investigations of future LEIF incidents involving those LEAs which occur in Contra Costa County. See **Ref 118** for details. **Ref 12**

7. "**Case Managers Team".** The Criminal Investigation of each Protocol incident is led by an *ad hoc* Case Managers Team composed of one lieutenant level official from each of the MATF agencies involved in the investigation. See details at **Ref 169.** **Ref 13**

8 "**Civil Litigation Investigation"**. This type of investigation is performed by or for LEAs in anticipation of possible civil law suits. See details at **Ref 316***.* **Ref 14**

9. "**Civil Litigation Investigators".** These investigators are employed by, or function on behalf of, involved LEAs for the purpose of conducting Civil Litigation Investigations. **Ref 15**

10. "**Criminal Investigation".** These investigations, performed by MATFs, are conducted to determine whether or not anyone committed a crime during Protocol incidents. See details at **Refs 149**, **154-300**. **Ref 16**

11. "**Criminal Investigators".** These investigators are assigned to the *ad hoc* MATFs by the Venue LEA(s), the Employer LEA(s), involved out-of county LEAs in the capacity of Affiliate Protocol Members or Participating *ad hoc* Agencies, the District Attorney's Office and assisting LEAs, to conduct the Criminal Investigations of each incident. **Ref 17**

12. "**Detention"**. A detention occurs during a person's contact with law enforcement personnel whenever a reasonable and innocent person would believe he/she is not free to either leave or to otherwise disregard the police authority and go about his/her business. Detention is accomplished by exertion of police authority that is less than an arrest but is more substantial than a simple contact or consensual encounter. For further definition, see *The Peace Officers Legal Sourcebook* [2]**,** *Section 2, Search And Seizure, Persons, III. Detentions and Stops, A. Definition and Purpose*. **Ref 18**

13. "**Duty Status"**. See definitons at **Refs 42-46**. **Ref 19**

14. "**Employer Agency"**. This is the LEA by whom the involved Law Enforcement Personnel (Actors and Witnesses) are employed or affiliated. In many cases, the Venue Agency is also the Employer Agency. **Ref 20**

15. "**Fatality"** is synonymous with "death" and means **Ref 21**

    a. death has been pronounced or is obvious beyond doubt, or **Ref 22**

    b. there is probable cause to believe **(Ref 61)** the person will die. **Ref 23**

16. "**Law Enforcement-Involved Fatal Incidents" ("LEIF"s) summarized definition:** This term refers to incidents occurring within Contra Costa County which involve law enforcement operations or personnel in which "fatalities" (**Refs 21-23**) occur to civilians or law enforcement personnel under specified circumstances. A summary of those circumstances follows immediately below; see **Refs 68-115** for details. **Ref 24**

    a. **Fatalities of civilians** which are "actually or conceivably a result of" (**Ref 8**) either : **Ref 25**

        1) conduct of LEOs (either on-duty or off-duty), or of on-duty Non Sworn Personnel, **or** **Ref 26**

        2) law enforcement operations or activities of any type, and specifically including fatalities while under detention, arrest, custody; attempts to detain, control or arrest; and fatalities occuring within 48 hours of a person's release from arrest or custody. See **Ref 79** for an exception. **Ref 27**

[2] This excellent publication, written and regularly updated by the California Attorney General's Office, is distributed to all California law enforcement agencies and is also available for purchase by agencies and individuals. For more information refer to the Attorney General's website: http://ag.ca.gov/publications/index.php#lawenforcement.

b. **Fatalities of LEOs, civilians and on-duty Non Sworn Personnel** which are "actually or conceivably a result of" (**Ref 8**) vehicle collisions which are "actually or conceivably the result of" conduct of LEOs or on-duty Non Sworn Personnel or of law enforcement operations or activities. **Ref 28**

c. **Fatalities of LEOs,** whether **"**on-duty" or "off-duty", and "on-duty" Reserve LEOs, which are "actually or conceivably a result of" (**Ref 8**) conduct of another person or which occur while on-duty or during law enforcment operations or activities (with exceptions listed at **Refs 98-101**). **Ref 29**

d. **Fatalities of Non Sworn Personnel** which occur or are caused while "on-duty" and which are "actually or conceivably as a result of" conduct of any other person, or from other circumstances while on-duty, and during law enforcment operations or activities (with exceptions). **Ref 30**

e. **Fatalities of anyone** caused by the crash or operation of aircraft or water-craft which is under operational control of Law Enforcement Personnel. **Ref 31**

17. "**Law Enforcement Person**" and "**Law Enforcement Personnel**"**.** These terms encompass the people in the categories below. **Ref 32**

a. **"Law Enforcement Officers"** (the plural is **"LEOs"** and the singular is "**LEO"**). These are sworn peace officers including those who work part-time or on per diem, and those on sick, disability or disciplinary leaves or on vacation at the time of their involvement in a Protocol incident. **Ref 33**

Reserve LEOs are in this category when they are "on-duty" (**Refs 102, 112**) but are categorized as "Non Sworn Personnel" when "off-duty". **Ref 34**

b. "**Non Sworn Personnel".** This term refers to non-peace officer LEA personnel and others who are so closely associated with LEAs in other roles that some Protocol incidents involving them warrant application of the Protocol. **Ref 35**

1) Examples of people in this category: **Ref 36**

a) non-peace officer personnel who are employed full time, part time, or temporarily by LEAs, in the following illustrative positions: (1) civilian jailers and other civilian custodial staff such as cooks, teachers, maintenance; (2) medical personnel; (3) security personnel; (4) civilian crime lab, evidence and property room personnel; (5) dispatchers; (6) civilian pilots and crew members of law enforcement owned or operated aircraft or watercraft; (7) civilian technicians, mechanics and fleet staff; (8) civilian managers, analysts and planners; (9) traffic and parking control personnel; (10) non-peace officer Community Service Officers; (11) LEA animal control personnel; (12) clerks, secretaries and receptionists; (13) facility and **Ref 37**

equipment personnel; (14) civilian Public Information Officers; (15) non-peace officer employees of the District Attorney's Office including prosecutors and support staff; (16) non-peace officer staff of the Coroner's Division; (17) non-peace officer trainers and their staff; (18) paid cadets and interns; (19) members of the clergy . This category does not include outside vendors and their employees who are performing work for LEAs or within LEA facilities, or employees of the LEA's parent governmental entity (e.g. town, city, county, state or federal).

b) volunteers performing non-paid service to LEAs under the supervison of a LEA, such as civilians, auxiliary officers, former peace officers or other former LEA employees volunteering their services, Volunteers In Police Service (VIPS), Explorer Scouts, non-paid interns and cadets, and Search and Rescue personnel who are neither sworn peace officers or Reserve LEOs. Also included are people serving as volunteers performing job functions listed in **Ref 37**. **Ref 38**

c) informants. For Protocol purposes, informants are categorized as "Non Sworn Personnel" who are "on-duty" only when they are working under the supervison and control of a LEO. At other times they are "off-duty" and are therefore categorized as civilians. **Ref 39**

d) visitors in LEA facilities and passengers of LEOs or "on-duty" Non Sworn Personnel. **Ref 40**

e) Reserve LEOs are in this category when they are "off-duty" (**Ref 34**) but are classified as LEOs when they are "on-duty". (**Ref 102,112)** **Ref 41**

c. Duty status **Ref 42**

1) "On-duty" for Protocol purposes, includes **Ref 43**

a) the usual and common definitions used in law enforcement for "on-duty", <u>and</u> **Ref 44**

b) occasions when the Law Enforcement Person is actually, purportedly or apparently acting for a law enforcement purpose at the time of the incident, when he/she would otherwise normally be considered to be "off-duty". (See **Ref 39** for a specific provision regarding informants.) **Ref 45**

2) "Off-duty" for Protocol purposes are those times when neither 1-a (**Ref 44**) nor 1-b (**Ref 45**) apply. **Ref 46**

18. **"LEA".** This acronym means "Law Enforcement Agency". **Ref 47**

19. **"LEA Actors".** These are Law Enforcement Personnel whose conduct was "actually or conceivably a factor" (**Ref 8**) in a fatality. **Ref 48**

20. **"LEA Witnesses".** These are Law Enforcement Personnel who have knowledge of the circumstances of a Protocol incident but whose conduct was not "actually or conceivably a factor" (**Ref 8**) in the fatality. **Ref 49**

21. **"LEIF".** This acronym means **"Law Enforcement-Involved Fatal Incident" ("LEIFs"** is the plural). (See **Refs 24-31** for summary definition and **Refs 68-115** for details.) **Ref 50**

22. **"LEO"**and **"LEOs".** These acronyms mean "Law Enforcement Officer" and "Law Enforcement Officers" respectively. **Ref 33** **Ref 51**

23. ***Lybarger*** [3]**/** ***Garrity*** [4]/ ***Kalkines*** [5]. These appellate court cases (hereafter referred to collectively as ***Lybarger***) address and resolve the legal and investigative conflicts that are created when public employees (including Law Enforcement Personnel) invoke their Constitutional rights (such as "taking the 5th" Amendment) during investigations conducted by their public agency employers. The courts recognize that these employers have legitimate and sometimes very urgent need to obtain information from their employees concerning work-related matters, so they allow public agency employers to legally compel their employees to answer employment-related questions by threatening to take significant disciplinary action against them (which usually involves job termination) if they do not comply. In such situations, the cases hold, employees' Constitutional rights are sufficiently respected and protected by court decisions that prohibit compelled evidence of any type from being used in criminal proceedings against the person from whom it was compelled. California law allows employers to discipline employees who refuse to answer when compelled to do so, but only if (1) they have been ordered to answer; and (2) they have been told that the resulting compelled information cannot be used against them in criminal proceedings; and (3) the questions are sufficiently related to employee job performance or fitness for duty. Statements made under administrative compulsion can be used administratively against the employee if the statements are false or incomplete or if they contain admissions of wrongdoing. Further, compelled statements can usually be used against the employee in civil law suits. **Ref 52**

In January 2007, a California Court of Appeal decision (*Spielbauer vs. County of Santa Clara*, 146 Cal. App. 4th 914) ruled that the *Lybarger* procedure does not provide legally sufficient assurance to employees that their administratively compelled incriminating statements will not be used against them in any subsequent criminal case in which they are defendants, and therefore employees who refuse to give such statements cannot be terminated for insubordination. The decision said that, without new legislation, only the grant or offer of formal "use immunity" granted by the courts is legally sufficient. However, that decision was vacated on May 9, 2007 by the California Supreme Court when that Court granted a petition to review the DCA's decision, leaving the *Spielbauer* decision

[3] *Lybarger v. City Of Los Angeles*, 40 C3d 1822 (California Supreme Court, 1985)

[4] *Garrity v. New Jersey*, 385 US 493 (United States Supreme Court, 1967)

[5] *Kalkines v. United States*, 473 F2d 1391 (United States Court of Claims, 1973)

without any legal effect. Thus, the *Lybarger* case remains the controlling authority on this issue until and unless the California Supreme Court and/or the Legislature decide otherwise.

24. **"Major Case Page Numbering System"**. This is the method used in Protocol investigations for numbering the pages of police reports and their attachments. See details at **Ref 299**. **Ref 53**

25. **"MATF".** This acronym refers to the *ad hoc* **Multi Agency Task Forces** which perform the Criminal Investigations of LEIFs. Each MATF is composed of Criminal Investigators from the involved Venue Agency(ies), the Employer Agency(ies), involved out-of county Employer LEAs in the capacity of Affiliate Protocol Members or Participating *ad hoc* Agencies, the District Attorney's Office, and assisting agencies. For incidents involving traffic collisions, the assigned Protocol Collision Investigators are also members of the MATFs. See **Ref 157.** **Ref 54**

26. **"Members", "Affiliates"** and "**Participating *ad hoc*" LEAs"** **Ref 55**

    a. **"Members"**, also referred to as "Member Agencies", are the Law Enforcement Agencies whose chief officers are members of the Contra Costa County Police Chiefs' Association, all of which have chosen to join this Protocol agreement. **Ref 56**

    b. **"Affiliate Protocol Members"** are LEAs which are not Contra Costa LEAs (and whose Chiefs therefore are not "Members" of the Contra Costa County Police Chiefs' Association) which have chosen in advance, upon invitation, to join this Protocol agreement so they will have Employer Agency status in Protocol investigations of future incidents in which those LEAs or their Law Enforcement Personnel are involved. **Ref 118** **Ref 57**

    c. **"Participating a*d hoc* Agencies"** are LEAs which are neither "Members" nor "Affiliate Protocol Members" but, when they or their Law Enforcement Personnel are involved in Protocol incidents in Contra Costa County, they choose at that time upon invitation on a case-by-case basis to participate as Employer Agencies in Protocol investigations of such incidents. **Ref 119** **Ref 58**

27. **"Non Sworn Personnel".** See definition at **Refs 35-41.** **Ref 59**

28. **"Participating *ad hoc* Agencies".** See definition at **Ref 58.** **Ref 60**

29. **"Probable Cause".** The Protocol definition of this standard of proof is the equivalent of that used so commonly in criminal law i.e., the totality of facts and circumstances, of a reasonably trustworthy nature, known to the decision maker, which are sufficient to warrant a person of reasonable caution or prudence to believe whatever point is at issue. This standard is found in Protocol provisions which define "fatality" **(Ref 21-23),** which pertain to murder and non-vehicular manslaughter cases involving "off-duty" Law Enforcement Personnel (**Refs 72, 96, 180**), which apply to certain deaths in custody **(Ref 79)** and to deaths of Law Enforcement Personnel in solo traffic collisions **(Ref 93).** **Ref 61**

30. **"Protocol Case"** and "**Protocol incident".** These terms refer to an incident that is or was investigated, or will be investigated, or should be investigated, under the provisions of this Protocol, whether by mandatory or optional invocation. **Ref 62**

31. **"Protocol Collision Investigators".** These are investigators from law enforcement agencies and from the private sector who are qualified to investigate vehicle collisions (and vehicle movement in non-collision incidents) as members of the MATF investigations of Protocol cases. See **Refs 189-192** for details. **Ref 63**

32. **"Protocol Collision Investigators Group".** This is a manpower pool of pre-selected Protocol Collision Investigators from various Member LEAs who are potentially available to join MATF investigations of Protocol cases involving LEAs other than their own when their assistance is needed by the MATF or by an LEA participating in the MATF investigation. See details at **Refs 193-202.** **Ref 64**

33. **"Protocol CSI Group".** This is a manpower pool of pre-selected Crime Scene Investigators from various Member LEAs who are potentially available to join the MATF investigations of Protocol cases involving LEAs other than their own when their assistance is needed by the Crime Lab. See **Ref 212** for more details. **Ref 65**

34. **"Protocol Investigators' Group".** This is a manpower pool of pre-selected investigators from various Member LEAs who are potentially available to join MATF investigations of Protocol cases which involve LEAs other than their own when their assistance is needed by the MATF or by a LEA participating in the MATF investigation. See **Ref 167** for details. **Ref 66**

35. "**Venue Agency".** The Venue LEA is/are the one(s) within whose geographical jurisdiction the Protocol incident occurs. Only Members of the Contra Costa Police Chiefs' Association can be Venue Agencies. See **Refs 170-179** for Venue Agency Determination In Particular Situations. **Ref 67**

E. "LAW ENFORCEMENT-INVOLVED FATAL INCIDENTS" "(LEIFIs)" - MANDATORY **Ref 68**

Law Enforcement-Involved Fatal incidents (LEIFIs) are "fatalities" (**Refs 21-23**) of civilians and of Law Enforcement Personnel which occur in Contra Costa County under any of the circumstances listed below. Fatalities which met the criteria listed below shall be investigated under this Protocol, i.e. they are **mandatory Protocol cases,** the criteria for which are:

1. **Incidents fatal to civilians** in which (a) the conduct of a "Law Enforcement Person" <u>or</u> (b) the operations or activities of an LEA, is/are "actually or conceivably a factor" **(Ref 8)** in the fatality. **Ref 69**

   a. Conduct of Law Enforcement Personnel: **Ref 70**

      1) LEOs (**Ref 51**) who are either "on-duty" (**Refs 42-45**) or "off-duty" (**Ref 46**). **Ref 71**

a) Special rule for some murder or non-vehicular manslaughter cases: When there is probable cause to believe (**Ref 61**) that a "Law Enforcement Person" (**Ref 32+**) is either a murder or non-vehicular manslaughter victim or suspect, <u>and</u> when it appears that the fatality <u>was not</u> during an "on-duty" **(Refs 42-45)** event for either involved person, the Venue Agency, if it is not also the Employer Agency, has the option, after consultation with the District Attorney's Office, of investigating the incident itself without utilizing the Protocol. Determining the Venue Agency shall be on the same basis as in any civilian homicide case. The same provision is at **Refs 96, 180**. **Ref 72**

2) Reserve LEOs only when "on-duty" (**Ref 34**). **Ref 73**

3) "Non Sworn Personnel" (**Refs 35-41**) only when "on-duty" (**Refs 43-45**). **Ref 74**

b. Law enforcement operations or activities of any type in which a fatality occurs, such as these examples: **Ref 75**

1) during attempts by LEOs, "on-duty" Reserve LEOs or by "on-duty" Non Sworn Personnel to detain, arrest or gain physical control of a person. **Ref 76**

2) while the person is under "detention" (**Ref 18**), arrest or physical control by LEOs, "on-duty" Reserve LEOs or by "on-duty" Non Sworn Personnel. **Ref 77**

3) while the person is in custody including, for example, in the field, in vehicles, sally ports, holding cells, jails, interview rooms, court facilities, or medical facilities. **Ref 78**

a) Exception: Excluded from mandatory Protocol investigations are post-booking deaths of prisoners which occur in jails, hospitals or other facilities while prisoners are under the care of LEA-provided medical personnel for diagnosed diseases or conditions which have been known and monitored and/or treated by the LEA's medical care provider prior to death, but only when the deaths were medically expected and when there is probable cause to believe **(Ref 61)** that custodial suicide, trauma, accident, or use of intoxicants was not involved. **Ref 79**

4) fatalities occurring within 48 hours after the decedent's release from detention, arrest or custody. **Ref 80**

a) Qualification: Such fatalities are mandatory Protocol cases <u>only</u> if any LEA categorized in **Refs 175 to 179** conclude(s), based upon evaluation of the circumstances after law enforcement's awareness of the fatality, that the fatality is "actually or conceivably a result" (**Ref 8**) of something that occurred during the decedent's recently-ended detention, arrest or custody. In each specific case, any or all the LEAs within the listed **Ref 81**

categories may elect to participate in these Protocol investigations.

2. **Vehicle collisions: Incidents fatal to anyone from vehicle collisions** which are "actually or conceivably a result of" **(Ref 8)** collisions of one or more vehicles with something or someone, when (a) the conduct of on-duty or off-duty LEOs, on-duty Reserve LEOs or on-duty Non Sworn Personnel, <u>or</u> (b) the operations or activities of law enforcement, are "actually or conceivably a factor" (**Ref 8**) in the result. For incidents to be within this category it is not necessary that vehicles operated by Law Enforcement Personnel collide with anything or anyone, nor is it necessary for a vehicle pursuit to be involved. Examples of included situations are: **Ref 82**

   a. routine or normal driving **Ref 83**

   b. emergency response driving **Ref 84**

   c. training **Ref 85**

   d. pursuits **Ref 86**

   e. driving with intent to catch up to another vehicle for the purpose of identifying it or its occupants, or for surveillance purposes. **Ref 87**

   f. fatalities which occur very soon after Law Enforcement terminates pursuits before stopping the target vehicles when it appears from the manner of driving and the close time and distance proximity of the collision to law enforcement vehicle(s) that the drivers of the pursued vehicles who directly or indirectly caused the fatalities (including to himself/herself) were still driving in apparent attempt to evade the LEOs or to avoid being stopped or identified. **Ref 88**

   g. fatalities caused by vehicle collisions "actually or conceivably the result of" (**Ref 8**) utilization of law enforcement attempts, techniques or equipment to stop or alter the course of vehicles. Examples include pursuits, stationary or rolling road blocks, check-points, barricades, ramming, precision immobilization technique (PIT maneuver), in-line active vehicle containment, tire deflation devices, etc. **Ref 89**

   h. attempts by Law Enforcement Personnel, with or without use of vehicles driven by them, to slow, redirect or stop vehicles for purposes of traffic control. **Ref 90**

   i. fatalities of passengers of LEOs or of "on-duty" Reserve LEOs or "on-duty" Non Sworn Personnel, such as ride-alongs, victims, witnesses, injured people, stranded motorists, etc. **Ref 91**

   j. fatalities in which law enforcement gunfire directed at a person or at a vehicle is "actually or conceivably a factor" (**Ref 8**) in the collision's occurrence. **Ref 92**

   k. excluded: solo traffic collisions in which driver LEOs, "on-duty" Reserve LEOs **Ref 93**

or “on-duty” Non Sworn Personnel are the decedents and only occupants of the involved vehicles and when there is probable cause to believe **(Ref 61)** that no other people or occupied vehicles were involved in the collisions or in their causation.

3. **Incidents fatal to LEOs** **Ref 94**

a. in which the conduct of another person is “actually or conceivably a factor” (**Ref 8**) in the fatality, whether the victim LEO is “on-duty” or “off-duty” at the time of the incident, and whether or not there was a law enforcement purpose for the conduct of either party. (This category includes the fatality of one LEO caused by another LEO). **Ref 95**

1) Special rule for some murder or non-vehicular manslaughter cases: When there is probable cause to believe (**Ref 61**) that a “Law Enforcement Person” (**Ref 32+**) is either a murder or non-vehicular manslaughter victim or suspect, and when it appears that the fatality was not during an “on-duty” (**Ref 43-45**) event for either involved person, the Venue Agency, if it is not also the Employer Agency, has the option, after consultation with the District Attorney’s Office, of investigating the incident itself without utilizing the Protocol. Determining the Venue Agency shall be on the same basis as in any civilian homicide case. The same provision is at **Refs 72, 180**. **Ref 96**

b. which occur “on-duty”, or when law enforcement operations or activities (including training) are “actually or conceivably a factor” (**Ref 8**) in the result, even when there is no indication that the conduct of another person is “actually or conceivably a factor”. **Ref 97**

1) Exception: LEO fatalities from the causes and circumstances listed below are not mandatory Protocol cases unless criminal conduct (including the LEO’s) is “actually or conceivably a factor” (**Ref 8**) in the fatality: **Ref 98**

a) deaths from apparent natural physiological causes such as heart attacks. **Ref 99**

b) accidental deaths caused by weather and other natural events such as floods, mud or land or rock slides, earthquakes, tornadoes, tsunamis, lightening, high winds, falling trees, etc. **Ref 100**

c) accidental deaths caused by falling, drowning, fire, smoke, hyperthermia (heat stroke), electrocution, exposure to the toxins including those from insects, structure collapse, being struck by falling objects, and animals. **Ref 101**

c. which occur to “on-duty” Reserve LEOs (**Ref 34**) with exceptions listed in **Refs 98-101**. **Ref 102**

d. "off-duty" suicides of LEOs are mandatory Protocol cases only when the conduct of another person is "actually or conceivably a factor" (**Ref 8**) in the death. **Ref 103**

4. **Incidents fatal to Non Sworn Personnel:** **Ref 104**

a. "On-duty" (**Ref 43-45**) when the fatality is "actually or conceivably the result of" (**Ref 8**) the following: **Ref 105**

1) conduct of another person. **Ref 106**

2) other circumstances while "on-duty", or during law enforcement operations or activities, including training. **Ref 107**

a) exception: **"**on-duty" fatalities to Non Sworn Personnel from the causes and circumstances listed below are not mandatory Protocol cases unless criminal conduct is "actually or conceivably a factor" (**Ref 8**) in the fatality: **Ref 108**

1. deaths from apparent natural physiological causes such as heart attacks. **Ref 109**

2. deaths apparently caused by weather and other natural events such as floods, mud or land slides, earthquakes, tsunamis, lightening, tornadoes, falling trees, high winds, etc **Ref 110**

3. accidental fatalities apparently caused by falling, drowning, fire, smoke, electrocution, exposure to toxins, being struck by falling objects, including during search and rescue attempts. **Ref 111**

b. Fatalities of "on-duty" Reserve LEOs are considered to be the same as fatalities of regular LEOs (**Ref 34**). **Ref 112**

c. "Off-duty" fatalities of Non Sworn Personnel are not mandatory Protocol cases. **Ref 113**

5. **Aircraft and watercraft deaths: Incidents fatal to anyone** which are "actually or conceivably a result of" (**Ref 8**) the **crash or operation of an aircraft** (whether in the air or on the ground) <u>or</u> **watercraft**, which at the time of the incident is under the operational control of Law Enforcement Personnel. **Ref 114**

6. See **Chart** entitled **"Duty Status Criteria For Mandatory Protocol Invocation"** on the following page: **Ref 115**

Ref 115

Duty Status Criteria for
Mandatory Protocol Invocation

when "***conduct of a law enforcement employee***" (**Refs 69-74, 82, 95, 105-106**) is the required nexus between a fatality and law enforcement's possible causal relationship to it. This chart is not applicable when the required nexus is "***the operations or activities of a Law Enforcement Agency***" (**Refs 69, 75-81, 82-93, 97-103**).

Actor

the individual whose conduct was "actually or conceivably a factor" (Ref 8) in the fatality

Decedent	**Civilian**	**LEO on duty**	**LEO off duty**	**NSP on duty**	**NSP off duty**
Civilian	This is a civilian homicide, not an LEIF	Mandatory	Mandatory but exception	Mandatory	Optional
LEO on duty	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory
LEO off duty	Mandatory but exception	Mandatory	Mandatory but exception	Mandatory	Mandatory but exception
NSP on duty	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory
NSP off duty	Optional	Mandatory	Mandatory but exception	Mandatory	Optional

"LEO" means a Law Enforcement Officer, i.e., a sworn peace officer. **Ref 33.**

"NSP" means Non Sworn Personnel of a Law Enforcement Agency. **Refs 35-41.** Reserve officers are categorized as LEOs when they are "on-duty" but are considered Non Sworn Personnel when "off-duty". See duty definitions below.

"On-duty" means (1) when actually "on-duty", or (2) when acting actually, apparently or purportedly for a law enforcement purpose when otherwise off-duty (**Refs 43-45**). "Off-duty" means at other times (**Ref 46**).

"Mandatory but exception" means these are mandatory Protocol cases except when there is "probable cause" **(Ref 61)** to believe that the LEO or NSP is either the victim or suspect in a murder or non-vehicular manslaughter and when it appears that the fatality was not during an "on-duty" (see definition above) event for either involved party. In such cases the Venue Agency, if it is not also the Employer Agency, has the option, after consultation with the District Attorney's Office, of investigating the Incident itself without utilizing the Protocol. **Refs 72, 96,180.**

F. LEIF INCIDENTS INVOLVING NON-MEMBER (OUT-OF-COUNTY) LEAS **Ref 116**

1. The activities or operations of out-of-county LEAs, or the conduct of their Law Enforcement Personnel, may result in LEIF incidents that occur within Contra Costa County. For Protocol purposes non-Member Agencies fall within one of the classifications below: **Ref 117**

   a. **Affiliate Protocol Member:** The Chiefs' Association may invite selected out-of-county LEAs to become Affiliate Protocol Members. LEAs that accept will have full participation as Employer Agencies in future Protocol investigations of LEIF incidents involving their personnel or their activities and operations that occur in Contra Costa County. **Ref 118**

   b. **Participating *ad hoc* Agency**: Out-of-county LEAs which are not Affiliate Protocol Members may be invited by the Case Managers Team (**Ref 169**) to be a Participating *ad hoc* Agency when involved in an LEIF incident in the County. If it agrees, it will have full participation as an Employer Agency in that Protocol investigation. **Ref 119**

   c. Out-of-county LEAs that are neither Affiliate Protocol Members nor Participating *ad hoc* Agencies will not have a full participatory role in Protocol investigations of incidents involving their personnel or their operations or activities in the County, although some accommodation may be made by the Case Managers Team regarding their involvement in the Protocol investigations of each incident. **Ref 120**

2. LEAs, including out-of-county LEAs in any capacity, may conduct their own Administrative and Civil Litigation investigations of Protocol incidents as they wish but those investigations shall not be conducted in conflict or competition with the Criminal Investigation (**Refs 308, 316**). **Ref 121**

3. See **Refs 125-146** for the optional invocation provisions applicable to Affiliate Protocol Members and Participating *ad hoc* Agencies. **Ref 122**

G. INVOKING THE PROTOCOL **Ref 123**

1. Automatic and Immediate ("mandatory") Invocation: **Ref 124**

   Upon the occurrence of each "Law Enforcement Involved Fatal Incident" (defined in summary at **Ref 24-31** and in detail at **Refs 68-115***)* this Protocol is automatically and immediately effective. Prompt notification to appropriate LEAs and officials is the responsibility of the Venue Agency(ies).

2. Optional Invocation: **Ref 125**

   This Protocol may be optionally invoked for incidents involving law enforcement personnel or LEA activities and operations which are not included within the

definition of “Law Enforcement Involved Fatal Incidents” (**Refs 68-115**) if possible criminal conduct of anyone involved in the incident is an issue that should reasonably be determined. Neither death nor bodily injury is a pre-requisite to optional invocation under this category, thus the Protocol may be invoked for incidents involving any type of potential crime, including but not limited to: property and person crimes; integrity crimes; crimes against the government or the justice system; contraband crimes; crimes against public health, safety or peace; threat crimes; and state civil rights crimes.

a. **Member Agencies**: each Member Agency of this Protocol, when in the capacity of a Venue Agency or Employer Agency, may optionally invoke this Protocol for incidents of the type described above **(Ref 125)**. Upon these optional invocations, incidents will be investigated under the provisions of this Protocol. **Ref 126**

b. **Affiliate Protocol Members** (**Ref 118**) and **Participating *ad hoc* Agencies** (**Ref 119**) may request that the optional invocation provision of this Protocol be utilized for incidents involving their personnel or their law enforcement operations or activities occurring within the County, but the decision to optionally invoke the Protocol must be made by a Member Agency who has Venue or Employer Agency status concerning the incident. Upon these optional invocations, the incidents will be investigated under the provisions of the Protocol with the Affiliate Protocol Members and Participating *ad hoc* Agencies having investigative roles in the Protocol investigation, as would be the case with a mandatory invocation. **Ref 127**

c. Examples of optional invocation situations: (Also see decision-making factors at **Refs 133-143**.) **Ref 128**

   1) Fatalities to civilians or to Law Enforcement Personnel which are outside the definition of “Law Enforcement Involved Fatal Incidents” (**Refs 68-115**). **Ref 129**

   2) Incidents involving physical injuries which are not “fatal”. **Refs 21-23** **Ref 130**

   3) Other sensitive events involving LEAs operations or activities or their personnel where the issue of anyone’s possible criminal conduct should reasonably be determined. **Ref 131**

d. The District Attorney may decline to participate in optional invocations. Declination would most likely occur when it appears to the District Attorney that the possibility of criminal conduct is either absent or not sufficiently high to warrant the District Attorney’s participation in the Protocol investigation, or when it lacks the necessary resources to participate. The District Attorney will not investigate, nor participate in another LEA’s investigation of, matters which are purely of an Administrative or Civil Litigation nature. **Ref 132**

e. These factors may be relevant to those considering optional invocations: **Ref 133**

1) Injuries to an involved person have not resulted in death, and imminent death is not then medically expected, but the LEA wants a Protocol investigation to begin immediately despite the medical prognosis. **Ref 134**

2) The LEA lacks the resources, experience and/or manpower to conduct a proper and timely Criminal Investigation by itself. **Ref 135**

3) Circumstances concerning the incident cause the LEA to have a special need to utilize the Protocol to ensure a thorough, impartial and credible Criminal Investigation. **Ref 136**

4) The personnel, or the operations and activites, of multiple LEAs are involved in the incident. **Ref 137**

5) One or more other LEAs may be affected by the results of the investigation. **Ref 138**

6) The LEA may be concerned about an actual or perceived conflict of interest which a Protocol investigation could minimize. **Ref 139**

7) The involvement of a notable person in the incident may actually or perceivably have a negative impact upon the ability of the LEA to properly conduct a credible investigation by itself. **Ref 140**

8) The incident is connected to another matter which is being or was investigated as a Protocol case. **Ref 141**

9) The incident is factually and/or legally complicated, or involves many people. **Ref 142**

10) For other articulated reasons the LEA believes that the interests of justice would be best served by utilizing the Protocol. **Ref 143**

f. When in doubt about optionally invoking on a specific case, it is usually advisable to promptly invoke so a Protocol investigation can start immediately. Subsequently, if the facts or the perceptions of the incident change after the investigation begins, the Protocol investigation can be terminated by mutual agreement and the involved agency(ies) may complete the investigation as they consider appropriate. **Ref 144**

g. In lieu of invoking the Protocol in optional situations, the involved LEA(s) may, of course, unilaterally investigate the incident or may seek investigative services from other LEAs as they choose. **Ref 145**

h. If the Employer Agency could use the optional invocation provision for a specific incident but has declined to do so, a displeased Law Enforcement **Ref 146**

Person who is an Actor (**Ref 48**) in the incident or who is otherwise involved in it in a substantial way may ask his/her Employer Agency, directly or through his/her attorney or other representative, to reconsider the decision and take into account the person's desire for optional invocation. If the LEA is still not convinced that optional invocation is appropriate, it is suggested that the LEA, the involved person (directly or through his/her legal or other representative) and the District Attorney's Office promptly hold a three-way discussion to resolve the matter.

H. INVESTIGATIVE AGENCIES, FORMATS AND RESPONSIBILITIES **Ref 147**

1. Three types or formats of investigations are available for LEAs to use for Protocol incidents. Each of the three has a distinct purpose: **Ref 148**

   a. A **Criminal Investigation** is performed to determine whether or not any of the involved individuals did or did not commit a crime. (See **Ref 154-300** for specifics about this format.) This format is always utilized but the other two are at the discretion of the involved LEAs. **Ref 149**

   b. An **Administrative Investigation** may be performed to (1) determine if involved Law Enforcement Personnel acted within the LEA's policies, procedures, training and orders; (2) determine if and how the LEA can improve any aspect of its operations (i.e. a quality control analysis); and (3) provide information about the incident to the LEA's leadership for other management purposes. See **Refs 301-315** for specifics about this format. **Ref 150**

   c. A **Civil Litigation Investigation** may be performed to prepare the LEA, its parent government, and usually its employees, to defend against civil claims or civil law suits that may arise from Protocol incidents. See **Ref 316** for specifics about this format. **Ref 151**

2. To ensure that each of these three different investigations have the best opportunity to achieve their respective purposes, to conform to and benefit from the different legal procedural rules applicable to each, and to avoid problems that result from investigators crossing back and forth between investigative formats in the same case, **separate investigations** must be performed for each of these investigative purposes. Each investigation must use its own investigators, each investigates for its own purposes, and each follows the investigative procedural legal rules applicable to it. **Ref 152**

   a. The Criminal Investigation can and will share its information freely with the other two investigative formats (**Ref 164**) but the converse is not true. The Administrative Investigation generally cannot share any information with the Criminal Investigation that was obtained directly or indirectly as a result of a *Lybarger* (**Ref 52**) admonition, however exceptions may occasionally apply, so consult a knowledgeable prosecutor or legal advisor if this issue arises. To preserve a primary advantage of using the Civil Litigation Investigation, the **Ref 153**

sharing of its investigative product with the other two formats may need to be significantly restrained; confer with the LEA's civil litigation attorney or risk manager.

3. **The Criminal Investigation** **Ref 154**

a. The Criminal Investigation has investigative priority over both the Administrative Investigation and the Civil Litigation Investigation. The latter two formats may take whatever investigative action they wish when the Case Managers Team (**Ref 169**) determines that the Criminal Investigation would not be compromised by such actions. Regarding interviews with anyone, in most cases this means that once the Criminal Investigation has finished its interview with a person, or the person declines to be interviewed by the MATF investigators, the other investigative formats are free to interview that person as they wish. **Ref 155**

b. It begins immediately after an LEIF has occurred. **Ref 156**

c. It is performed by Criminal Investigators supplied by the Venue LEA(s), the Employer LEA(s) (including involved out-of county LEAs in the capacity of Affiliate Protocol Members or Participating *ad hoc* Agencies), and the District Attorney's Office. The Protocol Investigators Group (**Ref 167**), the Protocol Collision Investigators Group (**Ref 193**) and other LEAs and personnel may be utilized as needed. These investigators are formed into an *ad hoc* **Multi-Agency Task Force** (**"MATF"**) for each LEIF investigation. **Ref 157**

d. The Sheriff's Crime Lab (**Ref 211)** is responsible for physical evidence. See **Ref 203** concerning use of the Crime Lab for vehicle collision cases. **Ref 158**

e. Venue and Employer LEAs (including Affiliate Protocol Members and Participating *ad hoc* Agencies) and the District Attorney's Office are co-equal within MATF investigations. **Ref 159**

f. The goal of the Criminal Investigation is to develop all available relevant information about the Protocol incident so a subsequent determination about the presence or absence of criminal liability on the part of anyone involved in the incident can be properly made. Specifically it investigates: **Ref 160**

1) whether or not conduct of anyone involved in the incident is prohibited by California criminal law, and if criminal conduct did occur: **Ref 161**

a) determine who is responsible for that conduct; and **Ref 162**

b) determine the degree of the crime(s); the existence of any factual or legal defenses; and the presence or absence of any factors which would mitigate or aggravate punishment for such crime(s). **Ref 163**

g. Its entire investigative product will be promptly shared with all LEA(s) participating in the MATF and with other LEAs as appropriate for their uses, including use in any Administrative or Civil Litigation Investigations they may conduct. While the Criminal Investigation does not directly address Administrative or Civil Litigation concerns, its investigative product is often very relevant to issues those other investigative formats may address. **Ref 164**

h. The Criminal Investigation is required to follow the rules of law that apply to all criminal investigations, i.e., those established and defined by the federal and state constitutions, federal and state statutes, and case law. **Ref 165**

i. It is performed in a manner that provides both the appearance and the reality of a thorough, fair, complete and professional investigation that is free of conflicts of interest. **Ref 166**

j. **Protocol Investigators' Group**: **Ref 167**

Investigators from Member Agencies and Affiliate Member Agencies who are experienced and skilled in Protocol investigations may be invited to join the Protocol Investigators Group. Thereafter, when their investigative expertise and experience is needed, members of this Group may be called upon to join MATF investigations of incidents in which their LEAs are neither a Venue nor Employer Agency. (Of course investigators may participate in MATF investigations of incidents in which their LEA is a Venue or Employer Agency whether they are members of this Group or not.) To be eligible for membership in this Group, there must be an adequate indication from the investigator, as well from his/her LEA, that the investigator is potentially willing and available to assist in such investigations. The District Attorney's Office selects the members for this Group and maintains the list of its members. Decisions to call upon Group members for assistance on specific Protocol incidents, and selection of specific investigators to be used, shall be made by the Case Managers Team (**Ref 169**).

k. For each incident, the MATF investigators will be assigned as appropriate to investigative teams by the Case Managers Team. The number of teams utilized will depend upon the specific circumstances of each incident, the number and complexity of investigative tasks to be performed, how rapidly various tasks must be performed, and upon manpower availability. Normally each team will consist of one criminal investigator from each of the MATF agencies. The MATF agencies may elect to participate or not participate on various teams and in various aspects of the MATF's investigation as they consider appropriate. **Ref 168**

l. **Case Managers Team:** **Ref 169**

Each MATF investigation is led by an *ad hoc* Case Managers Team. Each of the MATF agencies will contribute one person to this team. Generally the

officials assigned to this Team should hold the approximate rank of lieutenant, or if holding lesser rank, should be given lieutenant-level authority by their agencies for their participation on this Team.

These individuals should be experienced and knowledgeable in LEIF investigations, should have supervisory authority over investigators from their respective agencies and should have sufficient knowledge and authority to make a variety of decisions pertaining to the MATF investigation of the incident on behalf of their agencies and to implement those decisions.

As members of the Case Managers Teams they will become aware of issues that may affect their LEAs which are collateral to or outside the realm of the Criminal Investigation. They will need both the authority and the management perspective of a lieutenant-level individual to properly address those issues.

Officials assigned to the Case Managers Team work together as a team and the members are co-equal. While their primary function is to work with each other to manage and coordinate the Criminal Investigation, occasionally one or more members may need to perform some Criminal Investigative functions. See **Refs 228-236** regarding criteria for selecting Criminal Investigators and Case Managers.

m. Venue Agency Choices in Particular Situations: **Ref 170**

1) When a Protocol incident occurs in part in two or more jurisdictions, or if it occurs on the boundary of two jurisdictions (per the definition of California Penal Code §782), or at a location where the boundary is not readily ascertainable or is in dispute, the Venue Agency(ies) shall be: **Ref 171**

a) the Employer Agency if the LEA Actor (**Ref 48**) is employed by either boundary LEA; or **Ref 172**

b) both boundary agencies if LEA Actors are employed by both; or **Ref 173**

c) the LEA which has the greater interest in the case by virtue of having the predominant police involvement in the LEIF or by virtue of having had the majority of acts leading up to the fatality occur within its jurisdiction. **Ref 174**

2) For detention, arrest and institutional custodial fatalities, the following LEAs may be Venue and/or Employer Agencies and may participate in the Protocol investigations of such incidents as they decide: **Ref 175**

a) the LEA having custody of the person at the time his/her distress was first discovered. **Ref 176**

b) the LEA(s) having terrritorial jurisdiction to investigate the death or **Ref 177**

any event which may have caused or contributed to it.

c) the LEA which had actual custody at the time of the fatality. **Ref 178**

d) an LEA which surrendered the detainee, arrestee or prisoner into the possession of another LEA. **Ref 179**

3) Special rule for some murder or non-vehicular manslaughter cases: **Ref 180**
When there is probable cause to believe (**Ref 61**) that a "Law Enforcement Person" (**Ref 32+**) is either a murder or non-vehicular manslaughter victim or suspect, and when it appears that the fatality was not during an "on-duty" (**Refs 43-45**) event for either involved person, the Venue Agency, if it is not also the Employer Agency, has the option, after consultation with the District Attorney's Office, of investigating the incident itself without utilizing the Protocol. Determining the Venue Agency shall be on the same basis as in any civilian homicide case. The same provision is at **Refs 72, 96.**

4) When an "on-duty" LEO is an Actor (**Ref 48**) in a Protocol incident that occurs within the jurisdiction of another Member LEA, and when that LEO was apparently "on-duty" (as defined in **Refs 43-45**) at the time of the Protocol incident, the Venue Agency may elect to relinquish its Venue Agency role in the Criminal Investigation to the Employer Agency if both LEAs agree. The Employer LEA would then act as both the Venue and the Employer LEA for purposes of the Protocol investigation. The same option applies when the nexus between the fatality and the non-Venue LEA is its operations or activites. **Ref 181**

5) Protocol incidents occurring within the jurisdiction of Districts: **Ref 182**

The LEAs of the East Bay Regional Park District (EBRPD), the Bay Area Rapid Transit District (BART), and the Contra Costa Community College District shall be Venue Agencies for incidents occurring within their jurisdictions. Other LEAs, such as the Sheriff's Office and city police departments may, at their option, also be Venue Agencies for incident investigations when they have concurrent jurisdiction over such incidents, or when they are Employer Agencies, or when requested by the involved District.

n. When a Venue or Employer Agency lacks sufficient investigative resources to perform its role in a Protocol investigation, or when it believes it is more appropriate for another LEA to participate in the investigation in its place, it has these options: **Ref 183**

1) Obtain investigators from the Protocol Investigators Group to staff MATF positions which would otherwise be staffed by the LEA's own personnel. These borrowed officers would work on behalf of the requesting LEA as **Ref 184**

if they were employed by it.

2) Obtain Criminal Investigators directly from one or more other Member Agencies. These borrowed officers would work on behalf of the requesting LEA as if they were employed by it. **Ref 185**

3) Inform the Case Managers Team that it lacks sufficient manpower to staff its normal positions on the MATF. If the Case Managers Team believes more investigators are necessary to fill those positions, it can obtain them from the Protocol Investigators Group or elsewhere. Those investigators would then work as MATF investigators under the Case Managers Team but would not work as if they were employed by the requesting Agency. **Ref 186**

4) Relinquish its criminal investigative responsibility to another Member Agency which is willing to substitute itself into the position the requesting LEA would otherwise have had on the MATF. **Ref 187**

o. Vehicle collision fatalities: **Ref 188**

1) **Vehicle Collision Investigators**: Fatalities associated with vehicle operations (as defined in **Refs 82-93**) shall be investigated by one or more well qualified vehicle collision investigator(s) working as members of the MATFs investigating those incidents. The Case Managers Team will determine which of the following collision investigators shall be used: **Ref 189**

a) members of the **Protocol Collision Investigators Group. Refs 193-202** **Ref 190**

b) members of a **California Highway Patrol Multidisciplinary Accident Investigation Team** ("MAIT"). For Protocol purposes this category includes active MAIT members as well as CHP officers who are former MAIT members who have retained their qualifications and are in good standing. **Ref 191**

c) other qualifed vehicle collision investigators (not from **Refs 190-191**) selected by the Case Managers Team. **Ref 192**

2) **The Protocol Collision Investigators Group** is composed of vehicle collision investigators from law enforcement agencies and from the private sector who have been pre-selected to perform Protocol investigations of traffic collision incidents and other selected Protocol incidents which involve vehicle movement. **Ref 193**

a) A qualifications committee, appointed by the Chiefs' Association and meeting as necessary, will screen interested investigators and will establish the membership of the Group. The listing of qualified **Ref 194**

investigators in this manpower pool will be maintained by the District Attorney's Office and shall be updated as necessary.

b) The qualifications for membership in the Protocol Collision Investigators Group are: **Ref 195**

1. successful completion of a California POST (or equivalent) approved Traffic Accident Reconstruction (TAR) course or an Advanced Traffic Collision Investigation course. **Ref 196**
2. a demonstrated sufficient quantity of practical field experience, including the identification, documentation, collection and interpretation of collision physical evidence, and interviewing. **Ref 197**
3. previous qualification as an expert witness on the subject in court and/or in approximately equivalent non-courtroom proceedings, or a showing that he/she is capable of being so qualified. **Ref 198**
4. evidence that he/she keeps current with the subject. **Ref 199**
5. familiarity with, and acceptance of, this Protocol's method of conducting investigations and willingness to work within its MATF format. **Ref 200**
6. an adequate indication from the investigator, as well from his/her LEA, that the investigator is potentially willing and available to assist in such investigations. **Ref 201**

c) the Case Managers Teams will select the members of the Protocol Collision Investigators Group to be utilized for individual Protocol cases. **Ref 202**

3) The assigned vehicle collision investigators may be assisted by other vehicle collision investigators (even if not from MAIT or from the Protocol Investigators Group) working under their/his/her supervision. For scene measuring, diagramming, photography, videography and evidence collection, assistance may also be provided by Crime Lab personnel, forensic scene diagrammers or mappers, Crime Scene Investigators, or by other LEA personnel. On-scene collaboration with the Sheriff's Crime Lab regarding the identification, documentation, collection and laboratory analysis of physical evidence is encouraged. **Ref 203**

4) One or more vehicle collision investigators from the Employer Agency cannot investigate the incident alone; at least one other qualified vehicle collision investigator from another agency must jointly investigate. **Ref 204**

5) If additional experts are needed they shall be selected by the MATF's Case Managers Team after consultation with the assigned vehicle collision investigators. **Ref 205**

6) The Case Managers Team will determine the responsibility for the quality control review of investigative reports written by members of the Protocol Collision Investigators Group on a case by case basis. **Ref 206**

p. First Responders' Scene Responsibilities, Procedures and Checklists **Ref 207**

1) After Protocol incident scenes are tactically stable, each LEA is responsible for immediately securing scene(s) within their territorial jurisdiction and for effectively and appropriately managing the numerous first responder tasks that need to be performed. Before the Crime Lab arrives and before the MATF investigation begins, this responsibility may be shifted by mutual consent of the involved LEAs, and it may be modified later by the Case Managers Team. **Ref 208**

2) The scope of the first responders' scene-related tasks is shown in the content of four Checklists which are Attachments to this Protocol and are listed below. Three of them apply to the most common types of incidents (shootings, vehicle collision fatalities and institutional custodial fatalities) and the fourth is a checklist to guide CSIs (and others) before the Crime Lab arrives. While these Checklists contain many specific directions and suggestions, no Checklist can anticipate everything that needs to be done, therefore sound judgment must be exercised because some tasks will need to be performed which are not on the Checklists and some deviations from the Checklists will occasionally be appropriate. For some incidents it will be appropriate to utilize all or portions of several Checklists. **Ref 209**

- ***Patrol Supervisors' LEIF Checklist*** - **Shootings and Generic Incidents**. Attachment A on Pages 50-62.
- ***Patrol Supervisors' LEIF Checklist - Fatal Vehicle Collisions*****.** Attachment B on Pages 63-69.
- ***Supervisors' LEIF Checklist - Institutional Custodial Deaths*****.** Attachment C on Pages 70-76.
- ***CSI Checklist: Before The Crime Lab Arrives***. Attachment D on Pages 77-79.

q. Physical Evidence Responsibility: **Ref 210**

1) The Contra Costa Sheriff's Criminalistics Laboratory (the **Crime Lab**) has the responsibility for processing scenes and physical evidence in most Protocol cases (**Ref 158**). This includes: documenting the scene(s) and their contents; locating, collecting, preserving and analyzing physical evidence; conferring with LEIF investigators; writing reports; and testifying as needed. See **Ref 203** for the Crime Lab's role in vehicle collision cases. **Ref 211**

2) The **Protocol CSI Group** **Ref 212**

This Group is established to assist individual Member Agencies, the MATF investigators, and/or the Crime Lab, with evidence and scene processing aspects of Protocol investigations. Members of this Group are LEA employees, either peace officers or not, for whom there is adequate indication from the CSI as well from his/her LEA that the CSI is potentially willing and available to assist with physical evidence work on Protocol cases on an as-needed basis. Qualifications for membership in this Group will be determined by the Director of the Crime Lab who shall also maintain and update the list of Group members as necessary.

3) In rare Protocol cases, very little physical evidence work may need to be performed in the field. In those cases the Crime Lab need not be utilized to process the scene(s) or to collect evidence if all the members of the Case Managers Team agree. If any member of the Case Managers Team does not agree, the Crime Lab shall be used. **Ref 213**

a) When the Crime Lab is not utilized in such cases, the MATF may utilize members of the Protocol CSI Group, but the Group member(s) who selected may not all be employed by the Employer Agency. **Ref 214**

b) If the Case Managers Team is inclined toward not using the Crime Lab to process specific scenes, it should consider that criminalists who are later asked to do forensic reconstructions may be at a disadvantage if they did not perform the scene processing themselves or were not present when it was was being done. **Ref 215**

4) The Crime Lab may request that MATF Agencies furnish personnel (whether CSIs or not) to assist it with scene and evidence work. Furnished personnel will work under the direction of the Crime Lab. MATF investigators designated by the Case Managers Team may also be assigned to scene or evidence tasks; their work may be performed under the direction of the Crime Lab or not, as the Case Managers Team and the Crime Lab jointly decide. The primary considerations in this decision are whether the Crime Lab has already completed its searching and processing before the MATF investigators begin to search, and what type of evidence the MATF investigators will be seeking. **Ref 216**

5) If an employee of the Crime Lab is involved in a Protocol incident as an "LEA Actor" (**Ref 48**) or as a victim [6], at least one physical evidence **Ref 217**

[6] Criminalists of the Contra Costa County Sheriff's Criminalistics Laboratory are Deputy Sheriffs who are sworn and armed peace officers. If the Crime Lab employs any civilian criminalists in the future this provision (**Ref 217**) will still apply.

specialist designated by the Case Managers Team and not affiliated with the Sheriff's Office will be actively involved in processing physical evidence with Crime Lab personnel. Members of the Protocol CSI Group may be used for this purpose.

6) Prior to the final relinquishment of pivotal scenes: **Ref 218**

   a) MATF investigators and scene processors should brief each other and jointly walk-through the scene(s) to further their mutual understanding of the physical evidence aspects of the incident and its relationship to testimonial information, as well as to assess the need for further scene work. **Ref 219**

   b) Management staff, Administrative Investigators and Civil Litigation Investigators of the involved MATF agencies will be given scene walk-throughs and scene briefings if they desire. **Ref 220**

7) In some cases the Crime Lab and the Case Managers Team may determine that customized procedures are necessary for tagging evidence items, documenting collected items on evidence lists, and/or storing collected evidence. Such procedures will be jointly determined by them on a case-by-case basis. **Ref 221**

r. Notifications **Ref 222**

Promptly upon identifying an event as a Protocol case, the Venue Agency/Agencies shall make notifications as promptly as possible to:

1) intra-departmental personnel as required by each agency's procedures; **Ref 223**

2) other involved and affected LEAs if not yet aware; **Ref 224**

3) the District Attorney's Office, directly or through Sheriff's Dispatch; **Ref 225**

4) the Sheriff's Crime Lab; **Ref 226**

5) the Coroner's Office upon confirmation of a fatality. This notification must be made promptly but removal of the remains will not occur until authorized by the Crime Lab and the Case Managers Team. Refer to Attachment F, ***Death Investigation Roles of the Coroner and Law Enforcement Agencies*** on Page 97+ for more details. **Ref 227**

s. Selection of MATF investigators and Case Managers **Ref 228**

The complexities and challenges of LEIF investigations demand that well qualified investigators be assigned to the MATFs by their LEAs. It is most important that members of the Case Managers Team, as well as the primary

investigator from each LEA, be well qualified and carefully selected. The best available people should be selected for those assignments. The following qualifications are important:

1) Experience in Protocol investigations, homicide investigations, non-homicidal crimes against persons, (or vehicular collisions, when applicable) is especially helpful. **Ref 229**

2) Ability to effectively interview people of various backgrounds. **Ref 230**

3) Good working knowledge of physical evidence collection and preservation techniques, an appreciation of the abilities and limitations of physical evidence and scientific analysis of it, and an understanding of the inter-relationship between physical evidence and other types of evidence, especially testimonial accounts of participants and witnesses. **Ref 231**

4) Good knowledge of police operational procedures and the criminal justice system. **Ref 232**

5) Good understanding and personal acceptance of this Protocol. **Ref 233**

6) Excellent report writing and communication skills. **Ref 234**

7) For Case Managers, good organizational and supervisory skills. **Ref 235**

8) Possess deserved professional respect of those with whom he/she works for being competent, thorough, objective, fair and honest. **Ref 236**

t. Interviewing Law Enforcement Personnel **Ref 237**

1) Law Enforcement Personnel have the same rights and privileges regarding Criminal Investigation interviews that other citizens have. **Ref 238**

2) Criminal Investigations of Protocol incidents must adhere to legal rules that apply to all criminal investigations (**Ref 165**). One of the most basic of these rules is that statements (as well as physical evidence) cannot be used in criminal proceedings against people from whom they have been unconstitutionally coerced. Because Criminal Investigations must acquire testimonial and physical evidence through methods that ensure admissibility in potential criminal prosecutions, MATF interviewers must usually not even attempt to obtain statements or physical evidence from Law Enforcement Personnel by using direct or indirect coercion; specifically, in most situations, they must not utilize the authority of the *Lybarger* cases (**Ref 52**) to obtain non-consensual (i.e. involuntary) statements (or physical evidence) from LEA Actors (**Ref 48**). Any exception in individual cases to this very significant limitation must be jointly approved in advance by the District Attorney's Office and by the **Ref 239**

LEA(s) which employ(s) the involved Law Enforcement Person prior to a *Lybarger* admonition being given [7].

3) To ensure the voluntariness of interviews, MATF interviewers may advise Law Enforcement Personnel interviewees of the following: **Ref 240**

   a) The interviewee is not in custody and is free to leave at any time (if true). **Ref 241**

   b) The interviewee is not required to participate in the MATF interview and is not obligated to answer any questions asked by MATF investigators. Further, no punitive action can be taken by the Employer Agency against the interviewee if he/she exercises the right against self-incrimination when speaking to MATF investigators. **Ref 242**

4) *Miranda* is applicable if and when the interview becomes a custodial interrogation, as *Miranda* case law prescribes. **Ref 243**

5) Law Enforcement Personnel have the right to consult with representatives and/or support people prior to interviews and to have them present during Criminal Investigation interviews. Representatives are usually lawyers or officials of peace officers' associations or labor unions, while supporters are usually spouses, co-workers, friends, or members of the clergy. **Ref 244**

   a) Privileged communications: **Ref 245**

      Under California statutes, "private communications" (as defined in the statues) between individuals (including Law Enforcement Personnel) and the categories of representatives and supporters listed below can be kept confidential (i.e. privileged against compelled disclosure) only when the applicable statutory criteria are met.

      - Lawyer [8] **Ref 246**

        The California Evidence Code provides that the content of "**confidential communications**" between people and their lawyers can be kept confidential if the communication meets several other statutory criteria. Among them: the communication must have been made within the lawyer/client

[7] The policy of the United States Justice Department does not allow federal LEAs to grant *Lybarger*-type "use immunity" to employees in return for administratively compelled statements or other evidence without the prior consent of the Justice Department. U.S. Attorney's Manual Chapter 9-23.140; 28 C.F.R. § 0.175; 18 USC § 6004; and Attorney General's memorandum of June 4, 1980.

[8] **Lawyer:** California Evidence Code §§950-962. See §952 for the criteria for confidential communications.

relationship and it must have been made in confidence, meaning that no third parties were present except those present as a legitimate agent of the lawyer.

- Physician [9], Psychotherapist [10], Member of the Clergy [11] **Ref 247**

  These professionals infrequently act as representatives for Law Enforcement Personnel during interviews but often support them later in other ways. Confidential communications between individuals and these professionals may also be protected from disclosure. The statutory criteria for confidentiality differs slightly for each category so refer to the statutes for details.

- Spouse [12] **Ref 248**

  Confidential communications between husband and wife are privileged when the communication was made in confidence between the spouses while they were husband and wife but some exceptions apply. Refer to the statutes for details.

b) Non-privileged communications: **Ref 249**

Communications made to others who are not within the categories above, such as to peace officer association representatives, non-lawyer labor union representatives, co-workers, girl friends or boy friends, other friends, companion officers, sequestering officers and peer support officers are not privileged under California law except when such people are present and acting as legitimate agents of the person's lawyer, physician, psychotherapist or member of the clergy.

c) Representatives should be allowed to consult privately about the facts of the incident with only one Law Enforcement Person at a time. **Ref 250**

6) The Peace Officers' Bill Of Rights (California Government Code §3300 et seq) is formally titled the Public Safety Officers Procedural Bill of Rights. **Ref 251**

a) This statute is abbreviated in the Protocol as POBR. **Ref 252**

b) POBR has virtually no restrictive effect upon most interviews con- **Ref 253**

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[9] **Physician**: California Evidence Code §§990-1007. See §992 for the criteria for confidential communications.

[10] **Psychotherapist**: California Evidence Code §§990-1007. See §1012 for the criteria for confidential communications.

[11] **Member of the Clergy**: California Evidence Code §§1030-1034. See §1032 for the criteria for confidential communications.

[12] **Marital communication:** California Evidence Code §§980-987

ducted by MATF interviewers with Law Enforcement Personnel for the following reasons:

1. POBR is applicable to "Public Safety Officers" which Government Code §3301 defines as all California peace officers (LEOs) with a few minor exceptions not relevant to this Protocol. POBR is not applicable to Law Enforcement Personnel who are not peace officers, i.e. people who are referred to in the Protocol as Non Sworn Personnel. (Some LEAs grant their Non Sworn Personnel rights and benefits that are the same as or similar to those accorded to "public safety officers" by POBR.) **Ref 254**

2. When referring to the questioning of LEOs, POBR exclusively uses the term "interrogation" instead of the word "interview". Although these terms may be synonymous to some people, they are not synonymous for Protocol purposes. MATF investigators usually conduct interviews (not interrogations) with LEOs and other Law Enforcement Personnel (and with nearly all civilians) and do not utilize many of the techniques which are typical of police interrogations [13]. **Ref 255**

3. POBR applies to "interrogations" of LEOs who are "under investigation". In most Protocol investigations, the subject of the MATF's investigation is not the Law Enforcement Personnel but the entire incident. Law Enforcement Personnel are usually interviewed as victims or witnesses to the incidents (**Ref 267**). **Ref 256**

4. POBR does not apply to interviews with LEOs who are being "interrogated" by LEAs other than their Employing Agency. **Ref 257**

   In rare situations where there is a desire to avoid any possible complication or restriction this provision might impose on MATF interviews, Employer Agencies might withdraw their interviewers from MATF interviews.

5. POBR does not apply to "interrogations" of LEOs, even when conducted by their Employing LEA, when the "investigation is concerned solely and directly with alleged criminal activities". **Ref 258**

6. POBR applies to "interrogations" of LEOs who are under investigation if the "interrogation" could lead to punitive action. **Ref 259**

[13] One explanation of the differences between interviews and interrogations is found in the training materials and literature of John E. Reid Associates.

- Since Protocol investigations are Criminal Investigations, not Administrative Investigations, the possibility that "interrogations" could lead to punitive action is usually beyond the intention, knowledge, scope and interest of the MATF investigators. In most cases the LEO/ interviewee and his/her representative know more about the possibility of punitive Administrative action than the MATF interviewers. If the LEO and his/her representative believe that punitive Administrative action could result from the LEO's participation in the MATF interview, the LEO has these options: (1) decline the MATF interview; (2) agree to be interviewed by MATF interviewers but avoid discussing aspects of the incident that might be administratively incriminating; (3) attempt to resolve possible administrative issues prior to the MATF interview; and (4) elect, with the advice of his/her attorney, to give a complete voluntary statement to MATF investigators despite the possibility of administrative punitive action, believing that doing so is in his/her best interest. **Ref 260**

7. In those few instances when the "interrogation" restrictions of paragraphs a,b,c,d,e,g,h,i of POBR §3303 might apply to MATF interviews of LEOs, those interviews are usually conducted in a manner that complies with those statutory requirements. **Ref 261**

8. Since interviews with MATF investigators are voluntary, Law Enforcement Personnel have the power to decline to be interviewed at all, and/or can attempt to negotiate acceptable conditions for interviews. **Ref 262**

9. MATF interviews of LEOs are normally preceded by a statement that informs them that the interviews are conducted on a consensual and voluntary basis and are NOT conducted under the compulsion of the *Lybarger* cases, except in rare cases when a witness Law Enforcement Person might be administratively compelled by his/her LEA to cooperate with MATF: see **Ref 239**. Interviewees are also clearly informed whether or not the interview is a custodial interrogation within the meaning of the *Miranda* cases. **Ref 263**

c) POBR §3304(a) permits heads of LEAs to order their LEOs to cooperate with Criminal Investigations being performed by other agencies and provides that an LEO's failure to comply with such orders may result in a charge of insubordination. When applicable, interviewees may be advised of this provision by their Employer. **Ref 264**

However, Law Enforcement Personnel must usually not be compelled by threats of administrative punitive action (or otherwise) to answer questions of MATF interviewers which would be criminally self-incriminating. Also see **Refs 52, 237-242, 312-313**.

7) Interviews will be conducted separately. **Ref 265**

8) Interviews will normally be fully recorded [14] by MATF investigators. Interviewees and/or their representatives may also record. **Ref 266**

9) Interviewees will be considered as witnesses or victims unless the circumstances dictate otherwise. **Ref 256**

10). At the initial stages of the investigation it is extremely important to interview witnesses when their memories of the incident are fresh, and their recollections are not impacted by any outside influences, be it other witnesses or recording(s) of the incident. This is the key reason why witnesses are sequestered between the incident and the interview.

11). The initial interview of an officer involved in a LEIFI should occur before the officer has reviewed any audio/video recordings of the incident. An involved officer will have an opportunity to review recordings after the initial statement has occurred, and he/she can be re-interviewed if either the officer or members of the investigating team believe it is necessary. Investigators should be mindful that audio/video recordings have limitations and may depict events differently than the events recalled by involved officers. If an investigator shows any audio/video recording to an Involved Officer after the initial interview, the investigator should admonish an Involved Officer about the limitations of audio/visual recordings.

12). The following is an example of an admonition that might be given in such situations:

- *In this case, there is recorded evidence that you will have an opportunity to view after you have given your initial statement. Recorded evidence has limitations and may depict the events differently than you recall, and it may not depict all of the events that you saw or heard. Recordings have a limited field of view and may not capture events normally seen by the human eye. The "frame rate" of the recording may limit the camera's ability to capture movements normally seen by the human eye. Lighting as seen on the recording may be different than that which is seen by the human eye. Recordings are two-dimensional 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 your ability to recall and describe the incident.*

[14] Audio and/or video recordings may be made using analog and/or digital equipment but digital is preferred.

u. Intoxicant Testing of Law Enforcement Personnel **Ref 268**

1) Law Enforcement Personnel have the same rights and privileges that civilians have regarding intoxicant testing. When MATF investigators determine that a Law Enforcement Person's state of sobriety or intoxication is relevant to their investigation, they have these options: **Ref 269**

a) Obtain blood, breath and/or urine (**Ref 279**) samples through valid consent. **Ref 270**

b) Obtain blood, breath and/or urine (**Ref 279**) samples Incidental To Arrest. **Ref 271**

c) Obtain a search warrant for biological samples if they have probable cause to do so. **Ref 272**

d) In traffic incidents, utilize California Vehicle Code §23612 (implied consent) when applicable. **Ref 273**

e) When an arrestee refuses to submit to collection of samples sought Incidental To Arrest, attempts may be made to obtain blood samples for intoxicant testing in accordance with case law [15]. When the collection of blood or other biological samples is authorized by a Search Warrant, the use of reasonable force to obtain the evidence may be authorized by the Search Warrant. **Ref 274**

2) An Administrative representative of the Employer Agency will be promptly notified (usually by its representative on the Case Managers Team) if the MATF does not seek or obtain biological samples for intoxicant testing. After the MATF investigators have had the opportunity to obtain samples, the Employer Agency may then seek to obtain administrative samples for its use. **Ref 275**

a) The legal authority for the Employer Agency to obtain samples includes (1) valid consent, and (2) ordering employees to provide the samples utilizing the authority of the *Lybarger* (**Ref 52**) cases. **Ref 276**

b) Some LEAs have blanket provisions in their General Orders or Policy And Procedure Manuals requiring intoxicant testing after **Ref 277**

[15] As used here, "case law" refers to California and federal appellate cases that authorize peace officers to use *reasonable force* to obtain blood samples from non-compliant arrestees. To be reasonable, the amount of force *must not shock the conscience* and the sample *must be taken in a medically acceptable manner*. The leading case is *Schmerber v. California* (1966) 384 U.S. 757; 16 L.Ed.2d 908; 86 S.Ct. 1826.

specifed events, while others make such decisions on a case-by-case basis.

3) Toxicology test results from biological samples obtained by MATF investigators are available to Administrative and Civil Litigation Investigators. **Ref 278**

4) Blood is best for alcohol testing while urine is best for drug screening. Optimally, samples of both should be obtained for most complete results. Breath testing for alcohol yields less meaningful results. **Ref 279**

5) Samples should be collected promptly after incidents for most meaningful results. **Ref 280**

6) Whether or not the MATF or the Employer Agency have obtained samples for toxicological testing, Law Enforcement Personnel may have their own samples collected for toxicology testing by a qualified person or facility of their choice. Such requests will be promptly honored but the taking of samples, their storage and chain of custody, and their subsequent testing will be the responsibility of the individual Law Enforcement Peson and/or their agents and not the MATF or the Employer Agency. **Ref 281**

v. Autopsies **Ref 282**

1) For information about the Coroner's Office in general, and about autopsies specifically, see Attachment F, ***Death Investigation Roles of the Coroner and Law Enforcement Agencies*** on Page 97. **Ref 283**

2) The extensive ***Autopsy Evidence Collection Checklist*** (Attachment E on Page 80) will assist evidence collectors, working with the pathologist at autopsy, in discovering, documenting and processing body conditions and physical evidence, as well as in collecting and preserving autopsy evidence. **Ref 284**

3) At least one member of the Case Managers Team, a member of the MATF's primary investigative team, and a representative of the District Attorney's Office will attend the autopsies. Other MATF Investigators may also attend. **Ref 285**

4) MATF investigators and the Crime Lab will brief the autopsy pathologist prior to the autopsy, incorporating all information known by the investigators and by the physical evidence processors which may be relevant to the pathologist's examination of the decedent and to the determination of the cause, manner and means of death. It is very important that investigators and evidence processors who are very knowledgeable about relevant case facts be involved in these briefings. **Ref 286**

5) For LEIF autopsies conducted in Contra Costa, and for autopsies conducted in other counties where the pathologists agree, the Crime Lab has the responsibility for physical evidence. **Ref 287**

a) Exception: For vehicular collision fatalities, the Protocol Collision Investigators have that responsibility with assistance, if appropriate, from the Crime Lab or other qualified physical evidence processors. **Ref 288**

6) Although the Coroner's Office has authority to determine who attends autopsies, it is usually advisable to allow legitimate professionals who have been retained by or for the decedents' families to attend. Examples are licensed medical doctors, licensed private investigators, and recognized professional criminalists. **Ref 289**

w. The District Attorney's Office **Ref 290**

1) The District Attorney's Office has the following roles in Protocol cases: **Ref 291**

a) Participate as a coequal investigating agency in the MATFs with the Venue and Employer Agencies and with assisting LEA(s). **Ref 292**

b) Assist and advise MATF investigators and others on various criminal law and investigatory issues which may arise, such as: (1) search and seizure, including consensual searches; (2) interviewing including *Miranda*, voluntariness of statements and interview content; (3) detentions and releases; (4) decisions to arrest, including evaluation of probable cause; (5) elements of crimes; (6) legal defenses; (7) immunity issues; (8) sharing of information between the various investigative formats; (9) physical evidence matters; (10) investigative strategy and tactics; (11) sources for acquiring information and investigative resources; (12) methods to compell and preserve testimonial information including use of the Grand Jury; (13) crime charging matters; and (14) recognition and resolution of other criminal law issues. **Ref 293**

c) Upon completion of the Criminal Investigation, analyze the facts of the incident and apply the relevant law to determine whether or not criminal laws were violated. Prosecute or decline to prosecute as appropriate. For fatal incidents, the final analysis usually occurs after the Coroner's Inquest. **Ref 294**

2) The District Attorney's Office has its own separate investigative authority and may perform independent investigations of incidents, separate from the MATF or any other investigations, when deemed appropriate by the District Attorney or his/her designated alternate in his/her absence. **Ref 295**

x. MATF reports and documents. Also see **Refs 344-350**. **Ref 296**

1) All Criminal Investigators will write reports documenting their participation in MATF investigations. **Ref 297**

2) Investigators within each MATF team will allocate among themselves the responsibility for documenting the team's investigative activity. **Ref 298**

3) The **Major Case Page Numbering System** **Ref 299**

The Case Managers Team will designate an MATF investigator to assemble and disseminate all MATF reports and documents. All MATF agencies will submit one legible copy of each page of its reports and other documents to the designated investigator but will maintain possession of their originals. (Original evidentiary documents will not receive these page numbers; instead, copies of such documents will be submitted and will receive page numbers.) The investigator will collect and organize all documents from all LEAs and an alpha character identifying each reporting or source agency, followed by sequential page numbers starting at the number 1, will then be placed onto all pages in each LEA's set [16]. Copies of those page numbered sets will then be created and all numbered sets will be distributed to all MATF agencies. The LEA of the designated investigator will maintain the complete library/archival collection of all pages in all sets onto which the original page numbers were placed.

4) Prompt completion, submission and distribution of reports is essential. All MATF and assisting agencies and investigators will strive for report completion and distribution within 30 days after each Protocol incident. **Ref 300**

4. **The Administrative Investigation** **Ref 301**

a. In addition to its participation in the MATF's Criminal Investigation of Protocol incidents, involved LEAs may also wish to conduct investigations of Protocol incidents for their own administrative (non-criminal law) purposes. Such purposes include: **Ref 302**

1) **Internal Affairs**: to determine whether or not its employees violated LEA regulations, orders or training instructions. **Ref 303**

[16] For example, the Sheriff's Office might be designated with S, the Crime Lab with L, the District Attorney with D, the Coroner's Office with C, the Antioch Police with A, and the Richmond Police with R. Document pages from each agency would be numbered with its assigned letter followed by a sequential number starting at 1 and going upward as far as necessary.

2) **Agency Improvement / Quality Assurance**: to examine the adequacy and functioning of its policies, procedures, programs, operations, training, equipment and personnel, to confirm their efficacy or to identify needed improvements. **Ref 304**

3) **Accountability and Communications**: to meet LEA management's responsibility of informing and discussing the facts of incidents with people outside the LEA such as those in the LEA's parent government, other LEAs, other government agencies, risk managers, insurance carriers, the public, decedents' families, the news media, etc. **Ref 305**

4) **Civil Claims and Litigation**: to prepare the LEA for claims and/or civil litigation that may be filed. (Some LEAs utilize the Administrative Investigation for this task if they don't utilize the separate Civil Litigation Investigation format.) **Ref 306**

b. The initiation of Administrative Investigations and the extent of those investigations are at the discretion of Employer Agencies. **Ref 307**

c. LEAs may conduct Administrative (and Civil Litigation Investigations - **Ref 316**) as they wish but not in conflict or competition with the Criminal Investigations. Similar provisions are at **Refs 121, 316.** **Ref 308**

d. Employer Agencies needing investigative assistance to perform Administrative Investigations may seek advice and/or obtain investigators from other LEAs or from other sources. Those investigators would perform, or help perform, the Administrative Investigations under the authority and direction of the Employer LEA. **Ref 309**

1) Legal and investigative advice on conducting Administrative Investigations may be obtained from the LEAs' legal advisors (county counsel, city attorney, Chief's attorney, associations to which the Chief or the LEA's parent government belongs, etc.), from other LEAs or from elsewhere. **Ref 310**

2) The District Attorney's Office may be contacted for advice concerning criminal law matters (**Ref 293**) related to Administrative Investigations but it does not otherwise give legal advice on Administrative Investigations. It does not perform Administrative Investigations for other LEAs nor does it participate in them. **Ref 311**

e. Any evidence or information that was administratively compelled (**Refs 52, 239**) from Law Enforcement Personnel shall not be revealed in writing, orally or otherwise to Criminal Investigators or to any member of the District Attorney's Office without prior approval of the District Attorney's Office. This prohibition applies to interview statements, physical evidence (including biological samples taken from Law Enforcement Personnel and the results of their testing), police reports or witness statements, scene re-enactments, and **Ref 312**

other information including investigative leads. Some exceptions to this prohibition (**Ref 239**) may apply.

1) Products of the Administrative Investigation that were not acquired directly or indirectly through administrative compulsion (i.e. *Lybarger*) are subject to disclosure to Criminal Investigators and the District Attorney's Office. Confer with the District Attorney's Office prior to disclosure. **Ref 313**

f. Upon being notified of Protocol incidents, Employer Agencies should consider assigning at least one LEO to represent the Employer LEA's Administrative interests for the first 6 to 12 hours of the MATF's investigation. This investigator should "roll out" at the same time that MATF investigators do, should attend the MATF's briefings and observe the scenes and physical evidence, and be thoroughly knowledgeable about the MATF's investigative product and progress. He/she should be alert for, and brief LEA management on, matters of Administrative (and Civil Litigation if tasked) interest and should be prepared to advise upon or make acute Administrative Investigative decisions and to begin an active Administrative Investigation if and when assigned to do so. This investigator can also serve as an MATF contact with the Employer Agency for certain personnel matters. **Ref 314**

g. The MATF will promptly and periodically brief Administrative Investigator(s), as requested, about its investigative products and progress. Administrative Investigators will have access to MATF briefings, the scene(s), physical evidence, and interviewees' statements and all other material. **Ref 315**

5. **The Civil Litigation Investigation** **Ref 316**

In anticipation of possible civil claims and civil law suits, a separate Civil Litigation Investigation may be performed by involved LEA(s). These investigations are performed under the direction of, and on behalf of, lawyer(s) who would represent the LEA and its parent governmental body (and often LEA employees) in the event a civil claim or lawsuit is filed against them. Risk Management personnel are often also involved. Investigators for this format are usually supplied by the involved LEA or its parent government, or they may be from the private sector. Certain privileges, such as the Attorney/Client privilege [17] and the Attorney Work Product privilege [18] may apply to its investigative results. Civil Litigation Investigators have access to MATF briefings, the scene(s), physical evidence, and to all the MATF's investigative products.

LEAs may conduct Civil Litigation Investigations as they wish but not in conflict or competition with the Criminal Investigations. The same provision is at **Refs 121, 308**.

I. GUIDELINES FOR INFORMATION RELEASE TO THE PUBLIC AND NEWS MEDIA **Ref 317**

[17] California Evidence Code §915

[18] California Code of Civil Procedure §§2018.030 (a) and (b).

1. The public's right to know what occurred must be balanced with the investigative requirements of the three different investigative formats (Criminal, Administrative and Civil Litigation) and with the rights of involved and affected individuals and/or the public. **Ref 318**

2. As in all other law enforcement contexts, great care must be taken to ensure that intentionally or recklessly misleading, erroneous or false statements are not made. **Ref 319**

3. Agencies and individuals who are not well informed and not intimately involved with the progress and results of the MATF investigations should not make statements to the press or public about that investigation. **Ref 320**

4. Regarding specific agencies: **Ref 321**

   a. <u>Venue Agency(ies)</u> **Ref 322**

      Unless the involved LEAs otherwise agree, Venue Agencies have the responsibility for making press releases about the facts of the incident and MATF's investigation of it for the first 48 hours.

   b. <u>Employer Agency(ies)</u> **Ref 323**

      When the Employer Agency is not also the Venue Agency, fewer problems will arise, especially within the first 48 hours of the investigation, if the Employer Agency limits its comments to the following:

      1) The employer-employee relationship; **Ref 324**

      2) Factual material revealed by the Employer Agency's own Administrative and/or Civil Litigation Investigations of the incident; **Ref 325**

      3) Information that has been cleared for release by the MATF. **Ref 326**

   c. <u>The Crime Lab</u> **Ref 327**

      Its press releases should usually be confined to general information about the laboratory's role and functions, scientific facts and principles, and testing procedures. Specific results of searching, testing and analysis should generally not be released without clearance from the MATF's Case Managers Team unless release of information is considered necessary to publicly correct information which the Crime Lab considers to be incorrect or misleading.

   d. <u>The Coroner's Office</u> **Ref 328**

      Information generally should be limited to the following:

      1) General information about the functions of the Coroner's Office. **Ref 329**

2) Autopsy findings, including the condition of decedent, the cause, manner and mode of death and toxicology test results, but only after the MATF agencies have received this information. **Ref 330**

3) The identity of those present at the autopsy and the identity and affiliation of the pathologist and other experts used by the Coroner. **Ref 331**

4) The general nature of further medical testing or medical investigation to be performed. **Ref 332**

5) Information obtained directly by Coroner's investigators from medical sources, the decedent's family members, participants, witnesses or others, and the general nature of further investigation to be done by Coroner's investigators. **Ref 333**

6) Any information which was obtained by the Coroner's Office from MATF investigators or from the involved agencies should generally not be released by the Coroner's Office without clearance from the MATF's Case Managers Team. **Ref 334**

5. If the Case Managers Team determines that the release of specific information would materially jeopardize the MATF's investigation, it shall notify the agencies possessing it about the hazards of releasing it. **Ref 335**

6. Interruptions to MATF investigations and investigators will be minimized if LEAs assign individuals to be Public Information Officers who are not MATF investigators. **Ref 336**

7. Releasing the identities of LEA Actors (**Ref 48**) and LEA Witnesses (**Ref 49**) to the news media and the public is often a sensitive issue. Before making such disclosures, the involved MATF agencies should: (1) determine if there are investigative reasons or personal safety reasons for delaying release of the identities, and (2) confer with the involved employees and their representatives about the timing and content of such releases. **Ref 337**

J. CORONER'S INQUESTS **Ref 338**

1. For general information about the role of the Coroner's Office, see Attachment F, ***Death Investigation Roles of the Coroner and Law Enforcement Agencies*** on Page 97. **Ref 339**

2. A public Coroner's Inquest will normally be held after the Criminal Investigation of each fatal incident is completed. Because evidence at Inquests is received under penalty of perjury, Inquests are a valuable mechanism for informing the public, decedents' families, the news media and other interested parties of the facts of LEIF cases. They also provide another opportunity to develop further information **Ref 340**

about such Incidents.

By Protocol agreement, Coroner's juries are utilized for these Inquests. By statute[19] Inquest verdicts include findings regarding (a) the name of the decedent; (b) the time and place of death; (c) the medical cause of death; and (d) whether the death was by natural causes, suicide, accident, or death at the hands of another other than by accident.

While the Coroner's hearing officer has the discretion to determine which witnesses will testify, it is the Protocol's general intention that all Law Enforcement Personnel who were Actors (**Ref 48**) and Witnesses (**Ref 49**) to the incident be subpoenaed, as well as citizens who are believed to have relevant personal knowledge.

3. In a few cases where the facts of an LEIF incident are very clear and law enforcement's role was obviously appropriate and non-controversial, Inquests may not be necessary. In a few other cases the filing of criminal charges against someone in connection with the Protocol incident may provide an adequate opportunity for public access to the facts of the Incident. In either case, the Sheriff/Coroner, <u>and</u> the Police Chief(s) of all involved LEAs, <u>and</u> the District Attorney would have to all agree that an Inquest is not needed. **Ref 341**

4. Not less than 96 hours prior to the beginning of Inquests, Law Enforcement Personnel who are subpoenaed to testify shall be given access to a copy of any recording(s) or a transcript(s) of their own MATF investigative interviews. **Ref 342**

5. In addition to the Protocol's provisions for Inquests, California Government Code §27491.6 provides that the Coroner shall hold an Inquest if requested to do so by the Attorney General, the District Attorney, the Sheriff, City Prosecutor or City Attorney, or a Chief of Police in the county where the Coroner has jurisdiction. **Ref 343**

K. REPORTS AND EVIDENCE **Ref 344**

Also see **Refs 296-300** for other provisions concerning MATF reports.

1. Material created and collected by the MATF investigation, as well as by the Crime Lab, Coroner and other agencies and investigators, will be made available in a timely manner to involved LEAs and other appropriate LEAs. **Ref 345**

2. Such material includes: **Ref 346**

   a. Reports written by MATF personnel, and reports and documents collected by them from other sources. **Ref 347**

   b. Access to physical evidence. **Ref 348**

[19] California Government Code §27504

c. Photographs and diagrams. **Ref 349**

d. Audio and video recordings. **Ref 350**

3. When the Case Managers Team and the District Attorney's Office conclude that physical evidence collected by the MATF no longer needs to be retained for criminal law purposes, the involved LEAs shall be notified of that decision. At that time, responsibility for the continued custody and preservation of physical evidence may shift by mutual agreement to the Employer Agency if it believes continued retention is appropriate for potential for Administrative and/or Civil Litigation purposes. **Ref 351**

PATROL SUPERVISORS' LEIF CHECKLIST
SHOOTINGS AND GENERIC INCIDENTS

1. **Emergency life saving measures are the first priority.**

   A. First aid

   B. Consider need for more EMS resources: fire; additional ambulances; medical helicopter.

2. **Request** (enroute if possible) **additional personnel**, **equipment** and other **resources** as needed for Patrol Division's scene management responsibilities. Make requests promptly then periodically review situation for further needs. Consider the need for:

   A. **More Patrol Officers** for LEIF Incident and/or Patrol responsibilities not connected with the LEIF Incident:

      1. Borrowing LEOs from other jurisdictions; mutual aid.
      2. Calling in next Patrol shift early and/or delaying release of current shift.
      3. Recalling off-duty LEOs.
      4. Reserve officers, parking/traffic control officers, etc.

   B. **More Patrol Supervisor(s)** to assist with LEIF scene(s) and/or Patrol responsibilities not connected with the LEIF Incident

   C. **Traffic control**: (1) personnel; (2) flares, barricades, traffic advisory or warning signs, scene tape; (3) traffic detours; (4) notification to Public Works, other LEAs, CHP, CalTrans, etc. if major traffic disruption will occur.

   D. **Translators** for victims, witnesses and canvassing.

3. **Ensure** (enroute if possible) that **notifications are made** about the LEIF (by your Dispatcher, a designated LEO, or other) to:

   A. **Your LEA's personnel** per your LEA's procedures, including as appropriate:

      1. **Chain of command**−management and supervisors.

      2. **Criminal Investigators** (Homicide or Crimes Against Persons, and other relevant investigative specialties).

      3. **CSIs** - for immediate scene needs and/or to assist Crime Lab.

      4. **Vehicle Collision Investigators**−for immediate scene needs and/or to work with designated Protocol Collision Investigators.

      5. **I. A.** (Administrative Investigators) and/or **Civil Litigation Investigators**.

6. **Press Information Officer**.

7. **Community Relations Officers**.

8. **Representatives for involved LEOs**: POA officials (Police Officers' Association, the Deputy Sheriffs' Association (DSA) etc.

9. **Peer Support**, Trauma Team, or other supportive personnel for traumatized law enforcement personnel.

B. **Other LEA(s)** whose employees are involved in the Incident (if not already aware).

C. The **District Attorney's Office** (either directly or through the Sheriff's Office Dispatcher).

D. The **Crime Lab**.

E. The **Coroner's Office** upon a death. This is a preliminary or courtesy notification; body removal by the Coroner will be made at the direction of MATF investigators.

4. **Anticipate receiving many inquiries** via cell phone from various officials needing more information after they are notified about the LEIF. They will require phone briefing, then more details upon their arrival at the scene.

5. **Consider** the need to:

A. **Check the field(s) of gun fire** for injured people and evidence.

B. Arrange **additional lighting** for scene(s).

C. Establish a **Command Post** (mobile command vehicle or other type).

D. **Assign a scribe** to record actions taken.

E. **Designate a Press Information Officer** if LEA has no designated PIO.

F. Establish a **news media area**.

G. **Shield the public's view** of unpleasant, distracting, or investigation-hampering sights.

H. **Assign an LEO to write the police report** on the event which started the LEIF. (In many cases an investigator assigned to the MATF will write this report.)

6. Determine which LEO(s) and supervisor(s) have **responsibility for performing routine police work** in the rest of your jurisdiction while attention and resources are involved with LEIF.

7. **Assign an LEO with a tape recorder to ride in the ambulance or helicopter** when a person is transported to a hospital. Purposes:

   A. **Physical evidence tasks:** (1) recognize, locate, secure and protect it properly so its value is not diminished; (2) maintain chain of custody; (3) report its discovery to a supervisor, investigator or physical evidence processor.

   B. **Custody of the injured person** if he/she has been or might be arrested.

      1. Prevent escape.

      2. Prevent destruction of evidence.

      3. Protect that person.

      4. Adjust or remove physical restraints for medical purposes as necessary and if safe.

      5. Prevent unauthorized contacts.

      6. If the injuries are fatal, maintain the chain of custody on the body until relieved.

   C. **Safety** of EMTs/paramedics, hospital staff and other patients

   D. Provide **aid and comfort to injured Law Enforcement Personnel**; protect the person, physical evidence and property belonging to the person or LEA.

   E. **Document any statements made** by the person, especially spontaneous statements (California Evidence Code §1240), dying declarations (California Evidence Code §1242), contemporaneous statements (California Evidence Code §1241); or statements of then-existing or previous mental or physical state (California Evidence Code §§1250-1251), and those made in connection with medical attention. In most cases the LEO should **not** attempt to interview the person unless directed to do so by investigators.

   F. Provide **information to medical** personnel as relevant for medical treatment, and obtain information **from medical** personnel relevant to the investigation.

      1. **Identify medical personnel**, including EMTs, paramedics and Emergency Room staff involved.
      2. **Serve as the contact for LEIF investigators** calling for information about the injured person, physical evidence, people present, etc.

      3. **Obtain copies of EMS and medical reports** if then available to law enforcement.

   G. **Contacts with the injured person's family** and friends at the hospital, and with

witnesses.

1. **Identify** people.

2. Serve as the **contact for LEIF investigators** who may want information about the LEIF or the injured person from these people, or may want assistance to arrange personal contacts with them.

3. Collect and preserve **information they give.**

4. Occasionally there may be a need to **keep the peace** at the hospital.

8. **Protect sensitive investigative information.** Use caution on radio broadcasts and cellular phone calls. Use hard wire telephone, secure radio or in-person contact when confidentiality is needed.

   A. Be aware of the technical and investigative capabilities of the news media, including zoom lenses, long range microphones, use of concealed recording devices and transmitting microphones, night vision cameras, access to public and news media records and files, and aggressiveness in interviewing civilian witnesses.

9. **Scene(s): Immediately identify and secure.** Establish a perimeter for each a sufficient distance away to safeguard evidence, law enforcement personnel and operations. In some circumstances an inner and outer perimeter are appropriate. Adjust scene boundaries as necessary as more information becomes available. Establish and maintain true control of the scene.

   A. **Multiple scenes** are often involved, such as

      1. Location(s) of the body or injured person.

      2. Location(s) where injuries occurred or where force was used.

      3. Vehicles: LEO's; suspect's; struck by gunfire; involved in collision.

      4. Residences.

      5. Location of personal property.
      6. Location where crimes or incidents connected to the LEIF or the injured/ deceased person were committed prior to the fatal Incident.

         a. Location of victims and witnesses of the crimes.

         b. Location of evidence of those crimes.

7. Hospital where the injured person was taken.

8. Location of involved weapon evidence such as firearms (and bullets, casings, magazines); knives, etc.

9. Routes (vehicle or pedestrian) taken by LEIF participants.

10. **Protect scene(s) and their contents**. No alterations shall be made to scenes, and no items shall be moved inside scenes or removed from scenes, without prior approval of the MATF and the Crime Lab, unless absolutely necessary for public or officer safety, for preservation of evidence, for emergency medical reasons, or for other very compelling reason.

    If some alteration of a condition, or movement or removal of an item without prior approval is necessary, the removal must be witnessed and documented. Document the identity of the person making the change and the person who authorized it, the reason for the change, the identity of the official who witnessed the change, and the time of change of condition. When possible, these actions shall be photographed or videotaped. Extreme care must be taken to avoid compromising any physical evidence.

    A. **Evidence contamination** may occur from movement, alteration, removal or addition of items. Especially subject to contamination are fingerprints, footprints, blood, trace evidence, cigarette material, bullets and casings, firearms, lights and light switches, vehicle positions and vehicle conditions.

    B. **Medical aid debris** - leave in place.

11. **Access to the scene(s) must be strictly limited** to only those officials who must enter for an investigative, medical or other emergency purpose.

    A. A **single access point**, chosen to avoid contamination of evidence, should be used in most cases.

    B. When not necessary for patient care efforts, **entry and re-entry by EMS personnel** (fire and ambulance) should be restricted to the absolute minimum necessary to perform needed duties, especially after the patient has been removed from the scene.

    C. **Do not allow the news media to enter** crime scenes.

    D. Only MATF investigators can authorize crime scene entry for the following:

        1. Representatives of Law Enforcement Personnel including attorneys or police association representatives.

        2. Civilian review board personnel.

3. LEAs' civil attorneys.

4. LEAs' Risk Management representatives.

12. A **written scene log** must be established as quickly as possible. Use pre-printed forms when possible.

A. Promptly and very diligently **reconstruct who was inside the scene** before the scene log was started. List by name, affiliation and contact information as appropriate. Include:

1. Law enforcement personnel.

2. Ambulance and fire department personnel.

3. Civilians (witnesses, victims, bystanders, residents, passersby, suspects).

4. News media personnel.

B. Identify and list **everyone who enters the scene** after the log is started, including their names and agency affiliation, the times of their entries and exits, and the reasons for entry.

13. **Discharged firearms in possession of LEOs**

A. When an involved **LEO still has personal possession of a weapon** he/she used in the Incident, normally the supervising patrol officer at the scene should promptly and discretely (i.e., in private, out of view of the public and other LEOs) consensually obtain possession of the weapon. Exigent circumstances may justify a seizure if consent is denied. If handled indelicately, the process of collecting the weapon can have an unfair and very damaging impact on the LEO and may also create negative and false impressions on members of the public who see it.

If already holstered when the supervisor does this, side arms must not be removed from their holsters. Obtain the entire gun belt.

Only qualified LEOs should handle special weapons such as sub-machine guns, MP-5s, etc.

B. **Side arms should be replaced** as quickly as possible if the LEO so wishes, unless reasons dictate otherwise.

C. The person **collecting any weapon must document** its readily visible general description, condition and appearance, and the details of any trace evidence adhering, to the extent these observations can be made without removing a firearm from its holster or otherwise compromising physical evidence. The location where the weapon or instrument was first observed by the supervising patrol officer, and the identity of the person or location from which the weapon or instrument was received, shall also be

recorded.

1. In firearms cases, also make note of whether the firearm is cocked, has its safety on or off, has its hammer back, any apparent jamming of either fired or unfired ammunition; the location and position of the weapon's magazine(s) (e.g., fully or partially inserted, completely separate from the firearm, missing, etc.), to the extent possible without removal of the weapon from its holster.

    a. If the firearm is obviously jammed, no attempt shall be made to unload the weapon or clear the jam.

    b. If the firearm is cocked (or if a semi-automatic pistol cannot be determined to be cocked or not), the safety may be put ON but this act must be documented. If the firearm's hammer is back, it may be lowered and that fact must be noted.

2. Anyone receiving a weapon or instrument from another person, or obtaining it otherwise, shall **note its serial number** if readily visible without removing the weapon from its holster or otherwise compromising physical evidence, and shall maintain the chain of evidence.

3. Otherwise, **weapons and instruments will not be disturbed** in any way. They shall not be handled by anyone other than the official who obtains them and he/she shall handle them minimally to preserve the exact state of the weapon or instrument when received.

4. The collected weapons or instruments shall be **transferred to the Crime Lab staff** as soon as practicable, along with the information required above.

5. If the supervising patrol officer at the scene was an Actor or Victim in the Incident, the responsibility for security and/or collection of weapons and instruments shall rest with an uninvolved supervisor or the next-in-line uninvolved LEO at the scene. This may also be done by an uninvolved investigator.

6. Normally twelve rounds of the same type(s) of ammunition fired by LEOs will be collected later by the MATF investigators or physical evidence processors from each shooting LEO. When possible another source will be used if the LEO has insufficient similar rounds remaining.

7. The Crime Lab understands that prompt return of LEO's firearms is important so it endeavors to complete examinations as soon possible.

    When examinations of LEO's firearms are completed, the Crime Lab will notify the MATF which will then determine whether each firearm will be retained for criminal investigation purposes.

    When the MATF decides against long term retention of a firearm for Criminal Investigation purposes, it will notify the Employer LEA (usually via the Administrative Investigators) of that decision. From that time, the disposition of the weapon is at the discretion of the Employer Agency which has the option of keeping

it for Administrative Investigation purposes and/or for Civil Litigation purposes. When the Employer Agency no longer desires to maintain custody of the weapon, it shall decide upon its disposition.

14. **If another weapon or instrument was involved**, promptly see to the **security and/or collection** of such items as follows:

    A. If the area is secure, such items shall be left in place and undisturbed. Consider stationing a guard.

    B. If the area is not secure, decide whether the weapons can be safely left in place with a guard stationed if necessary, or whether prompt removal is necessary. If such items must be moved or removed for protection, they should be photographed or videotaped in place first and the removal witnessed.

15. **Check the firearms and ammunition of all LEOs** who were present at the time of the LEIF shooting Incidents. This will ensure that all discharged firearms are identified and collected, as well as to identify weapons which were not fired. This includes back-up firearms and those inside vehicles. Detailed documentation is essential.

16. Prior to the Crime Lab's arrival, **physical evidence at risk** of being compromised in any way must be promptly and effectively observed and documented, then collected promptly if absolutely necessary, Otherwise protect it for subsequent Crime Lab collection. Examples include evidence which is endangered by

    A. Its adherence to live participants (such as bloodstains, gun shot residue, and some other types of trace evidence).

    B. Crowds, vehicular traffic, the weather (wind, rain, snow, dew, sunshine or heat), sprinklers, evaporation or melting, fire, animals or insects.

    C. Electrical power being turned on or off (e.g. computer information).

    D. Being recorded over (e.g. contents of audio or video tapes, certain telephone call data).

    E. Being erased or deleted.

    F. Peoples' normal activities.

17. All **officers must conduct themselves with appropriate decorum**. They may be closely watched by the media, residents of the neighborhood, people associated with the decedent, members of police oversight groups, family, and others.

18. Separately ask the Involved and Witness LEOs **"What happened"?**

    A. ***Miranda*** applies only to custodial interrogations.

B. **If the LEO answers freely** and without being ordered *(Lybarger)* to do so, there are no legal restrictions on the scope of the conversation.

1. Seek information relating to (a) exigent circumstances; (b) public safety; (c) crime scene management issues (d) capture of outstanding suspects; and (e) a summary of the incident for briefing investigators and management.

2. Many LEOs want to volunteer much more information than the patrol supervisor needs for the above purposes. This may be psychologically beneficial to some LEOs and may be very informative for the LEA, but the patrol supervisor may not have time to listen to it all and it may be difficult for the supervisor to later accurately document what the LEO said.

3. Try to mark relevant positions which the LEO identifies.

C. **If an LEO** from your LEA **refuses to answer unless ordered** to so do:

1. Determine if the necessary and urgent crime scene functions (listed below under b-1) can be performed without obtaining compelled information from LEA Actors, such as by using only what you have learned or expect to learn from other sources such as non-Actor LEOs, civilian witnesses, physical evidence, dispatch recordings, other audio or video recordings, etc.

   a. If you do not absolutely need involuntary information from an LEA Actor to perform critical crime scene functions, do not compel the LEO to give a statement or answer your questions. Investigators will attempt to interview the LEO later.

   b. If the LEO's information is absolutely necessary to the performance of critical crime scene functions, give the LEO a *Lybarger* admonition.

      1. Compelled answers must be limited to critically needed information concerning **public safety**, **exigent circumstances**, and **scene management**.

         a. Examples of information to obtain:

            1. Injured **people who may need medical attention**

            2. **Suspect information**, such as identity, crimes committed, flight information, vehicle, level of hazard, probable cause for arrest, etc.

            3. **Crime scene(s)** identity, location and size.

            4. **Physical evidence** identity and location, and information relating

to preservation of evidence.

5. **Weapons**, including who fired, the number of shots, the direction(s) of fire, the current location of weapons, etc.

6. The identity of people who were involved in the Incident as **actors**, **victims** and **witnesses**.

b. Do not compel information for these purposes:

1. To determine if the LEO committed a crime.

2. To determine possible Internal Affairs violations.

3. To obtain information to brief LEA investigators or management (other than information for reasons listed in paragraph "a" (above).

D. **Treat the involved LEOs appropriately** (as well as everyone else).

1. Ask about their physical and emotional condition and any needs.

2. Isolate and protect them from the news media, the public in general, hostile people, and well-meaning but intrusive or inappropriate comments or questions by other officers.

3. It is psychologically important to have a Companion Officer remain with involved LEOs at the scene as well as at the LEA facility where they will be taken.

a. Companion Officer is a generic term used to describe an LEO who accompanies and supports another LEO. A Companion Officer may be a member of a Peer Support Team, Trauma Team, or Crisis Intervention Team, but need not be.

b. In choosing Companion Officers for LEOs, solicit the wishes of the involved LEO(s). Select individuals who are a good fit with specific LEOs, otherwise the benefits of using Companion Officers are lost and discomfort may result.

4. Suggest that involved personnel call home when appropriate.

E. **Order the LEOs not to talk to others** about the case other than their attorneys and assigned investigators.

F. **Don't give legal advice.**

G. **Prepare to document** LEOs' information accurately.

1. Methods:

a. The supervisor writes a written report.

b. MATF Investigators may interview the supervisor instead.

2. Accuracy and completeness is very important.

19. Make **radio broadcasts** on outstanding suspects, vehicles, witnesses, evidence items, etc.

20. Collect **perishable evidence** (e.g. GSR) from shooter(s) and victim(s) before they are taken from the scene if doing so does not cause a medically detrimental delay.

21. **Transporting** and "**sequestering"** the Involved and Witness **LEOs**:

"Sequester" means to remove or withdraw into protection; isolate; set apart from others; seclude.

A. LEOs who were present at the scene at the time of the Incident, whether Actors or Witnesses, will be relieved of their duties at the scene as promptly as possible and shall be sent to their own LEA facility unless other suitable and agreeable arrangements are made for them (such as another LEA facility or a hotel). Companion Officers will accompany these people either in a group or individually. LEOs who are either Actors and/or distressed Witnesses should be driven by others to their destinations and should not be permitted to drive until they are ready to do so.

B. Collect perishable evidence before transporting.

C. If circumstances prohibit simultaneous removal of all Involved and Witnessing officers from the scene, Actors and distressed individuals should be relieved first. Some Witness officers may be needed temporarily for scene security until they can be relieved.

D. Uninvolved Companion Officer(s) should remain with the sequestered LEOs (except during confidential conversations with a physician, lawyer, psychotherapist, clergyman or spouse), either in a group or individually, until they can be interviewed.

1. Functions of Companion Officers:

a. Provide companionship and emotional support.

b. Ensure the sequestered officers have privacy.

c. Accommodate LEOs' needs for food, exercise, rest, sleep, clothing change.

d. Assist with notification to close family members, attorney and/or POA representative.

e. Refresh the LEOs' knowledge about upcoming investigative procedures.

f. Ensure the integrity of each LEO's later statements to investigators.

E. Involved and Witness officers must **not discuss the case** among themselves, with Companion Officers, or with others, except their lawyers and the Investigators.

F. LEOs should be sequestered in locations which are **quiet, private, of suitable size, not emotionally negative** and which are **away from areas where Investigators are working**. Rest rooms, telephone access, non-alcoholic beverages, food or snacks should be nearby or provided. Conference rooms, meeting rooms, libraries, and break rooms often work well, but interview or interrogation rooms, the Chief's Office and the Internal Affairs Office are usually not satisfactory.

G. While awaiting interviews, Involved and Witness LEOs should be encouraged to relax and to carefully reflect upon what occurred. For their own use they **may wish to make notes** about the Incident which may be helpful during consultations with their attorneys and during interviews with MATF investigators.

22. **Locate, identify, detain, statementize** and **sequester witnesses** as well as possible.

A. Prompt, aggressive and thorough efforts are needed.

B. LEOs should interview them and then obtain statements from each which (1) detail their knowledge, or (2) clearly document their claim to have no knowledge of the Incident. This may be the only interview that will ever be possible with some witnesses. Audio recordings are best, followed by written and signed statements, followed by the officer taking notes and writing a comprehensive and accurate report of a non-recorded interview.

C. When there are many witnesses, it may be necessary to triage them to determine the order of Patrol interviews.

D. Identify witnesses thoroughly.

E. Try to sequester witnesses who give patrol officers significant information pending formal interviews with MATF investigators.

23. **CSIs** (and other qualified personnel) can perform valuable functions at LEIF scenes prior to the Crime Lab's arrival, after which they may be asked to assist Crime Lab personnel.

A. For immediate CSI duties, see the ***CSI Checklist – Before The Crime Lab Arrives***, Attachment D on Page 77.

B. OK to photograph and/or video until the Crime Lab arrives *without disturbing, contaminating, or collecting*. Photos of the crowd may be useful.

ATTACHMENT A
PATROL SUPERVISORS' LEIF CHECKLIST
Shootings and Generic Incidents

24. Plan and then start an **area canvass** to find more witnesses, relevant vehicles, weapons, evidence, routes of travel, or people.

25. Consider need to arrange for short-term **assistance for civilians** who are emotionally traumatized or displaced by the Incident.

26. Consider **needs of your personnel**: relief, food, water, shelter, restrooms.

27. **Debrief your Patrol officers** to determine what they have learned, what they have accomplished, and what remains to be done.

28. **Collect your information** and your thoughts and **prepare to present your detailed and specific information to a briefing** of investigators, crime scene processors, and LEA management and supervisors.

Reduced Size Pocket Version

Patrol Supervisors' LEIF Checklist for Shootings and Generic Incidents

1. **Emergency life saving** is first priority.
2. Enroute if possible **request needed additional resources**: ♦ more patrol cops ♦ equipment ♦ traffic control ♦ translators, etc. Make prompt decisions then review as necessary.
3. **Notifications**: ♦ to your LEA's command staff, detectives, CSIs, vehicle collision investigators, IA, PIO, POA, Peer Support ♦ other LEAs if involved or effected ♦ DA ♦ Crime Lab ♦ Coroner.
4. **Expect many inquiries** by cell phone from notified officials.
5. **Consider**: ♦ checking field of fire ♦ additional lighting ♦ Command Post ♦ record actions taken ♦ designate a PIO? ♦ news media area ♦ shielding public's view ♦ who writes original report?
6. Determine LEO and supervisor **responsibility for non-LEIF duties elsewhere**.
7. Assign **LEO with tape recorder to ride ambulance** or helicopter with injured person for: ♦ physical evidence ♦ custody of person ♦ safety of EMS & hospital people ♦ aid, comfort & protection for injured LEO ♦ document statements made by the person ♦ information to & from medical personnel ♦ contacts with person's family & witnesses.
8. **Protect sensitive information**. Caution on radio broadcasts & cell phones. Use hardwire or personal contact when confidentiality is needed.
9. **Scenes**: **Immediately identify and secure all scenes**. Have multiple scenes? Establish & maintain true control. Consider inner & outer perimeters. **Big perimeters**. Adjust boundaries as necessary.
10. **Protect scene & contents**. No alteration or removal of items without approval of MATF & Crime Lab unless absolutely necessary for officer or public safety, evidence preservation, emergency medical reasons, or other very compelling reason. Necessary changes must be witnessed & documented. Inspect items, vehicles and people leaving. Use extreme caution to avoid compromising evidence. Determine and document scene changes.
11. **Strict control of scene access**. ♦ single safe ingress/egress point ♦ limit EMS entry/exit to minimum after patient is removed ♦ no news media inside scenes ♦ MATF OK needed for LEO reps, civilian reviewers, civil attorneys, risk management.
12. **Scene log**: ♦ diligently reconstruct who was inside scene(s) before log was started ♦ all entries & exits made after log is started.
13. **LEO's discharged firearms** in possession: ♦ normally in the field promptly & discretely obtain weapon and holster with gun belt ♦ replace LEO's sidearm if appropriate ♦ minimal manipulation – OK to engage safety or lower hammer if really necessary ♦ don't open or disturb its condition ♦ document readily visible details - model and serial number, trace evidence & condition ♦ transfer to Crime Lab.
14. **Other weapons involved?** Secure in place and guard if necessary. Collect if necessary if area not secure.
15. When LEO(s) shot: **check firearms & ammunition of all LEOs present** at shooting. Collect discharged weapons. Document all accurately.
16. **Physical evidence at risk:** Promptly observe & document, then collect only if absolutely necessary.
17. All LEOs must act with **proper decorum**. Many people are watching.
18. The **"What happened?" question.** ♦ Treat everyone appropriately ♦ Ask each Actor & Witness LEO separately ♦ ***Miranda*** only if custodial interrogation ♦ voluntary statements are usually given ♦if not, don't ***Lybarger*** unless absolutely necessary for public safety, exigent circumstances or crime scene management ♦ order LEOs not to talk except to their reps and to investigators ♦ don't give legal advice ♦ prepare to document their information accurately.
19. **Radio broadcasts** on wanted suspects, witnesses, vehicles, etc.
20. **Collect perishable evidence** from shooters and injured people before they are transported if not medically detrimental.
21. **Transporting & sequestering** involved and witness LEOs ♦ send with uninvolved Companion LEOs to their own LEA facility unless another suitable & agreeable location (e.g. other LEA, hotel) is chosen ♦ have perishable evidence collected first ♦ remove Actors and distressed witness LEOs first ♦ LEOs not to talk about case ♦ sequester appropriately ♦ encourage them to make notes to prepare for interviews.
22. **Witnesses**: locate, fully identify and "statementize", then detain & sequester if appropriate.
23. **CSIs** and others: ♦ Use CSI Checklist ♦ OK to photograph/video and document detail without disturbing, contaminating or collecting, until Crime Lab arrives ♦ crowd photos?
24. **Area canvass** and search for more witnesses, relevant vehicles, weapons, dropped evidence or clothing, route of travel, etc.
25. Need for **short-term assistance for affected civilians**?
26. **Needs of LEA personnel**: relief, food, water, shelter, restrooms.
27. **Debrief your personnel** on their task results and progress.
28. **Prepare yourself to brief investigators** and others with specific and detailed information. Collect case information and your thoughts.

ATTACHMENT A
PATROL SUPERVISORS' LEIF CHECKLIST
Shootings and Generic Incidents

PATROL SUPERVISORS' LEIF CHECKLIST
FATAL VEHICLE COLLISIONS

This Checklist is a guide to help Patrol Supervisors manage patrol officers' response to vehicle collision Incidents where Contra Costa County's **"Law Enforcement Involved Fatal Incident Protocol"** has been or will be invoked. It also has some application to non-Protocol collisions.

1. **Enroute** to collision scene(s)

    a. **By radio, establish control of vehicular and pedestrian traffic**, then modify as needed upon arrival and throughout operation.

        - Establish **detour routes** for public travel when practical.

    b. **Anticipate manpower needs** at collision site(s) and elsewhere; request more LEA personnel promptly.

2. Approach to scene(s):

    a.) All responders to scan for various **hazards** and **criminal threats** to anyone. Avoid or eliminate/mitigate hazards.

    b. All responders to **treat collision scenes as crime scenes**.

    c. Involved vehicles: lights, siren, engine, switches/controls, interiors = see Section 8(a)

3. Emergency **medical / life saving**

    a. Ensure **adequate emergency medical response** is already present or is enroute.

    b. Ensure **first aid** is provided as appropriate.

    c. Confer with Fire Dept. on **need for additional ambulance, medical helicopter**, etc.

    d. Consider **searching area** (bushes, fields, ravines, in water, over fence, etc.) for other **involved vehicles, people**.

4. Identifying and handling **the parties**

    a. **Differentiate suspects, victims and witnesses**, then have them identified, secured, separated and sequestered as appropriate.

    b. Suspects: Check for **probable cause** and/or outstanding warrants; **search for safety**; consider blood alcohol (**B/A) testing**; other **physical evidence**; **spontaneous and/or medical statements**;

c. Witnesses: see Item #8 below.

d. **Radio broadcasts** for outstanding suspect(s), vehicle(s), witnesses, evidence.

5. Re-evaluate need for **additional LEA personnel** throughout operation.

6. Ensure appropriate **notifications are made** (per Protocol and LEA policies), including:

a. Other involved and affected LEAs.

- Investigation of the Incident will be performed by the Protocol's Multi-Agency Task Force (MATF).

b. Command duty officer.

c. Specialized investigative units or investigators per LEA policy.

The MATF's Case Managers Team will coordinate the selection and callout of Protocol Collision Investigators).

d. District Attorney's Office.

e. The LEA's own collision investigator(s) (other than Vehicle Collision Investigators selected by the Case Managers Team).

f. Crime Lab and/or/CSIs as appropriate.

g. LEA's Press Information Officer.

h. Public Works, CalTrans or others for barricades, traffic diversion, traffic signal devices, lighting, traffic advisory or warning signs, spilled material, roadway structural damage, downed signage, downed trees.

i. Public utility company for water, gas and/or electrical problems.

j. CalTrans and/or CHP if regional traffic impact is expected.

k. A representative of the Police Officers' Association (POA), the Deputy Sheriffs' Association (DSA) etc., to support involved LEOs.

7. **Prepare yourself to brief responding officials** on arrival; expect many cell phone calls.

8. **Witnesses**

a. Promptly locate and adequately identify. **Collision witnesses are very mobile and do not remain long at collision scenes**.

b. Include people who stopped to **render aid**.

c. **Initial statements** to be taken by patrol officers.

d. Significant witnesses must also be interviewed by Vehicle Collision Investigators working with the MATF. Arrange for them to wait or transport to suitable location.

e. Have **medical and fire responders identified**.

f. Be alert for anyone who may have **photographed or videotaped** scene before responding officers' arrival. Try to ID who made them and attempt to access the images.

9. Immediate **physical evidence** concerns: (Also refer to the CSI Check list.)

a. Involved vehicles: Caution for delayed air bag deployment

1. **All involved vehicles**:

- If possible before vehicles are altered for rescue, etc., have someone carefully document (photos are best) for each vehicle: in or out of gear; seatbelt use; radio(s) on or off; lights and signals on or off; wipers on or off; other interior controls; ignition and keys; cell phone and computer and other possibly relevant factors in cabin.

2. **Emergency vehicles involved:**

- If necessary for safety, OK to cut off power to vehicle after carefully documenting (photos are best) whether lights and siren were activated, <u>and</u> exact configuration of their controls/switches.

- Otherwise, don't turn off LEA vehicle lights (including Code 3). OK to turn off siren but document per above paragraph.

- If vehicle lights are off, do not turn them on.

3. Non emergency involved vehicle(s): if necessary for safety OK to carefully enter and turn off engine(s) and/or disengage gear(s).

b. Consider evidence on people to be transported or leaving scene(s), especially if **perishable.**

c. Assign someone to **photograph the scene**(s) and/or **people** before any potential alteration or departure.

d. **Leave all evidence items in place** unless in imminent danger; stop any scene clean up unless it is necessary to eliminate an immediate hazard.

- All gear, equipment and property is to be left in place in and on involved vehicles, including LEA or LEO vehicles.

e. **Tow truck(s)** should not be used to tow or move vehicles until MATF investigators approve, but OK to use for emergency rescue.

f. Be alert for stationary **video cameras** that may cover area.

g. Try to **obtain consent** from involved but non-suspect civilians **for B/As** and have samples taken promptly.

h. Unless under arrest, **B/As for involved LEOs** will be decided by MATF investigators and/by Administrative Investigators from the Employer LEA.

10. Assign **officer** with **tape recorder** to ride in **ambulance or helicopter** with injured persons for: See ***Patrol Supervisors' LEIF Checklist for Shootings and Generic Incidents*****,** Item 7 for more specifics.)

    a. Physical evidence

    b. Custody of arrestee and prevent unauthorized contacts.

    c. Release from law enforcement restraints if necessary for treatment.

    d. Safety of Emergency Medical Services and hospital personnel.

    e. Aid, comfort and protection for injured LEO.

    f. Document statements made: spontaneous; in response to medical questions; dying declaration.

    g. Guard deceased body; chain of custody.

    h. Information to and from medical personnel.

    i. Contacts with family, witnesses.

11. **Scene control** issues

    a. Identify and secure all scenes, including:

        1) crash site(s), including minor collisions.

        2) vehicle pursuit route.

        3) foot chase route(s).

        4) original substantive crime scene (e.g. robbery, murder, manslaughter, theft, etc.).

        5) involved vehicles of LEAs or LEOs.

- "non contact" LEA vehicles must be kept in place and safe from alteration for processing by Vehicle Collision Investigators.

6) suspect(s) vehicle(s).

7) victim vehicle(s).

8) location of body or injured people.

b. Scene perimeter(s): make sufficiently large to protect people and evidence.

1) Consider possibility of evidence in **pre-impact** and **post-impact** zones. Evidence may be some distance from the point-of-impact.

c. Establish ingress/egress routes for personnel safety and evidence integrity.

1) Limit movement inside scene(s) by fire and ambulance personnel not necessary for patient care.

d. Have crime scene log started. (See ***Patrol Supervisors' LEIF Checklist for Shootings and Generic Incidents*** for more details.)

1) Strictly limit access.

e. Determine what changes to scene have occurred; have changes documented (what, who, why).

f. Consider need for shielding to prevent public viewing of disturbing or distracting sights and to improve safe traffic movement.

g. Requests by non-involved people to leave and/or remove vehicles from inside crime scene; decide on case-by-case basis. Adequately document identity of the people and vehicles (photos are best), inspect vehicles to ensure non-involvement, chalk location of those vehicles before movement.

12. LEOs, whether Actors or Witnesses:

a. Determine their condition.

b. Ask "**What Happened?"** to each separately. See the separate ***Patrol Supervisors' LEIF Checklist for Shootings and Generic Incidents*** for more details about asking this question.

c. Have them transported to their own LEA unless other agreeable arrangements are made.

d. Assign Companion Officer(s). See the separate ***Patrol Supervisors' LEIF Checklist***

for Shootings and Generic Incidents for more details.

e. Have LEOs sequestered pending MATF contact.

13. Establish Incident Command Post and/or staging area if needed.

    a. Consider establishing news media area.

14. Neighborhood or area canvas, as appropriate.

15. If the Incident also involves a Law Enforcement Involved Shooting, also use the ***Patrol Supervisors' LEIF Checklist for Shootings and Generic Incidents***.

16. Protect sensitive information: consider using land line phones/cell phones.

17. Do not search dead body(ies*)* or make notifications to next of kin.

18. Consider need to remind LEOs to act with proper decorum*.*

19. Debrief your officers: what they have done and learned about the Incident and what needs to be done.

20. Prepare yourself to brief investigators. You will need considerable **detailed and specific information***.*

21. **Logistics.**

    a. Consider personal needs of LEOs at scene: fluids, meal, restrooms, shelter, breaks. etc.

    b. Rotation of scene personnel.

    c. Responsibility for law enforcement service elsewhere, and supervision of it.

See Reduced Size Pocket Version on the next page

REDUCED SIZE POCKET VERSION

PATROL SUPERVISORS' CHECK-LIST
LEIF FATAL VEHICLE COLLISIONS

1. **Enroute** to collisions:
   a. Establish scene control via radio.
      - Establish alternate routes for public travel if necessary.
   b. Anticipate manpower needs for scene(s) and elsewhere. Request more if needed.
2. **Approach to scene**(s):
   a. Scan for hazards and criminal threats. Avoid, mitigate or eliminate them.
   b. Collision scenes are crime scenes (for all responders).
   c. Involved vehicles: lights, siren, engine, controls/switches, interiors = see Section 8(a)
3. Emergency **medical and life saving**.
   a. Ensure adequate EMS response is on-scene or enroute.
   b. Ensure first aid is provided as appropriate.
   c. Confer with EMS on need for additional ambulance, medical helicopter.
   d. Consider area search for more involved vehicles, people in bushes, fields, ravines, in water, over fence, etc.).
4. **Identifying and handling the parties**:
   a. Differentiate suspects, victims and witnesses: identify, secure, separate, sequester.
   b. Suspects: P/C to arrest for on-view? Warrants? Search for safety. B-A testing; other physical evidence. Spontaneous and/or medical statements.
   c. Witnesses: see Item #7 below.
   d. Radio broadcast for outstanding suspect(s), vehicle(s), witnesses, evidence.
5. **Re-evaluate need for additional LEA personnel** throughout operation.
6. Ensure appropriate **notifications** are made (per Protocol and LEA policies) to:
   a. Other involved or affected LEAs.
   b. Command duty officer.
   c. Investigative units or investigators. (T/C investigation will be performed by the Protocol's MATF).
   d. District Attorney's Office.
   e. LEA collision investigators if desired.
   f. Crime Lab/ and CSIs as appropriate.
   g. LEA's Press Information Officer.
   h. Public Works, CalTrans or others for barricades, traffic diversion, traffic signal devices, lighting, warning signs, spilled material, roadway structural damage, downed signs, or trees.
   i. Utility company for gas and/or electrical problems.
   j. CalTrans and/or CHP if regional traffic impact is expected.
   k. POA/DSA representatives.
7. **Prepare to brief responding officials** on arrival; expect many cell phone calls.
8. **Witnesses**
   a. Promptly locate and fully identify. Collision witnesses don't remain long at scenes.
   b. People who stopped to render aid.
   c. Patrol officers to take initial statements from all witnesses.
   d. Significant witnesses must later be interviewed by MATF investigators.
   e. Identity medical and fire responders.
   f Photos or videos made by anyone before officers' arrival? ID maker and get images.
9. **Immediate physical evidence concerns**: Also see CSI Checklist.
   a. Involved vehicles: caution for **delayed air bag deployment**
      1. **All involved vehicles**:
         - Before alteration for rescue, document if possible (photos best) in/out of gear; seat-belt use; radios on/off; lights & signals on/off; wipers on/off; other controls; cell phone, computer, other factors in cabin.
      2. **Emergency vehicles**:
         - If needed for safety, OK to cut off power after documenting (photos best) whether lights and siren were activated, and configuration of their controls and switches.
         - Otherwise LEA lights stay on (especially Code 3). OK to turn off siren after documenting.
         - If vehicle lights are off, do not turn them on.
      3. **Non emergency vehicles**: OK to turn off engine or disengage gears for safety.
   b. Evidence on people leaving scene(s) (especially perishable)?
   c. Photograph scene(s) and/or people before any potential alteration or departure.
   d. Leave evidence in place unless imminent danger; stop scene clean-up unless to eliminate immediate hazards.
      - All gear, equipment and property is to be left in place in and on all vehicles, including involved LEA or LEO vehicles.
   e. Tow truck(s) should not be used to tow until MATF investigators approve but OK for emergency rescue.
   f. Be alert for stationary video cameras that may cover area.
   g. Try to obtain consent for B-As from involved but non-suspect civilians.
   h. Unless under arrest, B-As for involved LEOs will be decided by MATF and/or Employer LEA.
10. **Officer with tape recorder to ride in ambulance** with injured for: ►Physical evidence; ►Custody of arrestee and prevent unauthorized contacts; ►Release from handcuffs; ►Safety of EMS and medical personnel; ►Aid, comfort and protection for injured LEO; ►Document statements made: spontaneous; in response to medical questions; dying declaration; ►Guard deceased body, chain of custody;►information to and from medical personnel; ►Contacts with family, witnesses
11. **Scene control issues**
    a. Identify and secure all scenes, including: ►Crash site(s), including minor collisions; ►Vehicle pursuit route; ►Foot-chase route(s); ►Original substantive crime scene (e.g. 211, 187, 192, 10851, etc.); ►Involved LEA or LEO vehicles; ►Non contact LEA vehicles must be kept in place for processing by MATF; ►Suspect(s) vehicle(s); ►"Victim" vehicle(s); ►Location of body or injured people.
    b. Scene perimeter(s) must be sufficiently large.
       1. Consider evidence in pre-impact and post-impact zones. Evidence scatters.
    c. Establish ingress/egress routes for safety and for evidence integrity.
       1. Limit scene movement by EMS personnel not necessary for patient care.
    d. Have crime scene log started. Strictly limit access.
    e. Determine what changes to scene have occurred; have changes documented (what, who, why).
    f. Need to shield any of scene from public view?
    g. Non-involved people and/or vehicles wanting to leave crime scene perimeter: decide on case-by-case basis. Document (photo?) identity of the people and vehicles, inspect vehicles to ensure non-involvement, chalk location of those vehicles before movement.
12. **Involved LEOs,** whether Actors or Witnesses:
    a. Determine their condition.
    b. Ask "What Happened?"
    c. Transport to their own LEA unless they agree otherwise.
    d. Assign Companion Officer(s).
    e. Have LEOs sequestered pending MATF contact.
13. Establish **Incident Command Post** and/or staging area and **news media area** if needed.
14. Neighborhood or **area canvas** needed?
15. **Law Enforcement Involved Shooting involved?** – see Patrol Supervisors' Checklist for Law Enforcement Involved Shootings.
16. **Protect sensitive information** - consider using land-line or secure phones.
17. **Dead body(ies)**: don't search or make notifications to next of kin. Notify Coroner but body removal is MATF's decision.
18. LEOs to act with **proper decorum**.
19. **Debrief your officers**.
20. **Prepare to brief MATF investigators**; detailed and specific information needed
21. **Logistics:**
    a. Meal/break relief for LEOs.
    b. Rotate scene personnel.
    c. Responsibility for law enforcement service elsewhere and supervision of it.

This Checklist was created through the efforts and collaboration of the following individuals:

Sgt. Marty Birch, Richmond Police Department; Sgt. Chris Childs, California Highway Patrol; Lt. David Chilimidos, Concord Police Department; Officer Mark Covington, Walnut Creek Police Department; Lt. Dave Fox, California Highway Patrol; Sgt. Darrel Graham, Concord Police Department; Sgt. Lee Hendricson, Richmond Police Department; DDA Bob Hole, Contra Costa District Attorney's Office; Lt. Rob Patrick, California Highway Patrol; Sgt. Mike Perry, Pittsburg Police Department; and the California Highway Patrol's Golden Gate Division MAIT team led by Sgt. John Blencowe.

ATTACHMENT B
PATROL SUPERVISORS' LEIF CHECKLIST
Fatal Vehicle Collisions

SUPERVISORS' LEIF CHECKLIST
INSTITUTIONAL CUSTODIAL DEATHS

Contra Costa County's **"Law Enforcement Involved Fatal Incident Protocol"** applies to most institutional custody deaths.

This Checklist is to assist Custodial Institutional Supervisors manage the initial response to deaths of people in the custody of LEA custodial institutions, whether such deaths occur within county or city jails, holding rooms, court facilities, transportation vehicles, medical facilities, interview rooms, or elsewhere. The tasks listed below are typically performed in the interval between the discovery of the death (or discovery of the person's medical distress which is expected to result in death) and the time the Protocol's Multi-Agency Task Force's investigation begins.

- This Checklist is not primarily intended to apply to deaths which occur prior to the time arrestees enter a custody facility for the purpose of custodial processing, although portions of it may be useful in those situations.
- It applies to all institutional deaths occurring by accident, suicide or at the hands of another and it applies to some "natural physiological deaths".

Because nearly all deaths in custodial institutions are of inmates, this Checklist does not directly and specifically address the deaths of non-inmates (e.g. Law Enforcement Personnel or civilians) in custodial environments because these deaths occur so infrequently.

Abbreviations

- MATF = Multi- Agency Task Force.
- LEIF = Law Enforcement Involved Fatal Incident. Under Contra Costa County's LEIF Protocol, this term includes most deaths which occur in custodial institutions.
- LEA = Law Enforcement Agency
- LEO = Law Enforcement Officer

Protocol Invocation

The death, or imminent death, of a person who is in institutional custody in Contra Costa County is a mandatory Protocol case, except custodial deaths which were medically expected and were caused by previously diagnosed medical conditions (such as cancer, AIDS, a heart condition, emphysema, etc.), and which were being treated by institutional medical personnel, provided that institutional suicide, trauma, accident, or use of intoxicants was not involved. **Protocol Ref 79**.

Protocol investigations are also performed on some deaths which occur within 48 hours of the person's release from a Contra Costa custodial facility. **Protocol Refs 80-81**.

The Protocol contains an optional invocation provision allowing LEAs to initiate a Protocol investigation of Incidents which are not mandatory Protocol cases (even those in which death is

not involved). Make the optional invocation decision promptly. When invoking, quickly notify the appropriate officials within your LEA and outside your LEA.

1. **Life saving efforts** are the first priority.

   a. **Immediate life saving efforts by first responders** - first aid, CPR, etc.
      - Reminder: unless death is pronounced by competent medical authority, immediately cut down hanging inmates if it is safe to do so and not wait for photos, a supervisor, medical assistance, etc.

   b. Ensure **notification to institutional medical staff** (EMTs, paramedics, nurses, doctors, nurse practitioners and physicians' assistants).

   c. Ensure **notification to the fire department and/or ambulance**.

   d. If medical transport to an outside facility is needed, assign an **LEO to accompany the patient** in the same vehicle for these purposes: (See ***Patrol Supervisors LEIF Checklist for Shootings and Generic Incidents*** Item 7 for more details on these points.)

      1) Physical evidence protection.
      2) Custody of inmate.
      3) Aid, comfort, protection.
      4) Spontaneous statements, statements during medical treatment, dying declarations.
      5) Information to and from medical personnel.
      6) Potential contact with witnesses and family at hospital.
      7) Identification of EMTs, Paramedics and ER staff.

   e. Consider that the inmate or area may pose a health hazard such as from chemicals or a communicable disease.

2. **Security**:

   a. **Lock down** involved incident areas (not just the specific Incident scene) as appropriate for: (1) institutional security; (2) personnel safety (staff, inmates and civilians) (3) evidence protection; and (4) investigative procedures.

   b. If a completed or attempted **escape** is involved, follow LEA's procedures.

   c. Consider **need to close the facility** to new inmates and to visitors.

   d. Consider **blocking all inmates' phone calls.**

3. If **deadly force was used** by law enforcement personnel, also refer to the separate ***Patrol Supervisors LEIF Checklist for Shootings and Generic Incidents***.

4. Promptly **request additional LEA personnel** as needed, for:

   a. Security: **scene(s) protection, lockdown procedures, cell searching** for weapons or contraband (when necessary for custodial security purposes, not as part of the LEIF investigation), sequestering people.

   b. **Assisting investigators**: access and escorting, inmate movement for interviews, etc.

   c. Handling **non-LEIF duties** in the rest of the facility.

   d. Consider need for **more supervisory staff** for the LEIF and/or routine detention duties.

5. **Notifications**

   a. Chain of the LEA's Command.

   b. PIO.

   c. LEA's Civil Litigation investigators and/or Risk Manager.

   d. Notification about Protocol invocation to:
      1. District Attorney.
      2. Crime Lab.
      3. Coroner.
      4. Any other LEA(s) if recently involved in the inmate's arrest or transportation.
      5. POA/DSA representatives for involved personnel per LEA procedure.

   e. Notification of facility's closure to other potentially affected LEAs.

   f. MATF investigators will make death notifications to next of kin.

      1. Exception: When a <u>verified</u> family member learns that his/her inmate relative has a medical problem in the jail and then either telephones or makes a personal visit to the facility to check, notification should be made at that time by a suitable official.

   g. Anticipate receiving phone requests for more information from officials who are notified of the Incident.

6. **Incident scene(s) and physical evidence**: **Treat involved scene(s) as Crime Scenes**.

   a. **Limit access** to scenes to only those officials who must enter.

   b. Have **photos** taken of involved inmate(s), scene, medical response, etc. as promptly as possible. Be careful not to disturb evidence.

   c. **Remove and/or sequester other inmate(s)** from scene(s) and/or area(s) as necessary

for security, evidence protection, interviewing, and emotional concerns.

- This may be difficult in small jails. More officers may be needed for sequestering, and transferring to other facilities may be necessary.

d. Consider need and authority for **prompt searching of inmates** being removed from the scene or area of the Incident.

e. Initiate a **Crime Scene log**.

f. Are there **secondary scene locations** inside and outside the institution such as:

1. Cell(s) where the inmate had recently stayed.
2. Booking.
3. Sally port.
4. Holding cells or areas.
5. Interview or visiting rooms.
6. Medical treatment rooms and facilities.
7. Areas involved in escape or an attempt.
8. Recreation or eating area.
9. Law enforcement vehicle(s) which transported inmate to jail and/or medical facility.
10. Arrest scene.
11. Ambulance.
12. Court areas.
13. Other vehicles, residence, business.

g. Caution for **health hazards**, such as chemical agents (OC spray, etc.), biological materials.

h. Ensure **relevant evidence is safeguarded:** instruments, weapons, and/or evidence. Include items that may be even possibly relevant. Examples:

1. Medical paraphernalia. **DO NOT COLLECT OR DISCARD** − leave in place.
2. Intoxicants (alcohol, drugs, chemicals, etc.).
3. Medications.
4. Containers for medications and intoxicants.
5. Law enforcement restraints.
6. Law enforcement weapons including impact, electronic, chemical.
7. Inmate weapons.
8. Ligatures and their source material.
9. Documents such as notes and letters and especially suicide notes (i.e. anything that shows inmate's state of mind including inmate's reading material).
10. Biological matter such as blood, vomit, urine and fecal material, on floors, walls, furniture, clothing and bedding, etc.

11. Inmate's clothing which was removed from him/her during medical efforts.
12. Foods and beverages and their containers and wrappings, especially in inmate's housing area.
13. Trace evidence:
    a) Fingerprints.
    b) Footprints.
    c) Suspicious substances.
14. Inmate's personal property stored by the facility.
15. Other property of the inmate:
    a) If in cell = leave undisturbed.
    b) Elsewhere (such as in booking) = locate, identify the container, safeguard, and hold for investigators.
16. Any video or audio recordings or photos made of the Incident?

7. Refer **press inquiries to PIO** or other official specified by LEA procedures.

8. Determine which **people are relevant to investigation** of the Incident, then: (a) get their identities; (b) determine their roles in the Incident; (c) know the end of shift time for staff members; (d) obtain a summary of what they know about the Incident in preparation for briefing (see # 11-a below).

   a. **Sequester** involved and witnessing persons (see sections b and c immediately below for examples)

   b. **Jail staff** and involved LEOs (whether assigned to the institution or not):
      1) Separately ask involved staff "What happened?" for these purposes:
         a) Managing the Crime Scene(s) and physical evidence
         b) Identifying and handling any Exigent Circumstances
         c) Ensuring safety of people and property
         d) Briefing MATF investigators and others

         This information is usually provided consensually by staff members. Do not compel this information through *Lybarger* unless absolutely necessary. (See ***Patrol Supervisors LEIF Checklist For Shootings and Generic Incidents*** for more details.)
      2) Anticipate holding some involved staff members past shift end for interviews (especially custody staff and medical personnel).
      3) Have staff listen for comments from inmates about the Incident.
      4) Have staff try to collect intelligence material from inmate sources about the Incident and the decedent.

   c. **Inmates**

      1) Have relevant inmates screened for injuries, involvement and any knowledge of

Incident.

a) Medical or mental health attention as appropriate.

b) Consider moving inmates to other areas pending MATF interviews.

c) Special consideration to inmates who may have had recent contact with involved inmate.

d) OK to take brief patrol-type statements from inmates with significant information. (MATF investigators will re-interview those inmates later, as well as other inmates who were not interviewed by staff.) It is often important to determine where each inmate was when the Incident occurred. Audio recordings may be very useful, especially if surreptitiously done.

e) Consider delaying transfers and releases of inmates pending custodial staff's consultation with MATF investigators.

2) Sensitive areas (such as death scene, body, etc.) should not be viewable by inmates. Inmates should not view even a covered body. Cover windows, erect screening or move inmates to other locations. Try to prevent inmates from hearing official conversations about the Incident.

3) Sequester appropriate inmates for MATF interviews

d. **Medical staff /EMS/fire department.** Have all identified and their duty stations and contact information ascertained.

e. **Civilians**, such as janitors, trades and repair people, inmates' visitors.

9. OK to have **photos** taken but don't compromise any physical evidence. MATF and Crime Lab will do scene and evidence processing.

10. Assign an **LEO to write reports** (criminal and/or administrative) required by LEA procedures. Usually an MATF investigator from the custodial LEA will write any crime report that is necessary.

11. **Preparation for the MATF investigation**: A Supervisor will have a major role in briefing the investigators.

a. For **briefing MATF investigators** and others:

1) Collect detailed information about the Incident and about the inmate from staff and documents including:

a) Chronology of Incident.

b) Information on inmate's condition (alive? prognosis? presence or absence of trauma?).

c) Observations and actions of staff members.

d) What staff members have learned from inmates and from other interviews.

e) Inmate's history in the institution.

f) Language difficulties requiring interpreter(s).

g) Actions taken pursuant to this Checklist.

2) Collect, review and have copies made of relevant documents, including:
   a) Inmate's complete booking file, including arrest records. Records of the inmate's prior incarceration in the facility may also be needed. (Note: copies must be made for investigators of ALL documents in the file.)
   b) History of the inmate's movement and housing inside the institution.
   c) List of who has visited inmate, and of who is authorized to visit.
   d) Disciplinary or other Incident records on the inmate.
   e) Any history of telephone calls made by inmate.
   f) Inmate's institutional medical records (if obtainable). If not obtainable, try to ensure their integrity until they can be obtained by legal process (such as consent, coroner's subpoena, search warrant, court order, etc.).
   g) Inmate's classification documents.
   h) Separation logs.
   i) Observation checklist or log.
   j) Computerized Incident history (if any).
   k) Copy of Dispatcher recordings of relevant radio and telephone traffic.
   l) Roster of inmates in relevant housing areas and room/bunk assignments.
   m) Listing of LEA staff (sworn, non-sworn, medical, etc.) involved in Incident and the response to it.
   n) Housing unit's event log or note book (computerized or handwritten).
   o) Logs or printouts showing relevant entries into controlled areas (whether handwritten, computerized, or by card readers).

b. **Notify front counter/lobby** personnel to expect arriving investigators.

c. Arrange **adequate rooms for MATF** briefing and operations.
   1) Chart paper, broad tip marking pens, tape to attach paper to walls.
   2) Telephone access (if possible).

12. Consider **emotional impact** of Incident on staff and inmates. Take appropriate action.

13. **Meals** for staff, investigators and inmates may be needed during the investigation.

This Checklist was created by a committee consisting of:

Sergeant Dimitri Barakos, Antioch Police Department; Commander Scott Daly, Contra Costa Sheriff's Office; Captain Greg Gilbert, Contra Costa Sheriff's Office DDA Bob Hole, Contra Costa District Attorney's Office; Sergeant Garrett Voerge, Concord Police Department; Lt. Pat Welch, Antioch Police Department

ATTACHMENT C
SUPERVISORS' LEIF CHECKLIST
Institutional Custodial Deaths

CSI CHECKLIST

BEFORE THE CRIME LAB ARRIVES

Pending arrival of the Crime Lab, certain physical evidence tasks should be performed by early responding officers to protect the evidentiary value of physical evidence and conditions at the scene(s). Preferably these officers have had CSI or evidence technician training. The quality of the physical evidence that will ultimately be collected by the Crime Lab often depends upon prompt and effective action by LEA personnel who are at the scenes shortly after LEIF Incidents occur.

- **<u>Extreme caution</u> must be used by all personnel (including CSIs and Evidence Technicians) to avoid contaminating, altering or removing evidence at the scene, and to avoid creating artifacts.**

- **Crime Lab personnel are usually available to consult with on-scene personnel via cellular phone while they are enroute to the scene. Obtain their phone numbers through the Sheriff's Dispatch Center or from District Attorney personnel investigating the Incident.**

1. Take immediate steps to **secure the scene(s)** and to **control scene access** and routes. (This must be done in conjunction with the Venue Agency's patrol supervisor who is in charge at the scene.)

2. **Record transient detail** through photographs, videos, note taking, and/or sketches to document items, conditions, actions and observations which are likely to change before the Crime Lab arrives. Examples:

   a. General appearance of the scene and surrounding area prior to darkness falling, the arrival of a storm, start of heavy commute traffic, etc.
   b. Location and condition of weapons.
   c. Location of bullet casings.
   d. Condition of relevant people (injuries, clothing, actions, appearance, etc).
   e. Blood drops, flow or spatter patterns.
   f. Location/condition of other biological evidence.
   g. Location and condition of involved vehicles (including LEA vehicles).
   h. Operation of lighting and other features of relevant vehicles, including patrol car emergency equipment (Code 3 equipment), hazard warning lights, loud radio.
   i. Other vehicles in the area (possibly involved, belonging to witnesses or victims, etc.).
   j. Doors (open, opened partially, closed).
   k. Lighting (man-made and natural).
   l. Windows, blinds, curtains and shutters (open or closed).

m. Weather conditions.

n. Traffic conditions (if relevant).

o. Skid marks, collision debris and the extent of debris scatter field, impact and gouge marks, vehicle fluids on ground.

p. "**Artifacts**." As used here, these are artificial changes of an item or condition caused by something that is extraneous to the Incident, i.e., something that was not present when the Incident occurred and had no direct bearing upon the Incident's occurrence. Examples:

1. Results of emergency medical efforts, including the movement of an injured person, movement of furniture, cutting or total removal of clothing, creating or obliterating foot tracks, dropping or smearing of blood, removal of doors or gates, abandonment of medical debris, turning lights on or off.
2. Weather.
3. Water from sprinkler systems, dew, river or stream flow.
4. Arrest, struggle, and/or removal of suspect.
5. Animal (especially dog) or insect activity.
6. Clean up efforts.
7. Vehicle movement or change in the vehicle's condition (such as turning off emergency equipment).
8. People walking inside scene.
9. Evaporation.
10. Items dropped, such as gum, cigarette butts, matches, food wrappers and containers, scrap paper, hair.
11. Shoe prints, tire prints.
12. Evidence items changed by being picked up, stepped on, kicked.

q. People present at the scene, including crowds (if relevant).

3. If possible, **collect Gunshot Residue** samples from gunshot victim(s) and shooters who are being transported from the scene. Use Gunshot Residue collection kits. Other types of trace evidence may also need to be collected, as stated in #4.

4. When necessary, **protect** if possible (and **collect <u>if absolutely necessary</u>**) any **evidence which is <u>in imminent danger</u>** of being lost, destroyed or contaminated. Examples include footprints, blood drops, expended bullets or shell casings, vehicles, vehicle tire tracks, items which will be blown away by wind or washed away by rain, firearms or valuables which are subject to theft, trace evidence on people leaving the scene, etc. Consider the ambulance and Emergency Room as locations of evidence which may need protection.

5. **Scene log**: Help **ensure that a written log is started** to adequately record every entry and exit at the scene. Information must include identity of each person, their agency or other affiliation to the case or scene, the time(s) of entry and exit, and the reason for entry. (Refer to ***Patrol Supervisors LEIF Checklist for Shootings and Generic Incidents*** for more details.)

ATTACHMENT D
CSI CHECKLIST
Before The Crime Lab Arrives

a. The log must include the names and identifying information of everyone (police, fire and ambulance personnel; civilian passersby, victims, witnesses; etc.) who entered the scene prior to the log being started, whether they are still present or have already left the area. (Contact may later be needed with those people to obtain elimination shoe prints or fingerprints, or to ask about certain observations and actions.)

6. Take full length (stand-up, head-to-toe, and of all sides) color **photographs of involved people** (officers and civilians). Pay particular attention to wounds, damaged clothing, trace evidence, etc. and document them with close-up photographs.

7. Assist the scene supervisor or investigators in the documentation and/or collection of **LEOs' firearms**, duty belts, and/or clothing, if these items are being collected at that time and place.

8. As needed, assist in the collection of **blood or urine** from LEOs or others.

9. Document the **position of participants and witnesses** at the scene as revealed by them during initial scene explanations.

10. Make a **preliminary sketch** of easily visible aspects of the scene without entering the scene (unless OK'd by MATF investigators or by the Protocol-designated evidence collectors). Do not take measurements or do anything else that might contaminate the scene. Use a straight edge and make the sketch in correct proportion but not necessarily to scale.

    a. MATF investigators will probably ask for another sketch which shows scene landmarks but which does not show evidentiary detail at the scene (such as the location of a body, blood, gun(s), bullets, etc.). Copies of these sketches will be used primarily by investigators during interviews.

11. When the Crime Lab arrives, they will assume responsibility for processing the scene.

    a. **Brief them** in detail on what you have observed and done and on any evidence processing you believe should receive priority attention.

    b. Confer with them on the immediate **disposition of evidence** you collected.

    c. Qualified officers may be asked to **assist the Crime Lab** with preparation of diagrams, processing of latent and patent prints, photography, logging of measurements and photographs and evidence, scene lighting, transportation of evidence and other duties. They will be working under the direction of the Protocol-designated evidence collectors.

This Checklist was originally created in 1984 by John Patty of the Contra Costa Sheriff's Criminalistics Laboratory. This 2007 revision was written by Crime Lab Director Paul Holes and Deputy District Attorney Bob Hole.

ATTACHMENT D
CSI CHECKLIST
Before The Crime Lab Arrives

AUTOPSY EVIDENCE COLLECTION CHECKLIST
CONTRA COSTA COUNTY

Decedent's Name _____ Coroner Case No. _____

LEA and Case No. _____ CSI/Criminalist(s) _____

Autopsy Date _____ Pathologist _____ Lab No. _____

Use notes:

A. This guide corresponds with the procedures followed in Contra Costa County, and it is organized to follow those procedures sequentially. Modifications may be necessary for use in other jurisdictions. In many jurisdictions the pathologist and his/her staff collect and document all evidence at autopsy, while in other jurisdictions the police investigators and/or CSIs or criminalists do much of that work.

B. Use a separate fresh copy of this guide for each autopsy.

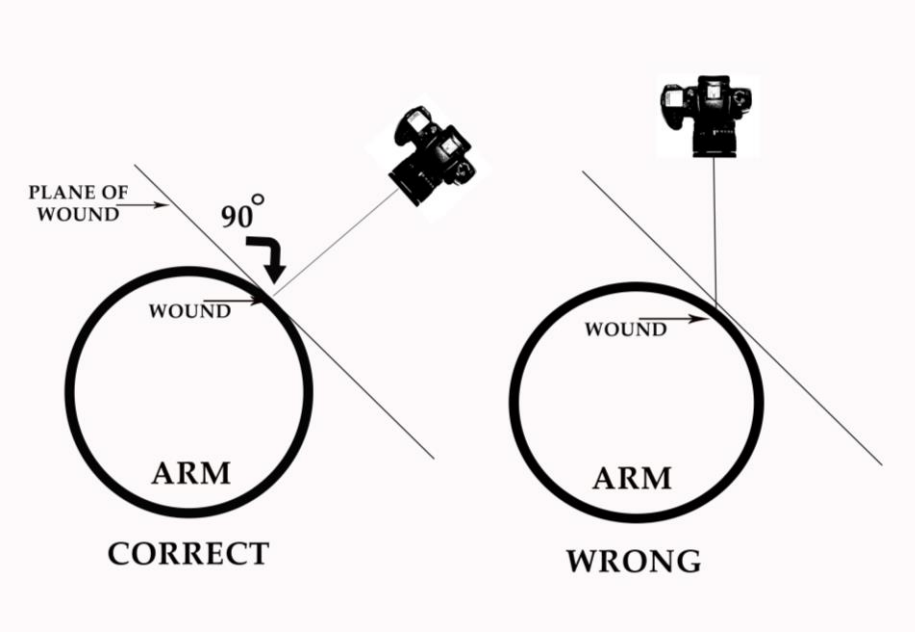
C. Prior to each autopsy, review this guide to determine which steps will be relevant to that specific case. Place a Checkmark (√) in the "To Do" column beside each step that is applicable. When each step has been completed, place a checkmark in the "Done" column.

D. You may make notations on this document.

To do	Done		
			A. PREPARATORY TO AUTOPSY
√	___	1	
___	___	2	1. Bring to autopsy: Decedent's clothing; OTC and RX medications; weapons or objects which may have marked the body; relevant photos. Also see the Contra Costa County Sheriff/Coroner's document entitled ***Death Investigation Roles Of The Coroner And Law Enforcement Agencies.***
___	___	3	2. Arrive at morgue at least ½ hour before scheduled autopsy time.
√	___	4	**B. PRE-AUTOPSY PROCESSING OF BODY**
___	___	5	Many of these procedures may be performed prior to the pathologist's arrival but they <u>must be done without disturbing the body or clothing</u>.
___	___	6	1. Ensure that trace evidence is not compromised when x-rays are taken.
___	___	7	2. Without moving or undressing body, conduct a visual examination, and do head to toe photography before subsequent undressing, washing, evidence removal or removal of medical therapy devices. Ensure complete body coverage. Use good lighting. Use magnifying glass and/or stereo microscope if appropriate. See Item #12 regarding trace evidence.
___	___	8	a. Use normal and close-up lenses as appropriate.

___ ___ 9 b. To confirm or determine the decedent's identity, or for other immediate investigative needs, take digital or other instant photos of face and/or identifiable body features. Delay this until Item #146 if cleaning is needed before presentable ID photos are taken.

___ ___ 10 c. **Note regarding photography**: When photographing wounds and marks on any body surface (but especially on curved surfaces) at any stage of the autopsy, it is essential to position the camera perpendicular (i.e. at 90 degrees) to the plane of the wound or mark, and to aim the lens directly into the center of the wound or mark.



___ ___ 11 3. Examine the body and clothing using good lighting and magnification if necessary. Make written notes and/or sketches of the condition of the body and clothing, relevant positions, location of observable evidence, body or clothing defects which appear significant, and possible "artifacts" (see Item #123 for artifacts).

___ ___ 12 4. Examine carefully for trace evidence which undressing or body clean-up will disturb.

___ ___ 13 a. Use good lighting and magnifying glass.

___ ___ 14 b. Trace evidence types (examples):

___ ___ 15 1. Soil

___ ___ 16 2. Vegetable/vegetation matter.

___ ___ 17 3. Blood. Remember that blood on the decedent may be from the decedent or from someone else (such as the suspect).

___ ___ 18 4. Hair (human, animal)

___ ___ 19 a. Loose hairs: collect with new comb and/or clear tape lift and/or tweezers. Package into a paper bindle and then place into a paper envelope.

___ ___ 20 b. Hair standards from the body will be collected later at Item #183+.

___ ___ 21 5. Fibers

___ ___ 22 6. Glass

___ ___ 23 7. Grease, oil

___ ___ 24 8. Gunshot residue. Collection of GSR will be done later at Item # 70+.

___ ___ 25 9. Face powder, lipstick (decedent's or from another person)

___ ___ 26 10. Semen

___ ___ 27 11. Visible prints (finger, shoe, tire, etc). See Items # 46-56 for collection

___ ___ 28 12. Paint

___ ___ 29 c. Document trace evidence by photography and sketching prior to collecting. (Collection is immediately below at Item #30.) Consider macro photography.

___ ___ 30 d. Collection methods. If removal of clothing may disrupt important trace evidence, ask that clothing be cut off carefully, avoiding wounds, defects, GSR patterns, blood on clothing, or other evidence.

___ ___ 31 1. Collect by gloved hand or clean/new fine tip forceps.

___ ___ 32 2. Tape lifts. Use clean tape. To store, suspend tape pieces inside closed containers made of clear glass or plastic, or to inside of clean plastic bags.

___ ___ 33 3. Swabs

___ ___ 34 a. If only a small quantity of material exists, concentrate stain by collecting it on tip of cotton swab using small amount of water. Distilled water is preferable.

___ ___ 35 b. If stains are at multiple sites on body, collect from many areas using separate swabs for each stain.

___ ___ 36 c. Label each swab or their individual containers, showing case number and collection site of each swab.

___ ___ 37 d. Air dry swabs if possible before packaging. Must not contaminate one swab with another.

___ ___ 38 e. Control swabs are necessary – collect one from each area where a

stain sample is collected. (Controls are swabs of unstained surfaces adjacent to each stain site.)

___ ___ 39 e. Hands, fingernails

___ ___ 40 1. Examine with good lighting and a magnifying glass or stereo microscope. ONLY IF no trauma is present, collect and package trace evidence from hands and nails. If trauma is present, delay collection until pathologist's approval.

___ ___ 41 2. Fingernail cuttings: delay collection if trauma present. Cut nails with clean instrument.

- Clean the cutter with bleach before and after using.
- Collect and package clippings from the right hand separately from clipping from the left hand.

___ ___ 42 3. Examine for, photograph, and consider subsequent collection of broken nails if possibly relevant to case.

___ ___ 43 4. Fingernail scrapings (only if nails are too short to clip): use clean/new wood-tipped device such as toothpick. Package the scrapings in clean paper with pharmaceutical folds. Use a separate device for each hand.

___ ___ 44 5. Remember to look between all fingers.

___ ___ 45 f. On clothing: Collect loosely adhering trace evidence which may be dislodged.

___ ___ 46 g. Prints on cadaver's body surface (e.g. fingerprints, shoe prints, tire prints, etc.)

___ ___ 47 1. Bloody: After you are certain that good close-up (macro) photos have been taken of prints one-to-one, both with and without scale, consider use of a blood reagent to develop or enhance bloody prints, smears or stains. CONTACT LAB for advice or assistance.

___ ___ 48 2. Other visible prints (e.g. grease): contact Lab for advice.

___ ___ 49 3. Latent fingerprints on the body: if latent fingerprints are a possibility the body <u>should not be refrigerated</u>.

___ ___ 50 a. Photography: (See Item #10 regarding photos of curved surfaces.) Take good close-up (macro) photos of prints, one-to-one, with and without scale.

___ ___ 51 b. Methods of developing, lifting and/or photographing: CONTACT LAB.

___ ___ 52 1. Electrostatic lifting of dust prints.

___ ___ 53 2. Iodine fuming with silver plate lifting. Photograph the silver plate lifts.

___ ___ 54 3. Super glue fuming.

___ ___ 55 4. Magna brush with metal powder.

___ ___ 56 *5.* Sampson Lift Method. (Contact Lab for details.)

___ ___ 57 h. Alternative light sources (ALS):

Use ALS and/or black light (ultra-violet) exam of body and clothing before wash-up and clothing removal.

___ ___ 58 1. View in dark using protective lenses to protect your eyes.

___ ___ 59 2. Be sure the pathologist is shown anything you find, prior to further processing.

Photograph (see Item #10 regarding curved surfaces) significant findings such as healing wounds, trauma, stains, trace evidence, etc., under the ultraviolet light. Contact Lab for photography method.

___ ___ 60 3. Sketch.

___ ___ 61 4. Outline any luminescent stains with a permanent ink marker for exam under normal light. Photograph marked areas under room light or with flash.

___ ___ 62 5. Swab luminescent stains as described in Items #33-38.

___ ___ 63 6. Obtain control swabs as described in Item #38.

___ ___ 64 i. Gunshot cases

___ ___ 65 1. Gunshot residue (GSR) may help determine:

___ ___ 66 a. Proximity of decedent's body or clothing to the muzzle or to the side of a discharged firearm.

___ ___ 67 b. Orientation (positioning) of various body parts to the firearm at the time of discharge.

___ ___ 68 c. If the decedent fired a gun.

___ ___ 69 d. Type of ammunition fired.

___ ___ 70 2. GSR on body surfaces:

___ ___ 71 a. If GSR was not previously collected from the body at the scene prior to removal of the body to the hospital or morgue (as is preferable), the body should not be refrigerated prior to GSR collection at the morgue.

___ ___ 72 b. Photograph (see Item #10) regarding photography of curved surfaces) any visible GSR with and without scale. Some of your photos must show 100% of the GSR pattern.

___ ___ 73 c. Consider tracing visible gun powder particle pattern on clear acetate sheets.

___ ___ 74 d. Collect visible and invisible GSR.

___ ___ 75 1. Use magnifying glass or stereo microscope (one is located at the Morgue) to look for non-obvious GSR.

___ ___ 76 2. Consider tape lifting but do not do tape lifting on areas that might be processed for latent prints.

___ ___ 77 3. Use adhesive SEM disks for back of hands, palms and other surfaces as appropriate.

___ ___ 78 3. GSR on clothing:

___ ___ 79 a. Photograph with and without scale.

___ ___ 80 b. Remove garment later (at Item #124+) and package it without disturbing GSR.

___ ___ 81 4. Photograph wounds and the immediately surrounding GSR pattern(s) with scale. Describe in notes. Have area around wound shaved if necessary.

___ ___ 82 5. Collect dry residue from wound site(s). Look for tattooing.

___ ___ 83 6. With pathologist's approval, swab interior of wound for GSR. Consider swab of wound track.

___ ___ 84 7. Have hair shaved from wound site. Look for tattooing.

___ ___ 85 8. Collect shaved hair for later Lab exam for GSR and shattering.

___ ___ 86 9. Photograph wound after shaving and cleaning, with and without scale. Consider one-to-one photography to show specific detail.

___ ___ 87 10. Take additional photographs of all wounds after cleanup.

___ ___ 88 j. Explosives cases:

___ ___ 89 1. Dynamite is often tagged with small multi-layer chips. Use a magnet placed inside a new plastic bag to collect these.

___ ___ 90 2. Using swabs with wooden or paper shafts, moisten swab with acetone and swab relevant areas. Air-dry the swabs and place in plastic or glass containers. Wear rubber gloves.

___ ___ 91 3. Collect control swabs from body areas which are not contaminated by the explosive.

___ ___ 92 4. Bite marks:

___ ___ 93 a. Examine suspected bite areas with ultraviolet light. Wear protective lenses to avoid damaging your eyes. Photograph positive areas using the black light for illumination. Call Lab for advice about this photography.

___ ___ 94 b. Swab the bite mark area for possible saliva using a swab moistened with a small amount of distilled water. To concentrate the saliva on the swab, use only the tip of the swab.

___ ___ 95 c. Obtain control swab(s) in same manner as evidence swabs. See Item #38.

___ ___ 96 d. Label swab(s) and air-dry. See Item #s 36-38.

___ ___ 97 e. Photograph suspected bite marks, with and without scale, in color (and in black and white if using film). (Color digital photos can later be converted to black and white using Photoshop.) Take macro (one to one) photos in addition to standard photos at normal range.

___ ___ 98 f. Photograph suspected bite marks in color, with and without scale. Take macro (one to one) photos in addition to standard photos at normal range. If using a digital camera, ensure the camera settings are at a high enough resolution to allow for adequate enlargement and image enhancement without loss of image quality.

___ ___ 99 g. Cast bite marks with Mikrosil casting putty.

___ ___ 100 h. Have the pathologist excise the bite mark at autopsy. It should then be frozen and retained. Store in formalin to preserve tissue shape (Formalin is OK because DNA is not needed from the tissue).

___ ___ 101 5. X-rays. If x-rays will be taken at autopsy, use care not to disturb trace evidence. With the pathologist, examine any autopsy or hospital x-rays, MRIs or CT scans for:

___ ___ 102 a. Bullets, knife tips, wound paths, bone and metal fragments. (Keep in mind that some people have old bullets in their bodies from previous Incidents.)

___ ___ 103 b. Broken bones.

___ ___ 104 c. Old fractures which have healed (especially relevant in child abuse, spousal and elder abuse cases).

___ ___ 105 d. Photograph significant x-rays while they are on the x-ray viewer using the viewer's light but no flash. Be sure x-rays are retained (usually by the Coroner's Office).

___ ___ 106 6. Ligatures/hangings

___ ___ 107 a. Photograph ligature in place on the body if it has not already been removed.

___ ___ 108 b. Pathologist should determine tightness and exact orientation.

___ ___ 109 c. Pathologist should cut the ligature a distance away from the knot,

then tie those newly cut ends together with string or wire to clearly identify ends which were cut at autopsy. Be careful not to contaminate ligature with sources of DNA, especially blood or other body fluids/tissue from the decedent, as someone else's DNA may be present on ligature.

___ ___ 110 d. Preserve ligature for non-victim DNA, prints and trace evidence.

___ ___ 111 e. With ligature on an absolutely clean surface, photograph ligature after removal from body. Be sure to include the knot.

___ ___ 112 f. Photograph the skin surface previously beneath the ligature, especially any furrows, marks, fingernail scrapings, etc., with and without scale.

___ ___ 113 g. If decedent apparently tried to loosen the ligature, check fingernails for tissue from neck. If found, photograph, then follow Item # 39+ for collection.

___ ___ 114 h. Tape-lift the area previously beneath the ligature for trace evidence.

115 i. Consider tape-lifting hands for hairs and fibers (especially fibers from the ligature).

___ ___ 116 7. Photography of other markings, trauma, and conditions, with and without scale. Consider use of various lighting techniques, filters, and different films. Examples:

___ ___ 117 a. Writing on skin, including faint tattoos.

___ ___ 118 b. Stains and smears.

___ ___ 119 c. Footwear impressions.

___ ___ 120 d. Blood flows, patterns or spatter: photograph blood patterns with and without a scale. If removal of clothing may disrupt important bloodstain evidence, ask that clothing be cut off carefully to avoid any wound defects, GSR patterns, blood stains on clothing, or other evidence. Avoid contaminating the clothing with additional blood from the victim as clothing is removed.

___ ___ 121 e. Lividity. This photography is especially relevant if the fixed lividity is inconsistent with the position of the body when found. Show scene photos of body's position to the pathologist.

___ ___ 122 8. Decomposing body: Collect representative samples of all the ***various types*** of insects on the body, and for each type, collect samples of each of their ***stages of life*** (e.g. eggs, larvae, pupae, and adults). An entomologist may be able to use this evidence to help determine time of death.

_√_ ___ 123 9. CAUTION FOR ARTIFACTS: At all stages of the autopsy, be alert for

post-mortem artifacts. These are conditions, marks, items, and substances which are present on the body or clothing but which were made, left or deposited during medical procedures, transportation or handling of the cadaver, during morgue procedures or evidence processing, or even during the autopsy itself. They have nothing to do with the cause and circumstances of the person's death, but because they are in fact present, they cannot be ignored and must be documented. Their origin must be accounted for if possible to avoid possible subsequent misinterpretation. Confer with the pathologist about identifying them and their sources and about how to best document them.

Some examples of artifacts: the presence on the body of fingerprint ink or powder caused by fingerprinting the cadaver; impressions on the torso caused by EKG pads; medical incisions (such as cut-downs for catheters or drainage tubes) or needle marks made during life saving efforts; blood or hair transferred onto the body from the autopsy table, from dirty equipment or supplies, or from someone attending the autopsy; glove impressions on the skin left when handling the body; impressions on the body made by the autopsy table, the gurney or backboard or by tie downs; incisions made in the skin during the autopsy; and blood on a previously clean body surface which flowed from an autopsy incision.

___ ___ 124 **C. REMOVAL OF CLOTHING AND CLEAN UP OF BODY – done only at the pathologist's direction**

___ ___ 125 1. Photograph the layer by layer undressing of the body.

___ ___ 126 2. Clothing is to be removed intact if possible, without cutting or tearing. If cutting is necessary, cut to avoid any wounds, defects, GSR patterns, blood on clothing, or other evidence. Record what cutting was done.

___ ___ 127 3. Collect all clothing and footwear. Collect clothing in a manner to avoid losing, disturbing, contaminating or cross-contaminating evidence.

___ ___ 128 4. Air-dry wet items before packaging if possible.

___ ___ 129 5. Clothing with important blood patterns, biological stains or other significant evidence should be separately sandwiched between sheets of clean butcher paper before each item is folded and separately packaged.

___ ___ 130 6. Package each item separately in paper bags (not plastic).

___ ___ 131 7. The clothing should be cautiously and thoroughly searched for evidence and personal items.

___ ___ 132 8. Determine which items of decedent's personal property at the morgue should be collected and retained as evidence. Remember that items not collected for evidence will be released to the next-of-kin or disposed of by the Coroner's Office.

___ ___ 133 a. Examples: clothing, jewelry, wallet or purse, address books, money, notes, cell phones.

___ ___ 134 b. Consider photographing or photocopying items you elect not to collect as

evidence as they might later have value as evidence or investigative leads.

___ 135 9. Possible sexual assault:

___ ___ 136 a. The pathologist will examine body orifices for trauma and for evidence.

___ ___ 137 b. Swabs and smears: Vaginal, rectal and oral. The pathologist will do the swabbing of body orifices, then will transfer collected material to glass microscope slides. Multiple swabs are required. Label the slides and swabs. Air-dry the slides and swabs before packaging. If pertinent, request esophageal,
vaginal, cervical, and uterine swabs.

___ ___ 138 c. Examine the body for seminal stains, especially on external genitalia and thighs. Also look for foreign material or encrustation. Use ultraviolet light to aid. Photograph first, then collect possible stains with swabs or otherwise.

___ ___ 139 d. Swab breasts/penis for saliva.

Perform blind swabs of areas the offender may have mouthed or licked, such as neck, lower abdomen, fingers, external genitalia, external anal, inner thighs, and toes. (Blind swabs are swabs that are collected from areas even though one does not see any foreign material present.) These swabs are collected from areas in case there is foreign material present that cannot be seen, such as saliva stains.

___ ___ 140 e. Obtain control swabs from areas adjacent to areas from which evidence was collected on swabs.

___ ___ 141 f. Tape-lift pubic area, followed by combing of pubic hair with clean combs. Wrap the comb or brush into a clean paper towel and place into a paper envelope.

___ ___ 142 g. Obtain hair standards from decedent later in autopsy at Item #183+.

___ ___ 143 10. Ensure that only new sponges and scrub pads are used to clean body.

___ ___ 144 11. Collect debris washed from body if appropriate for the case.

___ ___ 145 12. Before continuing the photography, dry body surfaces to avoid reflections on the photos from photo flash and room light. Be sure clean towels are used.

___ ___ 146 13. Be sure the height and weight of the body is taken and is accurate and is not simply taken from driver's license or other ID.

___ 147 **D. PROCESSING OF UNCLAD AND CLEANED BODY**

___ ___ 148 1. Complete photographic coverage of the body, head to toe, front and back.

___ ___ 149 a. Use normal and close-up lenses as appropriate.

___ ___ 150 2. Take portrait of face for identification and courtroom purposes.

___ ___ 151 a. In these identification photos, minimize wounds, distortions, instruments, other bodies, and unpleasant background. Make the facial pose as natural and life-like as possible. Fill the frame with the face. Take front and profile views.

___ ___ 152 b. Take digital or other instant photos for immediate identification if needed, if not already done at Item #9.

___ ___ 153 3. Wounds (including defense wounds):

___ ___ 154 a. Photographs – See Item #10 regarding curved surfaces.

___ ___ 155 1. If gunshot or stab wounds are numerous, consider numbering the wounds on the skin, with pathologist's concurrence. When photographing wounds, be sure to include the wound number marked on the skin in each wound photograph. Alternatively the pathologist may only number the wounds on his/her diagram of the body; you should use these for photo referencing and/or to correlate wounds to collected evidence such as projectiles.

___ ___ 156 2. Photograph wounds in relation to other wounds and in relation to body landmarks.

___ ___ 157 3. Photograph wounds one-to-one if possible, with and without scale. Close-up photographs are especially important: (a) when there may be an issue about entry or exit wound determination; (b) when the wound is or may be a shored exit; (c) to show trace evidence in a wound, (d) to show tissue bridging or its absence; (e) to show directionality of the force causing the wounds; (f) to show any pattern to the wound(s); (g) to show characteristics of the weapon or object that caused the wound.

___ ___ 158 4. When photographing bruises, use a Kodak color scale (or similar) to ensure accuracy of bruise colors on color photos.

___ ___ 159 5. For admissibility of photos in court, exclude unnecessary blood, incisions, surgical instruments, internal organs, genitalia, and other bodies. However **do not** limit your photos to only those that will be admissible in court. Ensure full photographic documentation of the body.

___ ___ 160 6. Photograph penetrating wounds with probes placed by the pathologist. Photos of in-place probes will also be taken at the completion of the autopsy, after the body is sewn up at Item # 225.

___ ___ 161 a. Trace evidence must be collected from wounds before probing.

___ ___ 162 b. Probes will be used only when the pathologist believes they are useful in establishing wound trajectory. The pathologist, not a Criminalist or CSI, will place probes.

___ ___ 163 c. Photograph each probe in place, as follows:

___ ___ 164 1. Place a large protractor at the base of the probe to show the angle.

___ ___ 165 2. Use a normal lens, not a wide angle. Set focal length to 50mm.

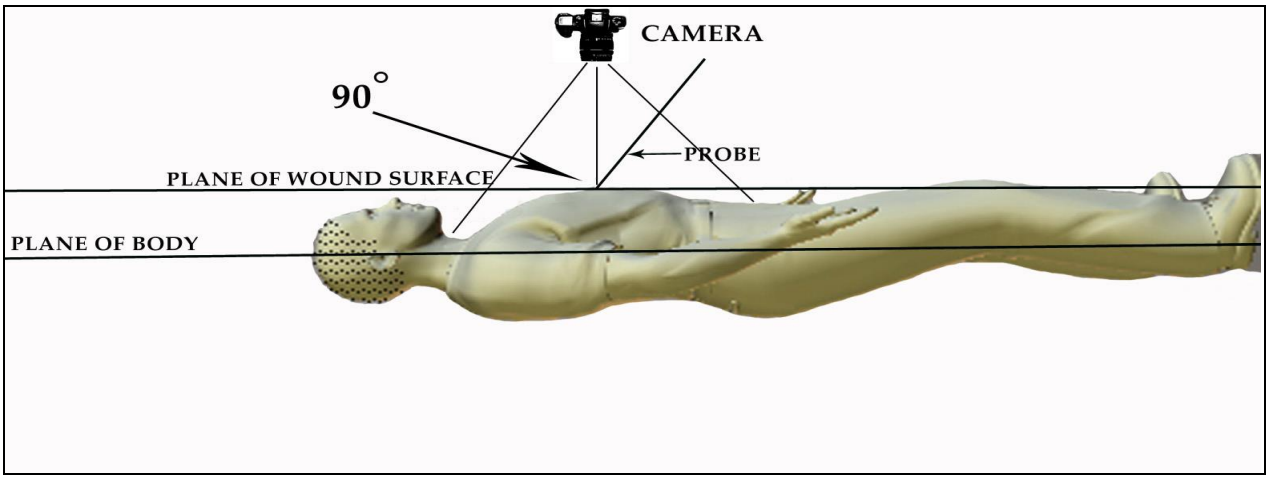
___ ___ 166 3. Use the smallest possible lens aperture to obtain the greatest depth of field.

___ ___ 167 4. The entire visible length of the probe must show in each photograph, along with the skin surface it penetrates.

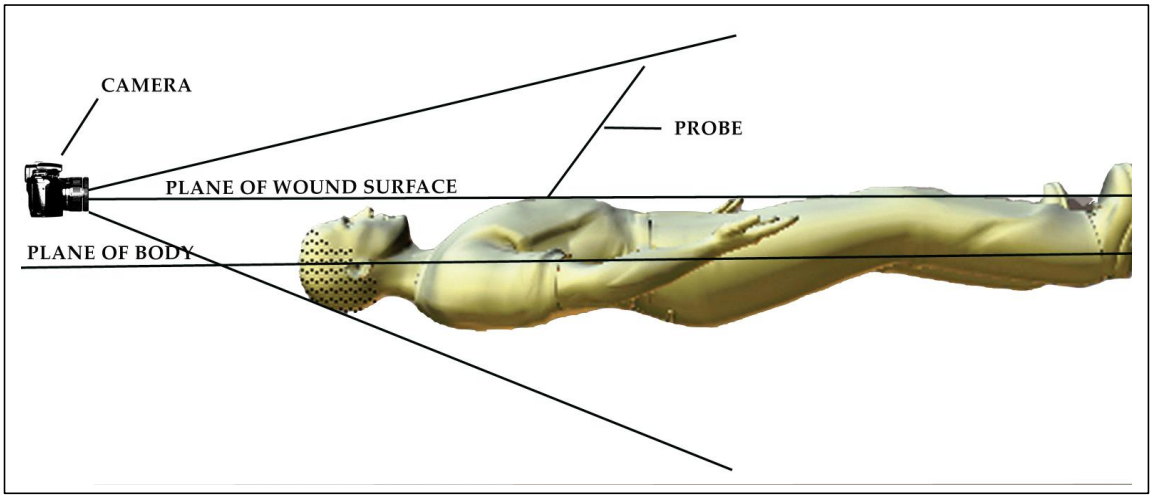
___ ___ 168 5. Probes may be more visible when photographed against a clean solid background, such as a sheet, blanket, towel or even clean surgical scrubs. Light-colored backgrounds may reflect too much light – consider using light blue or green colored fabric.

___ ___ 169 6. Photograph <u>each probe</u> from at least three angles which are 90 degrees apart, as follows:

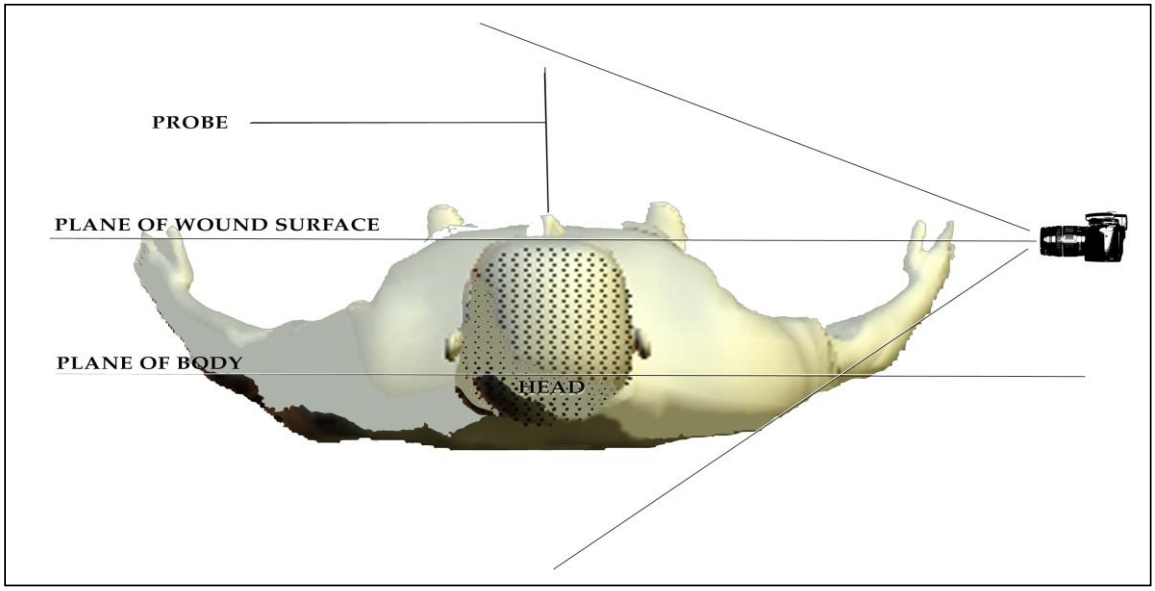
___ ___ 170 a. Perpendicular to the wound surface, that is, 90 degrees to the wound surface. For example, for an anterior chest wound (graphic below), the perpendicular view would be from directly and straight above the wound, with the camera pointing straight downward to the center of the wound, showing the wound and the visible full length of the probe. A photograph looking <u>straight down the probe</u> towards the body should also be taken.



___ ___ 171 b. From the body's head or feet, with the camera at the level of the visible wound surface, shoot toward the body's opposite end, showing the full length of the visible portion of the probe.



___ ___ 172 c. From the body's right or left side, with camera at the level of the visible wound surface, shooting toward the body's opposite side, showing the full length of the visible portion of the probe.



___ ___ 173 d. For entry-exit-reentry situations: If a bullet passed through one part of the body (e.g. a forearm) and then passed into or through another (e.g. the chest), or if that is a possibility, have the pathologist position the body parts as they would have been when hit by the bullet, then photograph from the different angles described above.

___ ___ 174 7. Photograph gunpowder stippling (tattooing) with and without scale. Consider using a plastic overlay.

___ ___ 175 8. Photograph each shotgun pellet pattern in its entirety, with and without scale. Consider using a plastic overlay.

___ ___ 176 b. Diagramming:

___ ___ 177 1. Obtain a copy of the pathologist's diagram of the body for your use. If not available, use standard pre-printed body diagrams to locate wounds. Strictly adhere to the pathologist's wound numbering.

___ ___ 178 2. Make written notes of wound(s), including appearance, color, pattern, location, size, and assigned numbers if any.

___ ___ 179 c. Measurements:

___ ___ 180 1. For wounds, whether from gunshot, knife, blunt force, vehicle impact, etc:

- Obtain a copy of the pathologist's diagram, and/or
- Make notes of the pathologist's measurements of all wounds, using distance from heels or top of head, as well as from the body's mid-line.

___ ___ 181 2. In cases of questioned suicides where long guns are used, obtain the pathologist's measurements of the length of decedent's arms.

___ ___ 182 3. In cases of hot water bathtub burns, obtain height of water marks on the body.

___ ___ 183 4. Hair standards

___ ___ 184 a. Body hair: obtain 10-20 hairs from following areas, depending upon facts of the case: pubic, facial, chest.

___ ___ 185 b. Head hair: collect at least 20 hairs from each of the following areas: right and left sides, front, back, top. If facial hair is present perform the same collection procedure trying to obtain at least 20 hairs from the moustache, chin, side of face, and neck.

___ ___ 186 5. Teeth impressions. If the decedent may have left teeth marks on another person or on an object, a forensic odontologist should photograph the decedent's teeth and take dental impressions. The intact jaws may be collected and retained by the pathologist or odontologist.

___ ___ 187 6. Photograph any identifying marks on the body, such as tattoos, unique scars, and any unique body features. This is especially important if the decedent has not yet been identified. Consider photographic filters to make some tattoos more legible. After photographing tattoos on decomposed or burned bodies, have the pathologist rub off the outer layer of the skin as this will often reveal much more detail.

___ ___ 188 **E. DURING THE AUTOPSY**

___ ___ 189 1. Photograph evidence items as they are found.

___ ___ 190 2. Photograph specific injuries and relevant body features and conditions.

___ ___ 191 3. Photograph specific findings that the pathologist says are medically significant.

___ ___ 192 a. Keep in mind that absence of a specific condition or a specific type or location of trauma may be very significant. (E.g. the decedent had not been struck in the head as someone may have claimed.)

___ ___ 193 b. In cases involving strangulation or neck holds, photograph the presence or absence of hemorrhaging, bone fractures and other signs of neck trauma.

___ ___ 194 c. If the decedent was dismembered, be alert for tool marks on the cut ends of bones. Photograph the cut ends with direct as well as oblique lighting, then obtain the cut ends of the bones. If not possible, make casts of them.

___ ___ 195 4. Blood samples: The pathologist will collect blood samples from the heart or from an uncontaminated blood vessel.

Depending upon the types of testing that is desired for collected blood, different blood preservatives must be used. Vacutainer tubes for blood collection have different colored caps to show what type of preservative is inside: PURPLE capped tubes are used for blood which will be tested for genetic markers, and GREY capped tubes are used for drug and alcohol testing.

___ ___ 196 a. For DNA or typing:

_√_ ___ 197 1. Obtain blood in all cases for this purpose.

___ ___ 198 2. In decomposition cases, collect bone samples and/or teeth for DNA reference samples. Avoid bones that have been on the downside of the body during decomposition, or which have been exposed to a moist external environment.

___ ___ 199 3. Refrigerate ASAP in an evidence locker.

___ ___ 200 4. Submit to the Laboratory ASAP.

___ ___ 201 b. For toxicology:

_√_ ___ 202 1. Blood should be collected in all cases for toxicology testing.

___ ___ 203 2. The Coroner's Office will submit this sample for toxicology testing, along with other appropriate body fluids and tissue.

___ ___ 204 5. Gunshot evidence

___ ___ 205 a. Carefully collect, and separately package, bullets, bullet jacketing, shotgun pellets and wadding. Collect as many shotgun pellets as possible. Do not handle projectiles with forceps and do not place any markings directly onto any of these items.

___ ___ 206 b. If the bullet has no visible adhering trace evidence (such as glass, fabric, wood, vegetation, etc.), wash body fluids from bullets with a very gentle stream of cold water, being very careful to catch and preserve any trace evidence that might be present. Don't let the bullet go down the drain!

___ ___ 207 c. Consider having the entry and exit wounds excised and retained by the pathologist. This is important in cases where there may be a question about differentiation of entry and exit wounds.

___ ___ 208 6. Teeth and dentures - if relevant to the case

___ ___ 209 a. Retain broken portions of teeth or dentures, and/or make castings of fractured tooth surfaces.

___ ___ 210 b. If teeth are broken, note direction of the fracture and the angle of the broken teeth.

___ ___ 211 c. Collect broken dentures for matching with pieces that may be found elsewhere.

___ ___ 212 7. Drug overdoses:

___ ___ 213 a. Ask that non-medical needle puncture sites be excised and retained.

___ ___ 214 b. Consider having the nose swabbed.

___ ___ 215 8. Patterned impressions in bone (such as by a hammer with a checkered striking surface, a hatchet, a pipe, etc): have the pathologist excise and retain the bone.

___ ___ 216 9. Ask the pathologist to check stomach contents, as appropriate, for:

___ ___ 217 a. Swallowed items, such as gum, jewelry, controlled substances and/or their packaging, broken teeth, paper.

___ ___ 218 b. What type of food was ingested before death. (In some cases there may also be a limited possibility of determining how long before death the food had been eaten.)

___ ___ 219 **F. AFTER AUTOPSY**

_√_ ___ 220 1. Note regarding taking of the decedent's fingerprints:

Criminalists, CSIs and police evidence technicians must obtain their own set of fingerprints and palm prints from the decedent in every criminal case. Fingerprints taken by the Coroner's Office are for a different purpose and may not be suitable for all Laboratory comparisons.

___ ___ 221 a. Fingerprints: Take full set including fingertips and edges on all criminal cases.

___ ___ 222 b. Palm prints: take in all cases. Always include the heel of the hand and the wrist.

___ ___ 223 c. Desiccated or decomposed fingers: Contact the Laboratory.

___ ___ 224 d. Take footprints if appropriate to the case.

___ ___ 225 e. Take photographs of probes placed by the pathologist into penetrating or perforating wounds AFTER the body is sewn back up. (These photos are in addition to photos of the probes taken previously at Item #s160-172.)

___ ___ 226 f. Consider having body held (e.g. for at least 24 hours) for reasons such as:

- further development of bruises
- further crime scene work that may be needed due to some autopsy finding
- information from expected interviews or interrogations
- evaluation of decedent's rolled fingerprints (especially on decomposing bodies)
- need for (further) dental examination
- need for a forensic anthropologist

___ ___ 227 2. All evidence items must be properly marked and packaged according to local Laboratory requirements and accepted practices.

___ ___ 228 3. If you retain personal property items of the decedent which you collected at the morgue, you must sign for them on a Coroner's form.

Written by:

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CONTRA COSTA COUNTY
SHERIFF- CORONER

DEATH INVESTIGATION ROLES
OF THE
CORONER AND LAW ENFORCEMENT AGENCIES

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ATTACHMENT F
Death Investigation Roles of the Coroner and LEAs

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A. INTRODUCTION

The Coroner is an administrative officer within County government whose position was created by California statutes to determine the cause and circumstances of certain statutorily defined deaths which occur within the County. In Contra Costa, as in 42 of California's other 58 counties, the Coroner is also the county Sheriff. By state statute, the Coroner is not required to be a medical doctor, and in fact, none of the 43 Sheriff/Coroners in California are medical doctors. Coroners perform the investigative and administrative aspects of death investigations by using civilians and/or peace officers staff members but they employ licensed physicians, most of whom are board-certified forensic pathologists, to perform post-mortem medical examinations (autopsies) and to provide the medical expertise and testimony as necessary. The Coroner also has some ancillary duties.

Law enforcement agencies are often involved with the discovery of deaths. They perform criminal investigations on many deaths, especially homicides and other cases where crimes have been, or may have been, committed. This means that for many death cases, the Coroner's Office and law enforcement agencies have complementary but potentially intersecting investigative roles which can cause needless confusion and conflict. The information below is provided to avoid that.

B. PRIMARY ROLE OF THE CORONER

The Coroner's primary duty is to **determine the cause, manner and means** of certain deaths which are specified by California Government Code §27491. Generally those deaths are by homicide, suicide, accident, and deaths which are unexplained or medically unattended. When a death falls within one of those categories, it is "**reportable**" and is "a **Coroner's case**".

Only **"reportable deaths"** are within the Coroner's jurisdiction. The categories of reportable deaths (from California Government Code §27491) are summarized below:

1. **violent**, **sudden** or **unusual** deaths.

2. **unattended** deaths which occur in the continued absence of a physician for twenty days or more. The decedent has no recent medical history which documents medical problems that could have caused death.

3. deaths related to (or following) known or suspected **self-induced or criminal abortion.**

4. deaths known or suspected to be from:
   a. **homicide**
   b. **suicide**
   c. **accidental poisoning**

5. deaths known or suspected as resulting, in whole or in part, from or related to, **accident** or **injury**, either old or recent.

6. deaths due to:
   a. **drowning**
   b. **fire**

c. **hanging**
d. **gunshot**
e. **stabbing**
f. **cutting**
g. **exposure**
h. **starvation**
i. **acute alcoholism**
j. **drug addiction**
k. **strangulation**
l. **aspiration**
m. **suspected Sudden Infant Death Syndrome**

7. deaths caused by **criminal means**, in whole or in part.

8. deaths associated with known or alleged **rape**, or **crime against nature**.

9. deaths occurring **in prison** or while **under sentence**.

10. deaths known or suspected due to **contagious disease** and constituting a public hazard.

11. deaths from **occupational diseases or hazards**.

12. deaths of **patients in mental hospitals** operated by State Department of Mental Health and serving the mentally disabled.

13. deaths of **developmentally disabled patients** in state hospitals operated by the State Department of Developmental Services.

14. deaths occurring under circumstances affording **reasonable grounds to suspect death was caused by the criminal act of another**.

15. deaths **reported by physicians or other persons** with knowledge of death for inquiry by the Coroner.

C. ADDITIONAL CORONER'S DUTIES

The decedent's identity

Another duty of the Coroner is to establish and confirm the decedent's identity for legal and other purposes. This may be done by visual identification, photographic comparison, fingerprint comparison, unique body markings or conditions, dental comparison, DNA, x-ray comparison, or by personal effects.

Notifications

The Coroner is required to make reasonable attempts to locate the family of the decedent after taking custody of the dead body. Government Code §27471.

The Coroner's Office takes this responsibility very seriously and strives to ensure that death notifications are promptly, compassionately and supportively made to the legal next-of-kin, whether notification is made

by a member of the Coroner's staff, by a law enforcement officer or another official, or by someone at the request of an official.

Notifications can be difficult following any type of death but they are often especially difficult following sud den and unexpected deaths.

When possible, the Coroner's Office will have its investigators make local death notifications. Law enforcement agencies may wish to make death notifications in selected death cases they investigate because they can also provide the family with some explanation of the case circumstances and can attempt to obtain needed information. Law enforcement agencies must promptly notify the Coroner's Office if they wish to do this so the Coroner's Office won't attempt to make notification. After the law enforcement agency has made the death notification, the person who made it shall immediately notify a Coroner's investigator that the notification has been made and shall provide: (1) the name of the person receiving the notification, as well as his/her address, age, phone number and relationship to the decedent; (2) the identity and affiliation of the person making the notification; and (3) the time, date and place of notification.

Safeguard Property

The Coroner is responsible for safeguarding the property of the decedent. In some cases this involves taking actual possession of property and safekeeping it pending other disposition, and in other cases the property may be left in place with a Coroner's seal affixed to safeguard it. In many cases a legal next-of-kin simply takes responsibility for the property.

Uniform Anatomical Gift Act

The Coroner assists with the implementation of the Uniform Anatomical Gift Act (Health and Safety Code §7150) and with lawful utilization of organ and tissue transplantation procedures. Government Code §7491.44. et al.

Training

The Coroner's Office participates in scientific and medical research, training and education. Government Code §27491.45.

Death Review Boards

The Coroner's Office participates in mandated and other Medical Reviews such as Child Death Review and Domestic Violence Death Review.

Coroner's Inquests

The Coroner has discretion to conduct Coroner's Inquests, and must hold Inquests if requested to do so by the Attorney General, the District Attorney, the city prosecutor or city attorney, or a chief of police of a city in the county. Inquests may be with or without a jury, at the Coroner's discretion. Government Code §27491.6.

- **Inquests on Law Enforcement Involved Fatal Incidents**

The vast majority of Inquests in the County are held following deaths which involve law enforcement personnel or law enforcement operations or activities.

By its own policy, and pursuant to the county-wide Contra Costa Law Enforcement Involved Fatal Incident Protocol (which has been in effect since 1984), the Contra Costa County Sheriff/Coroner's Office holds Inquests following most deaths which involve law enforcement personnel or law enforcement operations or activities. These Inquests are open to the public, are conducted by a private attorney acting as the hearing officer for the Coroner's Office, and are held in front of a jury of citizens randomly selected from the Superior Court jury pool.

In addition to the statutory purposes for holding Inquests, Inquests are held on these cases to provide the public, the news media, and various interested parties with information about such incidents through sworn testimony of participants, witnesses and investigators. Inquest testimony also provides another opportunity for investigators and decision-makers to acquire more information about the incidents.

- **Other Inquests**

  The Coroner occasionally holds Inquests on other types of cases when considered appropriate or when requested under Government Code §27491.6. These Inquests are usually conducted by the Coroner's Office Commander or his/her designee and are held without a jury. Government Code §27491.7

- **Inquest Verdicts**

  Government Code §27504 requires the Inquest jury, or the hearing officer if no jury is used, to render a verdict on the following matters:

  - the name of the deceased
  - the time and place of death
  - the medical cause of death
  - whether the death was by (1) natural physiological causes, (2) suicide, (3) accident, or (4) the hands of another person other than by accident (i.e. homicide).

Government Code §27504 provides that Inquest findings shall not include, nor shall they make any reference to, civil or criminal responsibility on the part of the deceased or any other person.

D. LEVELS OF CORONER'S INVESTIGATIONS

Depending upon the type of each death and the circumstances of it, the Coroner's Office performs its role using one of five standardized levels of investigation. In Contra Costa County, these levels are known as:

1. Full Coroner's Case
2. Inspection
3. Not Brought In
4. Co-Sign
5. Brief Case

Levels 2 through 5 are used primarily for natural physiological deaths which occur following treatment by physicians, and are occasionally used in traumatic deaths. Homicides, suicides, and most other traumatic deaths are handled as Full Coroner's Cases, as are all Law Enforcement Involved Fatal Incidents (as that term is defined in the Contra Costa Law Enforcement Involved Fatal Incident Protocol).

For Full Coroner's Cases, the Coroner's Office **determines the cause, manner and means** of deaths using information obtained from multiple sources:

- Reports by Coroner Investigators and/or law enforcement officers.
- Reports by emergency medical responders.
- The decedent's previous medical history.
- Photographs, clothing, and objects associated with the death.
- A forensic medical autopsy performed by a forensic pathologist. In addition to the autopsy examination, autopsies may include x-rays, toxicology and other laboratory testing, and microscopic examination of tissue. Experts in relevant medical sub-specialties, or in forensic fields such as odontology, entomology and anthropology, are sometimes utilized.

E. LAW ENFORCEMENT'S REPORTING OF DEATHS

1. The initial report:

   Law Enforcement agencies who have charge of a deceased person's body must immediately notify the Coroner's Office. (This requirement also applies to others, such as funeral directors and physicians.) Violation of this requirement is a misdemeanor. Government Code §27491, Health and Safety Code §102850.

   The Coroner's 24 hour phone number is **925-313-2850**. **If no answer, call Sheriff's Dispatch at 925-646-2441**

   - **Initial Telephone Summary (I.T.S.)**

     Law enforcement's initial notification to the Coroner's Office should include a summary of the information which is then available, including the identity of the law enforcement agency and, if known, the decedent's name, location of the body, circumstances of the death, special problems anticipated in body removal, etc. (See sample of the I.T.S. form on Page 111.)

2. Continuing obligation to provide information:

   To properly perform its statutory responsibilities, the Coroner's Office must be promptly and fully informed in each case of all the facts and physical evidence that relate to (1) the cause, manner and means of death; (2) the identity of the decedent; (3) identity of next-of-kin; and (4) information concerning any notification of the death to next-of-kin that has already been made. Law enforcement agencies have an on-going obligation to provide this information to the

Coroner's Office. This obligation starts with the initial notification of the death and continues even after the autopsy is completed. Most of the needed information is collected by the assigned Coroner's investigator(s) from law enforcement officers, but often the forensic pathologist needs specific and updated information directly from law enforcement officers, as well as access to some physical evidence, at the time of autopsy.

F. CORONER'S RESPONSE AFTER NOTIFICATION

After being notified of a reportable case by a law enforcement agency which is conducting a criminal investigation of the death, the law enforcement agency may request the Coroner to delay removal of the body until sufficient investigation and evidence processing can be performed. A Coroner's investigator may elect to come to the scene for a brief inspection or for photography and to collect preliminary information. (Government Code §27491.2) The Coroner's Office then will usually not make removal until after it receives a follow-up notification that the law enforcement agency is ready for body removal.

When the reportable death is one for which a criminal investigation will not be performed by the law enforcement agency, a Coroner's deputy will usually respond promptly following the initial notification to investigate and make body removal without a follow-up call requesting removal.

Whether the law enforcement agency handles the death as a criminal case or not, the Coroner's Office requests that a law enforcement officer maintain the **chain of custody** on the body (and the scene of death if the body hasn't been removed from it) until a Coroner's deputy arrives to make removal.

G. CORONER'S DUTY TO NOTIFY LAW ENFORCEMENT

When the Coroner's Office determines that reasonable grounds exist to suspect that a death has been caused by a criminal act of another person, it is required to immediately notify the law enforcement agency having jurisdiction over the matter (if that agency is not already aware). Notification shall be made by the most direct communication available. The notification shall include the name of the deceased person (if known), the location of the remains, and other information received by the coroner relating to the death including any medical information of the decedent that is directly related to the death. Information from the Coroner cannot include any information contained in the decedent's medical records which relates to another person unless that information is relevant and directly related to the decedent's death. Government Code §27491.1.

H. LEGAL RESTRICTIONS REGARDING THE BODY, ITEMS ON IT AND ITEMS WITHIN THE DECEDENT'S ESTATE

1. THE STATUTES AND THEIR EFFECT:

- **Misdemeanor crime:** the body shall not be disturbed or moved from the position or place of death without permission of the coroner or the coroner's appointed deputy. (This applies whether or not notification to the Coroner has been made, and it applies to everyone including law enforcement officers, firefighters and emergency medical personnel.) Violation of this provision is a misdemeanor. (Government Code §27491/2(b)).

Exception for Exigent Circumstances: If, prior to the Coroner's arrival, it is urgently and clearly necessary (i.e. exigent circumstances exist) for a peace officer to move or disturb a body (e.g. to prevent if from being consumed by fire, lost in a body of water, damaged by traffic, etc.) permission must first be sought from the Coroner's Office either by telephone or by radio. If contact cannot be made quickly, the Coroner's Office hereby grants permission to move the body only as minimally necessary to avoid the immediate harm. See Section 2 below regarding searching for or removing any items from the body.

- **Misdemeanor crime:** any person who searches for or removes any papers, moneys, valuable property or weapons constituting the estate of the deceased from the person of the deceased or from the premises, prior to arrival of the coroner or without the permission of the coroner, is guilty of a misdemeanor. 27491.3(c).

- **Statutory Exception:** Peace officers may search the person or property on or about the person of the deceased, whose death is due to a traffic accident, for a driver's license or identification card to determine if an anatomical donor card is attached. If a peace officer locates such an anatomical donor card which indicates that the deceased is an anatomical donor, the peace officer shall immediately furnish such information to the coroner having jurisdiction. Government Code §27491.3(d). "Peace officer," as used in this subdivision, means only those officers who are designated in Penal Code §§830.1 and 830.2. (27492.3(d).

- **Law enforcement's right in criminal cases to process the body and collect evidence:** At the scene of any death, when a police investigation or criminal prosecution may ensue, the Coroner shall not further disturb the body or any related evidence until the law enforcement agency has had reasonable opportunity to respond to the scene, if their purposes so require and they so request. Custody and control of the body shall remain with the Coroner at all times. Reasonable time at the scene shall be allowed by the Coroner for criminal investigation by other law enforcement agencies, with the time and location of removal of the remains to a convenient place to be determined at the discretion of the coroner. Government Code §27491(3) (c).

2. PROCEDURES FOR LAW ENFORCEMENT IN CRIMINAL CASES

- **Evidence from the body prior to body removal**

When <u>necessary</u> for immediate investigative needs, law enforcement officers may search for and remove weapons, wallets, papers, money and valuables from the body (see the paragraph immediately below regarding removal of other types of evidence from the body), but **must seek permission of the Coroner's Office before doing so.** Permission may be sought in person, by telephone, or by radio. Examples of necessity include: (A) urgent need to identify the decedent; (B) protection of evidence from loss or contamination (such as from the weather, from movement and/or removal of the body, or from crowds); and (C) obtaining probable cause information. When permission is obtained, or if contact with the Coroner's Office cannot be reasonably made, such items may be removed from the body to satisfy the immediate need. Great care must be taken to preserve the condition of the body, the evidentiary value of removed items, to prevent contamination, and to maintain the chain of custody. Items removed from the body shall not be removed from the immediate location of the body without the express permission

of the Coroner's Office.

Exigent Circumstances: Evidence on the body, such as loose hairs, fibers, vegetation, blood, gunshot residue, etc., may only be removed from the body **without the prior permission of the Coroner's Office** when necessary to protect it from loss or contamination which could be caused by the removal and transportation process, by the weather, or otherwise. Evidence which can safely be left on the body for later observation and collection at the autopsy shall be left in place for the pathologist's inspection.

Fingerprint exemplars may be taken from the body's fingers by law enforcement agencies without the Coroner's approval when there is an immediate and urgent need to identify the decedent which cannot be satisfied by postponing fingerprinting until the after removal of the body. These conditions must be met:

1. There can be no trauma to the areas of the fingers or to portions of the hands which will have to be manipulated.

2. The fingers and hands must be adequately photographed before being disturbed.

3. The hands and fingers must first be examined for trace evidence, such as gunshot residue. If trace evidence is found, it must be photographed and collected prior to fingerprinting.

- **Evidence not on the body** which is within the decedent's estate or is at the decedent's premises:

  Searching for and removing items present at the place of death but which are (1) not on the body <u>and</u> (2) not within the decedent's estate, is **not controlled by statutes applicable to the Coroner's function**. Officers are responsible for assuring the lawfulness of all searches and seizures they perform as determined by standard search and seizure rules.

  Items such as weapons, wallets, papers, money and valuables, at decedent's premises which are not on the body which have evidentiary value to the investigating agency may be inspected and collected by the investigating agency without the prior approval of the Coroner's Office. However, these items shall not be removed from the scene without the Coroner's express approval.

  Statutory exception: The search for and the removal of evidence from a decedent's estate which is conducted under authority of a search warrant is not subject to Government Code §§27491.3(c) and (d) and does not require approval of the Coroner.

3. PROCEDURES IN SUICIDE CASES

- **Suicide notes and related writings**

  If the death is believed to be suicidal and the law enforcement agency will not conduct a criminal investigation of it, any note, letter or document apparently written by the

deceased which may tend to indicate the decedent's intention to take his own life, including directions for disposition of his property or the disposal of his remains shall be delivered to the Coroner's Office (Government Code §27464). By long-standing policy in Contra Costa County, the seizure of these documents shall be done by the Coroner's Office. Copies will be then made available to any interested law enforcement agency upon request. Originals will be available for Criminalistics examination. If the law enforcement agency conducts a criminal investigation of the death in the belief that it involved criminal conduct, the note evidence may be collected by that agency, with a copy provided to the Coroner's Office.

- **Suicide implements**

  If the death is believed to be suicidal and the law enforcement agency will not conduct a criminal investigation of it, implements used in the suicide shall be collected by the Coroner's Office. If the law enforcement agency conducts a criminal investigation of the death in the belief that it involved criminal conduct, implements may be collected by that agency.

I. SAFEGUARDING THE DECEDENT'S PROPERTY

- The Coroner may take charge of any and all personal effects, valuables, and property of the deceased at the scene of death or related to the inquiry and hold or safeguard them until lawful disposition thereof can be made. The coroner may lock the premises and apply a seal to the door or doors prohibiting entrance to the premises, pending arrival of a legally authorized representative of the deceased.

  However, this shall not be done in such a manner as to interfere with the investigation being conducted by other law enforcement agencies. Government Code §27491.3(a).

- Any property or evidence related to the investigation or prosecution of any known or suspected criminal death may, with knowledge of the coroner, be delivered to a law enforcement agency or district attorney, receipt for which shall be acknowledged. Government Code §27491.3(b)

J. AUTOPSIES

1. **Rules for attendees**

   a. Attendance at an autopsy by persons other than Coroner's Division personnel is subject to the approval of the Coroner (Government Code §27491.4.) The number of people attending an autopsy must be kept to a minimum due to space limitation, evidentiary considerations, and the need to eliminate distractions.

   b. People attending are required to sign a Coroner's Office Autopsy Permission Form.

   c. No audio or video recordings of an autopsy are allowed without the express prior permission of the Coroner's Division Commander and the pathologist.

   d. Photographs may be taken of remains at the morgue only for official use by the

Coroner's Office or a law enforcement agency, or for purposes of forensic pathology, or for use in medical or scientific education or research. They may not be taken for personal purposes. All photographs taken at the morgue are subject to discovery by the Coroner's Office and by involved law enforcement agencies, and are subject to discovery in administrative, civil and criminal proceedings.

e. Law enforcement personnel attending an autopsy are present to give information to the pathologist, to observe and understand the findings, to collect and record evidence, and/or for training purposes. The extent of their participation will be governed by the pathologist.

f. Those attending must adhere to the Coroner's safety rules in order to minimize exposure to biohazards. These rules include wearing protective clothing. Different standards may apply to those who will be in contact with the body verses those who will only be viewing the autopsy.

g. Autopsy attendees are strongly urged to use great diligence to ensure that any notes and diagrams they make of the pathologist's findings and opinions are accurate and are not in conflict with the pathologist's findings, report and diagram(s). Attendees usually need not create their own diagrams as the pathologist will usually give investigators a copy of any diagram(s) he/she makes at the completion of the autopsy.

2. ***Autopsy Evidence Collection Checklist***

An *Autopsy Evidence Collection Checklist* is available at the morgue and as an Attachment to the Law Enforcement Involved Fatal Incident Protocol to help guide CSIs and investigators through autopsy evidence collection procedures. Its use is encouraged, especially for those who are not well experienced in such procedures.

3. **Before the pathologist's arrival**

a. Until the pathologist has inspected the body and given approval, the body at the morgue shall not be disturbed nor its condition altered in any of the following illustrative ways:

- Movement or removal of clothing.
- Movement or removal of any weapon or object.
- Fingerprinting.
- Collection of hair standards.
- Collection of gunshot residue associated with wound sites.
- Clipping or scraping of fingernails.
- Washing or cleaning.
- Removal of medical devices from the body.

b. Without the pathologist's approval, trace evidence may be collected from areas of the body that are not directly involved with trauma and which are easily accessible without moving or turning the body. Exception: do not collect gunshot evidence without the pathologist's approval.

c. Photography of the body, without disturbing it, is encouraged.

4. Informing the forensic pathologist

a. **Investigative information**:

When the law enforcement agency is aware of information that may be relevant to the Coroner's determination of the cause, manner and means of a person's death that has not previously been adequately communicated to a Coroner's investigator, that information must be promptly transmitted to a Coroner's investigator prior to autopsy or during it, <u>or</u> it must be provided directly to the pathologist by a knowledgeable officer at autopsy.

b. **Items for the pathologist's inspection**:
Below is a list of types of items that should be present at the Coroner's Office for inspection by the pathologist at the time of autopsy. These may be brought by an investigating law enforcement agency, by evidence collectors or by Coroner's investigators. In unusual cases, where bringing items to the morgue is not practical, arrangements must be made with the pathologist for other timely inspection.

<u>Extreme care</u> must be taken to prevent the contamination of any evidence that is brought to the morgue for the pathologist's inspection. Items must be <u>absolutely protected</u> from contamination at the autopsy, especially transfers of biological material from the autopsy process to evidence items. Latent fingerprints and trace evidence on displayed items may also be at risk. Proper pre-packaging of items will help avoid problems, as will physical separation of items from the autopsy process. Clean paper is available at the morgue for use in displaying items.

1. **Weapons and objects** which may have come into contact with the body of the decedent, such as:

a. Firearms

b. Cutting and stabbing instruments

c. Blunt force objects, such as rocks, clubs, furniture, footwear

d. Tools

e. Adequate photographs of items and their surfaces which may have contacted the decedent's body but which cannot be displayed to the pathologist at autopsy, such as the portion(s) of a vehicle which struck the decedent, a fence or tree trunk the decedent fell against, etc.

e. Ligatures, bindings and other restraint devices.

2. **Clothing**.

a. Articles of clothing which are known or suspected to have been worn by the

decedent at the time of death and/or at the time of injury. This includes inner and outer clothing, footwear and jewelry. The pathologist's examination of clothing worn by gunshot victims is often relevant to the determination of muzzle-to-body distances and to the body's possible positions when it was struck.

b. If the decedent was hospitalized prior to death, be sure to include decedent's clothing that came with him/her to the hospital.

3. **Medications, poisons and intoxicants**.

Law enforcement and Coroner's investigators must make diligent efforts to locate and collect any medications, poisons and/or intoxicants (and their containers) which could relate to the cause of death and/or to autopsy toxicology testing. These items may be found in the decedent's clothing, vehicle(s), residence, or elsewhere. When medication or poison containers are found, they shall be brought to the autopsy. Exception: This does not apply to medications directly administrated by medical professionals. Neither these medicines nor their containers need be brought to autopsy.

4. **Hospital and other medical evidence**:

Blood and urine samples collected from the decedent by medical personnel during medical treatment prior to blood transfusions and the administration of medications are important in some cases. Law enforcement personnel who are aware that such samples were collected can help assure their later availability by asking medical personnel to retain those samples for the Coroner to pick up.

Medical records and body scans from medical providers can also be very important.

Coroner's personnel will collect these items from medical providers, using a Coroner's subpoena when necessary.

During their investigation of death cases, law enforcement personnel should be alert for information about the decedent's prior medical history and the identities of medical service providers. This information should be provided to a Coroner's investigator for appropriate follow-up.

If an item would normally be displayed to the pathologist, but cannot be brought to the morgue, photographs, sketches, diagrams or a detailed description must be available at the time of autopsy.

K. ATTACHMENT – Initial Telephone Survey - see next page

This document was prepared by Sergeant Chris Forsyth
of the Contra Costa Sheriff/Coroner's Office

ATTACHMENT – The INITIAL TELEPHONE SUMMARY form

INITIAL TELEPHONE SUMMARY **CORONER** case No:_____

NATURAL ACCIDENTAL SUICIDE HOMICIDE FETAL BRIEF

DATE & TIME REPORTED: _____DATE & TIME OF DEATH: _____

PERSON REPORTING: _____DEPT: _____PHONE: _____

INVEST. AGENCY & OFFICER: _____AGENCY CASE # _____

****

NAME OF DECEASED:_____

ADDRESS:_____**PHONE:**_____

SEX: ____RACE:_____DATE OF BIRTH:_____AGE: _____SSN: _____

PLACE OF DEATH: _____LOCATION OF BODY: _____

PLACE OF DEATH ADDRESS: _____

****

NEXT OF KIN: _____ RELATIONSHIP:_____

ADDRESS:_____ PHONE: _____

NOTIFIED: _____ BY WHOM: _____ HOW: _____

****

PRONOUNCED BY: _____DEPT: _____ PHONE: _____

REGULAR PHYSICIAN: _____DATE LAST SEEN:_____

ADDRESS: _____ PHONE: _____

MEDICAL RECORD NUMBER: _____MEDICAL HISTORY:_____

_____

_____

_____

MEDICATIONS:_____

_____

DC TO BE SIGNED BY: _____ CORONER'S HOLD: _____

CAUSE OF DEATH: _____

CONTRIBUTING CAUSES: _____

OPERATIONS/DATES: _____

****

SYNOPSIS:_____

_____

_____F.D.O.C: _____

DEPUTY ASSIGNED: _____ COURTESY PICKUP: _____

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