CHIEF'S PREFACE

The "Policies and Procedures Manual" contains the operational orders established by the Police Department to maintain the safety of our employees while we provide public safety and police services to our stakeholders. These policies represent our commitment to service and reflect our organizational values of "Service, Diversity, Integrity, Accountability, and Professionalism." Recognizing the need for uniformity, effectiveness, and efficiency, all San Francisco Bay Area Rapid Transit Police Department personnel are required to be familiar with the written policies and procedures contained in this manual. This manual represents our intent to identify roles, responsibilities, underlining principles and philosophies on how we should conduct ourselves as we go about our daily tasks and duties.

Written policies and procedures are necessary to clearly define our agency's position and provide guidelines with which our personnel can make administrative, investigative, and operational judgments. These policies shall remain in effect as issued and in the event of conflict with previously written directives, training bulletins, or standard operating procedures, the policies contained herein shall assume precedence. Recognition of errors or deficiencies in the intent or text of these policies and procedures shall be reported in writing to the office of the Chief of Police, via the chain of command, for appropriate disposition.

Kenton W. Rainey, Chief of Police

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LAW ENFORCEMENT CODE OF ETHICS

To insure that all peace officers are fully aware of their individual responsibilities to maintain their own integrity and that of their agency, every peace officer, during basic training, or at the time of appointment, shall be administered the Law Enforcement Code of Ethics, as prescribed in Bureau 1013 of the California POST Regulations.

Code of Ethics:

As a Law Enforcement Officer, my fundamental duty is to serve mankind; 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 men to liberty, equality and justice.

I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

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

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God* to my chosen profession...law enforcement.

* Reference to religious affirmation may be omitted where objected to by the officer.

Canons of the BART Police Department:

- Officers should uphold the Constitutions of the United States and the State of California, and all laws enacted or established pursuant to legally constituted authority.
- Officers should be aware of and should use proper and ethical procedure in discharging their official duties and responsibilities.
- Officers should regard the discharge of their duties as a public trust and should recognize their responsibilities to the people whom they are sworn to protect.
- Officers should strive to conduct their public and private life so that they exemplify the high standards of integrity, trust, and morality demanded of a member of the peace officer profession.
- Officers should recognize that our society holds the freedom of the individual as a paramount precept which should not be infringed upon without just, legal and necessary cause.

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- Officers should assist in maintaining the integrity and competence of the peace officer profession.
- Officers should cooperate with other officials and organizations who are using legal and ethical means to achieve the goals and objectives of the peace officer profession.
- Officers should not compromise their integrity, nor that of their agency or profession, by accepting, giving or soliciting any gratuity.
- Officers should observe the confidentiality of information given to them through any source, as it relates to the peace officer profession.

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DEPARTMENT MISSION STATEMENT AND CORE VALUES

The mission of the BART Police Department is to ensure a safe environment within our transit system, reduce crime through a highly visible police presence and proactive enforcement of the law, and to promote public confidence by working in partnership with our stakeholders and the communities we serve.

SERVICE - Placing Service above Self, we work in partnership with the community, serving with pride, courage and compassion.

ACCOUNTABILITY - We take ownership of our duties, remaining answerable to the public and accountable to the laws, rules, policies and procedures that govern and guide us.

DIVERSITY - We acknowledge and embrace the diversity in the communities we serve and strive to ensure diversity is reflected in all levels of our organization.

PROFESSIONALISM - We are committed to conduct and performance reflective of the highest standard of personal and organizational excellence.

INTEGRITY - We inspire trust and carry ourselves in a manner that demonstrates the highest levels of honesty, ethics, and moral conduct.

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Chapter 1 - Law Enforcement Role and Authority

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Law Enforcement Authority

100.1 PURPOSE AND SCOPE

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

100.2 PEACE OFFICER POWERS

Sworn members of this department shall be considered peace officers pursuant to Penal Code § 830.33(a), which specifies a member of the San Francisco Bay Area Rapid Transit District Police Department appointed pursuant to Public Utilities Code § 28767.5, if the primary duty of the peace officer is the enforcement of the law in or about properties owned, operated, or administered by the district or when performing necessary duties with respect to patrons, employees and properties of the district. The authority of any such peace officer extends to any place in the State of California for the purpose of performing their primary duty or when making an arrest pursuant to Penal Code § 836 as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, or pursuant to Government Code § 8597 or § 8598. Those peace officers may carry firearms only if authorized and under terms and conditions specified by their employing agency. This peace officer authority extends as follows:

(a) As to any public offense committed or which there is probable cause to believe has been committed within the political subdivision which employs the peace officer; or

(b) Where the peace officer has the prior consent of the chief of police, or person authorized by him or her to give consent, if the place is within a city or of the sheriff, or person authorized by him or her to give such consent, if the place is within a county; or

(c) As to any public offense committed or which there is probable cause to believe has been committed in the peace officer's presence, and with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of the offense.

100.3 CONSTITUTIONAL REQUIREMENTS

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

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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

Per Penal Code § 832.4(c), 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 the Commission on Peace Officer Standards and Training (POST) and obtain the Basic Certificate issued by POST within two years of appointment.

102.2 AUTHORITY AND RESPONSIBILITIES OF THE CHIEF OF POLICE

The Chief of Police is the Chief Executive Officer of the department and the final departmental authority in all matters of policy, operations or discipline. The Chief exercises all lawful powers of the office and issues such lawful orders as are necessary to assure the effective performance of the department.

Through the Chief of Police, the department is responsible for the enforcement of all laws and ordinances coming within its legal jurisdiction. The Chief of Police is responsible for planning, directing, coordinating, controlling and staffing all activities of the department, for continuing its efficient operation, for enforcing rules and regulations within the department, for completing and forwarding such reports as may be required by competent authority, and for maintaining good relations between the department, the citizens of the District, other departments within the District and other agencies.

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Oath of Office

104.1 PURPOSE AND SCOPE

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

104.1.1 OATH OF OFFICE

Upon employment, all sworn employees shall be required to affirm the oath of office expressing commitment and intent to respect constitutional rights in discharging the duties of a law enforcement officer (Cal. Const. Art. 20, § 3 and Government Code § 3102). The oath shall be as follows:

104.1.2 OATH

I, (state your 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 and during such time as I hold the office of Police Officer of the San Francisco Bay Area Rapid Transit District.

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Policy Manual

106.1 PURPOSE AND SCOPE

The manual of the Bay Area Rapid Transit 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 Bay Area Rapid Transit Police Department and shall not be construed to create a higher standard or duty of care for civil or criminal liability against the District, 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 Bay Area Rapid Transit 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 Special Orders, which shall modify those provisions of the manual to which they pertain. Special Orders 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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Policy Manual

CHP- The California Highway Patrol.

CFR - Code of Federal Regulations.

District - The District of BART.

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

Department/BPD - The Bay Area Rapid Transit Police Department.

DMV - The Department of Motor Vehicles.

Employee/personnel - Any person employed by the Department.

Juvenile- Any person under the age of 18 years.

Manual - The Bay Area Rapid Transit Police Department Policy Manual.

May - Indicates a permissive, discretionary or conditional action.

Member - Any person employed or appointed by the Bay Area Rapid Transit Police Department, including full-time sworn officers, reserve officers, civilian employees and volunteers.

Officer - Those employees, regardless of rank, who are sworn peace officers of the Bay Area Rapid Transit 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. The ranks in descending order are: Chief of Police; Deputy Chief; Lieutenant; S

Shall or will - Indicates a mandatory action.

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

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

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

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

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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 Special Orders. 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 Bureau Deputy Chief 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 Bureau Deputy Chief, 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 Responsibilities

200.1 PURPOSE AND SCOPE

The organizational structure, authority and responsibility 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 and employees.

200.2 DEPARTMENTAL STRUCTURE

The Department structure will include the Office of the Chief and two bureaus:

- Patrol Bureau
- Support Services Bureau

200.2.1 OFFICE OF THE CHIEF

The Chief of Police is the Chief Executive Officer of the Department and final departmental authority in all matters of policy, operations and discipline. The Chief exercises all lawful powers of the office and issues such lawful orders as are necessary to assure the effective performance of the Department.

The Chief of Police provides general administration and management direction for the Operations Division Deputy Chief, the Support Services Division Deputy Chief and the Office of Professional Standards and Training Deputy Chief. Office of Professional Standards is responsible for providing a prompt, unbiased and expedient investigation of complaints regarding the conduct of Department employees. The Professional Standards Lieutenant and Sergeant(s) reports to the Professional Standards and Training Deputy Chief.

200.2.2 OPERATIONS DIVISION

The Operations Division is led by a Deputy Chief who serves at the direction of the Chief of Police. Under the Deputy Chiefs direction and supervision, employees of the bureau provide for a systematic patrol of District property. The Deputy Chief is responsible for the following:

- Uniformed Patrol
- Special Patrol Teams
- K-9 Team
- Field Training Program
- Tactical Team
- Communications Section
- Special Weapons and Tactics
- Hostage Negotiations Team
- Counter Terrorism / Joint Terrorism Task Force Office

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200.2.3 SUPPORT SERVICES DIVISION

The Support Services Division is led by a Deputy Chief who serves at the direction of the Chief of Police. Under the Deputy Chief's direction and supervision, employees of the division provide staff assistance to other divisions of the Police Department as may be required. The Deputy Chief is responsible for the following:

- Support Services Division
- Administrative Services, including the Records, Warrants and Traffic Sections
- Criminal Investigations
- Revenue Protection
- Personnel and Training
- Field Training Program
- Evidence Storage
- Budget Administrator
- CAD/RMS Administration.

200.2.4 PROFESSIONAL STANDARDS AND TRAINING DIVISION

The Professional Standards and Training Division is led by a Deputy Chief who serves at the direction of the Chief of Police.

- Professional Standards Unit
- Training Unit

200.3 COMMAND PROTOCOL

200.3.1 SUCCESSION OF COMMAND

The Chief of Police exercises command over all personnel in the Department. During planned absences the Chief of Police will designate a Division Deputy Chief to serve as the acting Chief of Police.

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

(a) Operations Division Deputy Chief

(b) Support Services Deputy Chief

(c) Professional Standards and Training Deputy Chief

(d) Watch Commander

200.3.2 UNITY OF COMMAND

The principles of unity of command ensure efficient supervision and control within the Department. Generally, each employee shall be accountable to one supervisor at any time for a given

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assignment or responsibility. Except where specifically delegated authority may exist by policy or special assignment (e.g., K-9, SWAT), any supervisor may temporarily direct any subordinate if an operational necessity exists.

200.3.3 ORDERS

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

200.4 COMMAND OFFICER RESPONSIBILITIES

Bureau Deputy Chiefs are appointed from the rank of Deputy Chief by the Chief of Police. They provide administrative and executive assistance to the Chief of Police. Subject to the authority of the Chief of Police, Bureau Deputy Chief shall issue such orders as may be necessary to promote the effective operations of all activities within their command.

Bureau Deputy Chiefs may be assigned additional duties by the Chief of Police. A Bureau Deputy Chief, subject to direction by the Chief of Police, shall be responsible for planning, directing, controlling and coordinating all activities within their command. Bureau Deputy Chiefs will report directly to the Chief of Police and shall submit such reports relating to their command as may be required by the Chief of Police. A commanding officer will be appointed to act as Chief of Police during the Chief's absence.

200.4.1 LIEUTENANT RESPONSIBILITIES

Lieutenants shall be subject to the direction of a higher command. Lieutenants have direct control over all employees within their command.

Lieutenants should supervise the general and individual responsibilities of all employees and supervisory employees under their command. This includes employee conduct, work performance, attendance, and adherence to established policies, orders, standard operating procedures and District rules as dictated by the command of their bureau. They are responsible for their watch, bureaus and duties assigned by higher command.

In addition to this policy, Lieutenants will be governed by standard operating procedures, departmental general orders, operational directives, special orders, District rules and procedures, and any written or verbal orders by the chief of police or superior command officers.

200.4.2 SUPERVISORY PERSONNEL RESPONSIBILITIES

Supervisory personnel shall be either sworn Police Sergeants or Civilian Supervisors. They are subject to the direction of a higher command. They have direct control over all employees within their supervision.

Supervisory personnel are assigned either to the field and/or office duties. They will closely supervise the activities of their subordinates, making corrections where necessary and commending where appropriate. They will monitor employee conduct, work performance, attendance and adherence to established policies and procedures, Departmental orders, standard

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operating procedures and District rules as directed by the command of their bureau. They should provide close supervision, leadership and training while on duty.

An Officers-in-Charge may be granted temporary supervisory authority at the direction of a lieutenant or higher authority.

200.4.3 GENERAL RESPONSIBILITIES OF EMPLOYEES

It shall be the duty and responsibility of each employee to actively fulfill the function of the Department and the bureau, unit or team to which they are assigned, and to perform any lawful duty assigned and/or ordered by a competent authority. Employees shall abide by the established policies and procedures, Departmental orders, standard operating procedures, District rules and direction of their supervisor.

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General Duty Regulations and Conduct

201.1 PURPOSE AND SCOPE

In addition to the responsibilities and duties of each individual rank and position set forth in this Manual, all employees of the Police Department shall obey the laws of the United States, the State of California, lawful orders of the courts, all rules and regulations set forth in this manual, directives and all written and verbal Departmental orders.

201.2 KNOWLEDGE OF LAWS AND REGULATIONS

Every employee is required to establish and maintain a working knowledge of all laws and ordinances applicable to their assigned duties, as well as the rules and policies of the Department and District. In the event of improper action or breach of discipline, it will be presumed that the employee was familiar with the law, rule or policy in question.

201.2.1 ESTABLISHING ELEMENTS OF VIOLATION

The existence of facts establishing a violation of a law, ordinance or rule is all that is necessary to support any allegation of such violation as a basis for a charge under this section. It is not necessary that a formal complaint be filed. Nothing in this Manual prohibits disciplining or charging members or employees merely because the alleged act or omission does not appear herein.

201.2.2 REPORTING VIOLATION OF LAWS, ORDINANCES, RULES OR ORDERS

Employees knowing of other employees of this Department violating laws, ordinances, rules of the District, or disobeying orders shall report each violation to their superior who shall process it in accordance with established procedure. The failure of an employee to report such a violation by another employee will place him in complicity with the violator.

If the employee believes the information is of such gravity that it must be brought to the immediate attention of the Chief of Police, official channels may be bypassed.

201.2.3 MANNER OF ISSUING ORDERS

Orders from superior to subordinate shall be in clear and understandable language and issued in pursuit of Department business.

201.2.4 INSUBORDINATION

Deliberate refusal of any employee to obey a lawful order given by proper authority shall be insubordination.

201.2.5 CONFLICTING ORDERS

Upon receipt of an order conflicting with any previous order or instruction, the employee affected will advise the person issuing the second order of this fact. Responsibility for countermanding the original instruction then rests with the individual issuing the second order. If so directed, the latter command shall be obeyed first. Orders will be countermanded or conflicting orders will be issued only when reasonably necessary for the good of the Department.

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201.2.6 UNLAWFUL ORDERS
No command level officer or supervisor shall knowingly issue any order which is in violation of any Federal or State law.

201.2.7 OBEDIENCE TO LAWFUL ORDERS
Obedience to an unlawful order is never a defense for an unlawful action. Therefore, no employee is required to obey any order which is contrary to Federal or State law. Responsibility for refusal to obey rests with the employee and said employee shall be strictly required to justify his action.

201.2.8 REPORT AND APPEALS - UNLAWFUL, UNJUST, IMPROPER ORDERS
An employee receiving an unlawful, unjust or improper order shall, at first opportunity, report in writing to the Chief of Police through the chain of command. This report shall contain the facts of the incident and the action taken. Appeals for relief from such orders may be made at the same time.

201.2.9 CONDUCT WHICH MAY RESULT IN DISCIPLINE
The following list of causes for disciplinary action constitutes a portion of the disciplinary standards of this department. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for specific action or inaction that is detrimental to efficient department service:

201.2.10 ATTENDANCE
a. Leaving job to which assigned during duty hours without reasonable excuse and proper permission and approval.

b. Unexcused or unauthorized absence or tardiness on scheduled day(s) of work.

c. Failure to report to work or to place of assignment at time specified and fully prepared to perform duties without reasonable excuse.

d. Failure to notify the Department within 24 hours of any change in residence address or home phone number.

201.2.11 CONDUCT
a. Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily injury on another.

b. Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment without first notifying the Chief of Police of such action.

c. Using department resources in association with any portion of an independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment and non-subpoenaed records.

d. Engaging in horseplay resulting in injury or property damage or the reasonable possibility thereof.

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e. Unauthorized possession of, loss of or damage to department property or the property of others, or endangering it through unreasonable carelessness or maliciousness.

f. Failure of any employee to promptly and fully report activities on their own part or the part of any other employee where such activities may result in criminal prosecution or discipline under this policy.

g. Failure of any employee to promptly and fully report activities that have resulted in official contact by any other law enforcement agency.

h. Using or disclosing one's status as an employee with the Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department business or activity.

i. The use of any information, photograph, video or other recording obtained or accessed as a result of employment with the Department for personal or financial gain or without the express authorization of the Chief of Police or a designee may result in discipline under this policy.

j. Seeking restraining orders against individuals encountered in the line of duty without the express permission of the Chief of Police.

k. Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department.

l. Unwelcome solicitation of a personal or sexual relationship while on-duty or through the use of one's official capacity.

m. Engaging in on-duty sexual relations including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.

201.2.12 DISCRIMINATION

a. Discriminate against any person because of age, race, color, creed, religion, sex, sexual orientation, national origin, ancestry, marital status, physical or mental disability or medical condition.

201.2.13 INTOXICANTS

a. Reporting for work or being at work following the use of intoxicants where such use may impair the employee's ability to perform assigned duties or where there is an immediate suspicion of ineffectiveness during public contact resulting from the use of intoxicants

b. Unauthorized possession or use of, or attempting to bring intoxicants to the work site, except as authorized in the performance of an official assignment. An employee who is authorized to consume intoxicants is not permitted to do so to such a degree that it may impair on-duty performance

c. Reporting for work or being at work following the use of a "controlled substance" or any drug (whether legally prescribed or otherwise) where such use may impair the employee's ability to perform assigned duties

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d. Unauthorized possession, use of, or attempting to bring controlled substance or other illegal drug to any work site

201.2.14 PERFORMANCE

(a) b. Careless workmanship resulting in spoilage or waste of materials or work of an unacceptable nature as applicable to the nature of the work assigned.

(b) c. Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or instructions of supervisors without a reasonable and bona fide excuse.

(c) d. Concealing, attempting to conceal, removing or destroying defective or incompetent work.

(d) e. Disobedience or insubordination to constituted authorities, including refusal or deliberate failure to carry out or follow lawful directives and orders from any supervisor or person in a position of authority.

(e) f. The wrongful or unlawful exercise of authority on the part of any employee for malicious purpose, personal gain, willful deceit or any other improper purpose.

(f) g. Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of the Department or subverts the good order, efficiency and discipline of the Department or which would tend to discredit any member thereof.

(g) h. Knowingly making false, misleading or malicious statements that are reasonably calculated to harm or destroy the reputation, authority or official standing of the Department or members thereof.

(h) i. The falsification of any work-related records, the making of misleading entries or statements with the intent to deceive, or the willful and unauthorized destruction and/or mutilation of any department record, book, paper or document.

(i) j. Wrongfully loaning, selling, giving away or appropriating any department property for the personal use of the employee or any unauthorized person.

(j) k. The unauthorized use of any badge, uniform, identification card or other department equipment or property for personal gain or any other improper purpose.

(k) l. The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the employee's duties (lawful subpoena fees and authorized work permits excepted).

(l) m. Any knowing or negligent violation of the provisions of the department manual, operating procedures or other written directive of an authorized supervisor. The Department shall make this manual available to all employees. Employees shall familiarize themselves with this manual and be responsible for compliance with each of the policies contained herein.

(m) n. Work-related dishonesty, including attempted or actual theft of department property, services or the property of others, or the unauthorized removal or possession of department property or the property of another person.

(n) o. Criminal, dishonest, infamous or disgraceful conduct adversely affecting the employee/ employer relationship, whether on- or off-duty.

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(o) p. Failure to disclose or misrepresenting material facts, or the making of any false or misleading statement on any application, examination form, or other official document, report or form or during the course of any work-related investigation.

(p) q. Failure to take reasonable action while on-duty and when required by law, statute, resolution or approved department practices or procedures.

(q) r. Associating with or joining a criminal gang, organized crime and/or criminal syndicate when a department member knew or reasonably should have known of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by the Department.

(r) s. Offer or acceptance of a bribe or gratuity.

(s) t. Misappropriation or misuse of public funds.

(t) u. Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.

(u) v. Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions: while on department premises; at any work site; while on-duty or while in uniform; or while using any department equipment or system. Gambling activity undertaken as part of an officer's official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.

(v) w. Substantiated, active, continuing association on a personal rather than official basis with a person or persons who engage in or are continuing to engage in serious violations of state or federal laws, where the employee has or reasonably should have knowledge of such criminal activities, except where specifically directed and authorized by the Department.

(w) x. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty, on department property or while in any way representing him/herself as a member of this agency, except as expressly authorized by the Chief of Police.

(x) y. Engaging in political activities during assigned working hours except as expressly authorized by the Chief of Police.

(y) z. Violating any misdemeanor or felony statute.

(z) aa. Any other on-duty or off-duty conduct which any employee knows or reasonably should know is unbecoming a member of the Department or which is contrary to good order, efficiency or morale, or which tends to reflect unfavorably upon the Department or its members.

(aa) ab. Any failure or refusal of an employee to properly perform the function and duties of an assigned position.

(ab) ac. Failure to maintain required and current licenses (e.g. driver's license) and certifications (e.g., first aid).

(ac) ad. Giving false or misleading statements, or misrepresenting or omitting material information to a supervisor, or other person in a position of authority, in connection with any investigation or in the reporting of any department-related business.

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201.2.15 SAFETY

a. Failure to observe posted rules, signs and written or oral safety instructions while on duty and/or within department facilities or to use required protective clothing or equipment.

b. Knowingly failing to report any on-the-job or work-related accident or injury within 24 hours.

c. Substantiated employee record of unsafe or improper driving habits or actions in the course of employment.

d. Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.

e. Any personal action contributing to involvement in a preventable traffic collision, or other unsafe or improper driving habits or actions in the course of employment.

f. Violating departmental safety standards or safe working practices.

201.2.16 SECURITY

Unauthorized, intentional release of designated confidential information, materials, data, forms, reports or Security Sensitive information

201.2.17 SUPERVISORY RESPONSIBILITY

a. Failure of a supervisor to take appropriate action to ensure that employees adhere to the policies and procedures of this department and the actions of all personnel comply with all laws

b. Failure of a supervisor to timely report known misconduct of an employee to his or her immediate supervisor or to document such misconduct appropriately or as required by policy

c. The unequal or disparate exercise of authority on the part of a supervisor toward any employee for malicious or other improper purpose.

201.3 CONDUCT TOWARD THE PUBLIC

Employees shall be courteous and orderly in their dealings with the public. They shall perform their duties professionally, avoiding harsh, violent, profane or insolent language and always remain calm regardless of provocation. Upon request, they are required to supply their names and/or badge numbers in a courteous manner. They shall attend to requests from the public quickly and accurately, avoiding unnecessary referral to other departments of the District. Employees shall display an impartial and fair attitude at all times and shall offer assistance to the public whenever necessary, whether requested or not.

201.3.1 CONDUCT TOWARD SUPERIOR AND SUBORDINATE OFFICERS AND ASSOCIATES

Employees shall treat superior officers, subordinates and associates with respect. They shall be courteous and civil at all times in their relationships with one another. When on duty, and particularly in the presence of other employees or the public, superior officers shall be referred to by rank. Employees, while on duty, shall not openly criticize or make disparaging, derogatory or degrading remarks about any other employee of the District.

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201.3.2 COOPERATION

Employees shall maintain cooperation between the ranks and units of the Department and other District employees to accomplish the District objective of providing a safe, efficient and fast transit system for the public.

201.3.3 ROLL CALL

Unless otherwise directed, employees shall report to daily roll call at the time and place specified, properly uniformed and equipped. They shall give careful attention to orders and instructions, avoiding unnecessary talking or movement. Employees shall refrain from smoking, eating or drinking during roll call.

201.3.4 KNOWLEDGE OF DEPARTMENT INFORMATION

Members shall acquaint themselves daily when on duty and immediately upon return from an absence with information on the Daily Bulletin and wanted circulars pertinent to themselves' or their assignments.

201.3.5 TRAINING

All employees shall attend in-service training in the theory and practice of law enforcement at the direction of the Chief of Police or Commanding Officer. Such attendance is considered a duty assignment.

201.3.6 INSPECTIONS

From time to time, the Chief of Police may call for full dress inspection of the Department or any part thereof. Employees directed to attend such inspection shall report in the uniform prescribed and carrying the equipment specified.

201.3.7 DUTY AVAILABILITY

All employees on duty shall devote their entire time and energies to the duties and responsibilities of the rank, grade or position to which they are assigned, either permanently or temporarily, as specified by laws, ordinances, departmental orders and instructions from superior officers.

Employees on duty shall not conceal themselves except for the furtherance of some police purpose. They shall be readily available to the public during duty hours. Employees shall not leave the area of their duty assignment without permission from their immediate supervisors, except when in pursuit of a suspected criminal, or when instructed by competent authority.

201.3.8 REPORTING AVAILABILITY TO POLICE DISPATCHERS

Employees in the field, normally subject to assignment by the Police Dispatcher, shall immediately report their availability to the Police Dispatcher by radio, or, if justifiably detained, their location by telephone, at the beginning of each tour of duty and upon completion of each assignment during their tour of duty.

Employees will advise the Police Dispatcher of any time that they will be out of radio contact, giving their location, and the expected duration of same.

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201.3.9 RESPONDING TO CALLS
Employees shall respond without delay to all calls for police assistance. Emergency calls take precedence; however, all calls shall be answered as soon as possible consistent with normal safety precautions and vehicle laws. Except under the most extraordinary circumstances, or when otherwise directed by competent authority, no member shall fail to answer any telephone or radio call directed to him.

201.3.10 MEALS (ON DUTY)
Eating in a licensed liquor establishment, although not forbidden, is discouraged. But eating at a bar which dispenses liquor is forbidden.

201.3.11 NEWSPAPER/PERIODICALS - READING ON DUTY
Employees should not read newspapers, periodicals or similar material in the public view, except in connection with official duty or at meals.

201.3.12 LOITERING
All members on duty or in uniform should not loiter in bars, theaters, or other public places except to perform a police task. Loitering and unnecessary conversation in such locations is forbidden. Employees, whether on- or off-duty, should not loiter in BART police offices unless on official standby.

201.3.13 RELIEF
Employees are to remain at their assignment and on-duty until properly relieved by another employee or until dismissed by competent authority.

201.3.14 NATIONAL COLORS AND ANTHEM
Uniformed sworn employees will render full military honors to the National Colors and Anthem at appropriate times. Employees in civilian dress shall render proper civilian honors to the National Colors and Anthem at the appropriate times.

201.3.15 SLEEPING ON DUTY
Employees shall remain awake during the time they are on duty. If unable to do so they shall so report to their supervisor, who shall determine the proper course of action.

201.4 STANDARD OF CONDUCT
Employees whether on-duty or off-duty, shall be governed by the ordinary and reasonable rules of good conduct and behavior, and shall not commit any act tending to bring reproach or discredit upon the Department or the District.

201.4.1 ETIQUETTE
Employees shall not smoke or chew any tobacco substance when within direct contact with the public. All special instructions regarding "no smoking" shall be obeyed.

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201.4.2 MATTERS OF DISPUTE
Whenever there is a dispute between a BART police employee and an employee of another governmental agency regarding law enforcement responsibility or services, it shall be reported in writing to the Chief of Police, via the chain of command. In the event the disagreement takes place in the field under circumstances that require one to assume responsibility and take prompt action, employees shall be required to assume responsibility and take proper actions, including the investigation and preparation of reports.

201.4.3 PERSONAL PREFERMENT
No employee may seek the influence or intervention of any person outside the Department for purposes of personal preferment, advantage, transfer or advancement within the BART Police Department.

201.4.4 UNNECESSARY INTERFERENCE - UNLAWFUL BUSINESS
Employees shall not interfere unnecessarily with the lawful business of any person.

201.4.5 CARING FOR LOST, HELPLESS, INJURED OR ILL PERSONS
Employees shall always be required to assist lost, helpless, injured or ill persons. Every employee trained in First Aid or CPR is required to maintain his proficiency in First Aid and CPR.

201.4.6 OFF-DUTY RESPONSE TO EMERGENICIES
Employees off-duty shall report for duty immediately upon receipt of and in compliance with directions given them at the time of notification by competent authority. As defined in this section. Competent Authority is any command officer or any employee instructed to make this contact by a command officer.

201.4.7 ADDRESS AND TELEPHONE NUMBERS
Employees shall record their correct residence address and telephone number with the Support Services Bureau. Employees are required' to have telephones in a place where they reside. Changes in address or telephone number shall be reported to the Support Services Bureau within 24 hours of the change. This shall be done in writing on the appropriate form and within the specified time, whether the employee is working or on leave. The form will be sent to the Personnel and Training Sergeant.

201.4.8 REGISTERING EQUIPMENT WITH THE DISTRICT
Members are required to register with the Department the description and serial numbers of all personal police equipment they may carry.

201.4.9 PROPERTY PERSONAL USE
Employees shall not convert to their own use or have any claim of any found, abandoned or recovered property, or property held as evidence.

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201.4.10 INTOXICANTS ON DISTRICT PREMISES
Employees shall not bring onto, consume, or keep any intoxicating liquor on District property except,

- When necessary in the performance of a police task.
- Packaged goods for temporary storage in locker spaces when the seals are unbroken.

Liquor brought onto District property in the furtherance of a police task shall be properly identified and stored according to current policy.

201.5 DISTRICT PROPERTY
Employees shall not mar, mark or deface District property in any way.

201.5.1 USE OF DISTRICT VEHICLES
No employee shall use any District vehicle for transportation purposes not relevant to District business unless authorized to do so by competent authority.

201.5.2 TRANSPORTING CITIZENS
Citizens will be transported in District vehicles only when necessary to accomplish a police purpose. Such transportation will be done in conformance with Departmental policy or at the direction of a commanding officer or immediate supervisor.

201.5.3 UNAUTHORIZED CARGO
No employee shall, while in uniform, carry packages, merchandise or any items of personal property except those pertaining to police business, nor shall District vehicles be used for the storage or transportation of personal items not related to their respective assignment.

201.5.4 DEPARTMENT KEYS
Employees shall not duplicate any District key nor loan any District key to any person not authorized to possess same, unless instructed to do so by a command officer. Employees may request an additional vehicle key from the vehicle maintenance personnel.

201.5.5 BADGE, IDENTIFICATION, LENDING OR LOSS OF
Employees shall not permit any unauthorized person to use Department badges or official credentials at any time. In the event of loss of badge and/or identification card, the affected member shall immediately submit a memo to the Support Services Bureau Deputy Chief detailing the circumstances of such loss and requesting replacement of same.

201.5.6 CORRESPONDENCE RESTRICTIONS
Employees shall not:

- Use District or Department letterheads, badge or patch insignia for private correspondence. Requests for approval should be submitted to BART Government and Media Relations department

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- Send official correspondence out of the District over their signature without the express permission of the Chief of Police.

201.5.7 DISTRICT ADDRESS (PRIVATE USE OF)
With the exception of the provision of the Department of Motor Vehicles governing the confidentiality of police officer's home address (D.M.V. Form 57); employees shall not use the District as a mailing address for any private purpose. District mail facilities shall not be used for any personal business. Mail will be opened only by the addressee or his authorized agent.

201.5.8 TELEPHONES AND OTHER COMMUNICATION EQUIPMENT
District communication equipment should not be used for the transmission of personal messages. Employee should not use cellular phones where such use could interfere with normal duties.

201.5.9 RADIO DISCIPLINE
All members of the District operating police radios from a mobile unit, portable unit, or in the Communications Section shall strictly observe regulations for such operation as set forth in the District orders and by the Federal Communication Commission. Idle conversation or banter over any police radio frequency is prohibited.

201.5.10 NOTICES
Employees shall not mar, alter or deface any posted notice of the District or Department. Notices or announcements shall not be posted on bulletin boards without permission of a commanding officer. Notices of a derogatory nature shall not be posted at any time.

201.6 PUBLIC ACTIVITIES
Employees shall not seek personal publicity in the course of their employment.

201.6.1 COMMERCIAL TESTIMONIALS
Employees shall not permit their names or photographs to be used to endorse any product or service which is in any way connected with law enforcement without the permission of the Chief of Police. They shall not, without the permission of the Chief of Police, allow their names or photographs to be used in any commercial testimonial which alludes to their position or employment with the District.

201.6.2 PUBLIC APPEARANCE REQUESTS
Any request for public speeches, presentations, etc. must be submitted in writing via the chain of command, allowing a reasonable period of time prior to the appearance date for the Chief's consideration and approval.

201.6.3 APPEARANCE ON ORAL BOARDS
An employee receiving a request to participate on any type of interview board shall instruct the requesting party to forward a written request to the office of the Chief of Police for consideration and approval. Such requests shall be processed by the Support Services Bureau, where a

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permanent record will be maintained. Exceptions to this rule may be allowed when time is a consideration.

201.6.4 OUTSIDE EMPLOYMENT

An employee may be authorized to secure outside employment only upon approval of the application by the Chief of Police. The approved written application must be signed, dated and filed in the employee's administrative file prior to the commencing of such employment.

201.6.5 MEMBERSHIP IN ORGANIZATIONS

Except for the Armed Forces Reserve components enumerated in the California Veterans Code, employees shall not affiliate themselves with any organization or group, the constitution or by-laws of which in any way exact prior consideration or which would prevent its members from rendering proper and efficient service to the District.

201.6.6 TRADE UNIONS

Memberships or affiliation with a trade union by any employee shall not interfere with his proper performance of duty. Trade union membership or affiliation shall not excuse the violation of a direct, lawful order from a higher-ranking officer.

201.6.7 SUBVERSIVE ORGANIZATIONS

No employee shall knowingly become a member of, or be connected with, any subversive organization, except when necessary in the performance of duty, and then only under the direction of the Chief of Police.

201.6.8 POLITICAL ACTIVITIES

Employees shall not engage in political activity or services of any nature during those hours in which they are employed by the District; nor shall District funds, supplies, property or equipment be utilized in performing any services of a political nature.

201.6.9 ACCEPTANCE OF GIFTS, GRATUITIES, FEES, LOANS, ETC.

Employees shall not solicit or accept either directly or indirectly any gift, gratuity, loan, fee or any other thing of value arising from or offered because of District or police employment or any activity connected with said employment. Employees shall not accept any gift, gratuity, loan, fee, or other thing of value, the acceptance of which might tend to influence directly or indirectly the actions of said employee in any matter of police business, or which might tend to cast an adverse reflection on the District or on any employee thereof.

201.6.10 REWARDS

Employees shall not accept any reward in money or other consideration for services rendered in the line of duty to the community or to any person, business or agency, except lawful salary.

201.6.11 OTHER TRANSACTIONS

Employees are prohibited from buying or selling anything of value or attempting to buy or sell anything of value from or to any complainant, suspect, witness, defendant, prisoner, or other

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person involved in any case which has come to his attention or which arose out of his District employment except as may be specifically authorized by the Chief of Police.

201.6.12 FREE ADMISSIONS AND PASSES
Employees shall not solicit or accept free admission to theater and other places of amusement for themselves or others except in the line of duty or when provided by the District.

201.6.13 DISPOSITION OF UNAUTHORIZED GIFTS, GRATUITIES, ETC.
Anything of value falling within Policies 201.6.9, 201.6.10 or 201.6.12 coming into possession of any employee shall be forwarded to the employee's Bureau Deputy Chief together with a written report explaining the circumstances connected therewith.

201.7 COMPROMISING CRIMINAL CASES
Employees shall not interfere with the proper administration of criminal justice.

(a) Employees shall not attempt to interrupt any legal process except where a manifest injustice might otherwise occur, nor participate in, or be concerned with, any activity which might interfere with the process of law.

(b) Except in the interest of justice, employees shall not attempt to have any traffic citation or notice appear reduced, voided or stricken from the court calendar.

(c) Any employee having knowledge of action and failing to inform his supervising officer thereof shall be subject to discipline.

201.7.1 RECORDS AND INFORMATION - RESTRICTED USE OF
Employees shall not divulge to any person or entity not connected with the Department information acquired by their employment if the information might discredit or imperil the efficiency of the Department, unless required by law, Departmental order or orders of a commanding officer. Departmental records and reports shall be exhibited/divulged/released only in conformity with Departmental orders.

201.7.2 INFORMATION - MISUSE OF
Employees shall not knowingly permit the misuse of any law enforcement departmental information either in their own interest or that of another person.

201.7.3 REPORT SUBMISSION
Employees shall promptly submit such reports as are required for the performance of their duties or by competent authority.

201.7.4 REPORT FALSIFICATION
Employees shall not knowingly falsify any official report, or enter, or cause to be entered, any inaccurate, false or improper information on reports or records of the Department.

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201.7.5 COOPERATION IN INVESTIGATIONS

(a) Employees will cooperate in any investigation conducted by:

1. Any competent investigative body
2. A judicial tribunal
3. A hearing board of officer
4. A person authorized to take testimony

(b) Employees are required to answer questions by, or render material and relevant statements to, a competent authority in a District personnel investigation when so directed.

(c) Members and employees are required to be truthful at all times, whether under oath or not.

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Special Order

204.1 PURPOSE AND SCOPE

Special Orders establish an interdepartmental communication that may be used by the Chief of Police to make immediate changes to policy and procedure consistent with the current Collective Bargaining Agreement and as permitted by Government Code § 3500 et seq. Special Orders will immediately modify or change and supersede sections of this manual to which they pertain. Special Orders are directives of limited and specified duration concerning individual bureaus, sections, platoons, teams or individual events which should be known by the entire Department. An expiration date shall be listed.

204.1.1 SPECIAL ORDER PROTOCOL

Special Orders will be incorporated into the manual as required upon approval of the Chief of Police. Special Orders will modify existing policies or create a new policy as appropriate and will be rescinded upon incorporation into the manual.

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

Any Special Orders issued shall be numbered consecutively starting with the last two digits of the year, followed by the number "01" For example, 10-01 signifies the first Special Order for the year 2010.

204.2 RESPONSIBILITIES

204.2.1 CHIEF OF POLICE

The Chief of Police shall issue all Special Orders.

204.3 ACCEPTANCE OF SPECIAL ORDERS

All employees are required to read and obtain any necessary clarification of all Special Orders. All employees are required to acknowledge in writing the receipt and review of any new Special Order. 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 Call-Back

205.1 PURPOSE AND SCOPE

To establish a call-back procedure for police personnel, including specialized units, during emergency situations. It shall be the policy of the Police Department to call in off-duty police personnel in the event an emergency situation exists that cannot be handled by on-duty staffing. It shall be mandatory that police personnel report for duty upon notification by a command-level officer or his/her designee.

205.2 DEFINITION

An Emergency is any event where additional personnel or resources are needed to handle a situation that impacts the safe operation of the system. The following conditions are guidelines under which an emergency may be declared, but are not absolute limitations:

- Major fire affecting areas of the BART system;
- Major earthquake causing critical damage within the District;
- Train derailment causing major damage to BART property, serious injury or death;
- Explosions causing major damage to BART property, serious injury or death;
- Hijacking of a BART train, any hostage situation or barricaded suspect on BART property;
- Acts of terrorism or sabotage causing or likely to cause damage to BART property, injury or death;
- Vital equipment failures that could seriously disrupt BART revenue service;
- Labor or civil disputes that may disrupt BART revenue service;
- Extreme adverse weather conditions that may seriously disrupt BART revenue service;
- Outside agency requests for mutual aid approved by the Chief of Police;
- Any other major crime or event as determined by a command-level officer.

205.3 PROCEDURE

The command-level officer will either respond to the scene or police headquarters to coordinate activities during any emergency situation. If required to respond to the scene of the emergency, he/she may designate a sergeant or officer to coordinate the activities at headquarters.

A command-level officer will make the decision to implement this procedure. The sergeant or officer-in-charge will notify the command-level officer and give a complete briefing, including personnel requirements. In the event there is a need for additional outside expertise or assistance, a command-level officer shall be advised and clearance obtained. Use of a police special response unit (SWAT, HNT, ID Tech or TAC) requires the approval of a command-level officer.

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Emergency Call-Back

The command-level officer will designate a police employee(s) to make the appropriate notifications to sworn and non-sworn personnel. The order of call-back notification will first be made to personnel working in the affected zone in which the emergency situation exists, then to personnel in the adjacent zone(s).

All qualified police personnel who voluntarily call in for a duty assignment may be allowed to report for duty providing the emergency situation still demands additional police personnel. Police personnel may be requested to report directly to the scene of the emergency or other designated location without reporting to their assigned zone.

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Emergency Management Plan

206.1 PURPOSE AND SCOPE

The following sections contain excerpts and information from the BART Emergency Plan. For complete information, consult the latest revision of the BART Emergency Plan.

The District has prepared an Emergency Plan for use by all employees in the event of a major disaster or other emergency event. The Emergency Plan provides for a strategic response by all employees and assigns specific responsibilities in the event the plan is activated.

Copies are located in Support Services and the lieutenant's office in each zone. All supervisors should familiarize themselves with the plan and what roles police personnel will play when it is implemented.

206.2 ACTIVATING THE EMERGENCY PLAN

The Emergency Management Plan can be activated in a number of ways. For the Police Department, the Chief of Police or the highest ranking official on duty may activate the Emergency Management Plan in response to a major emergency.

206.2.1 RECALL OF PERSONNEL

In the event that the Emergency Management Plan is activated, all employees of the Bay Area Rapid Transit 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 INCIDENT COMMAND SYSTEM (ICS)

The Incident Command System (ICS) is the system used to manage emergencies at all levels and allows agencies to communicate using common terminology and operating procedures. It begins developing from the time an incident occurs until the requirement for management and operations no longer exists. The structure of ICS can be established and expanded depending upon the changing conditions of the incident. It is intended to be staffed and operated by qualified, trained personnel from throughout the BART staff and could include representatives from outside agencies such as Fire Departments, Law Enforcement Agencies, Emergency Medical Services and others. Components of this emergency management system are use of common terminology, modular organization, integrated communications, unified command structure, consolidated action plans, manageable span of control, designated incident facilities and comprehensive resource management. To prevent confusion if multiple incidents occur in the District, each incident shall be given a name by the Train Controller.

ICS can be utilized for any type or size of emergency ranging from a minor incident involving only a few members of the Emergency Organization to a catastrophic incident involving several

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agencies from outside the BART organization. It allows for the timely acquisition of a combination of resources during the time of an emergency.

BART'S Incident Commander (IC): When an incident occurs which does not require outside agency assistance, the first BART employee on the scene will assume the role of IC and establish an Incident Command Post (ICP). The OCC must then be made aware of the location of the ICP and the name of the IC. Subsequently, other management personnel may respond to assume the IC role. Any change in the location of the ICP or IC must be transmitted to the OCC. All BART employees reporting to the scene must first report to the IC or designee so that all participants and their expected actions can be documented. The IC may assign other personnel to collect this data and/or direct the operations and logistics as required by the incident.

Incident Commander (IC): BART Transportation or BART Police personnel in criminal matters will normally assume the role of IC in the field. When one or more outside agencies respond, Unified Command will be established for the incident. The BART IC will typically then become the BART Liaison Officer and work within Unified Command. Under some circumstances, there may be more than one incident occurring at the same time. In this case, there will be an IC designated by the Train Controller for each incident. The Train Controller will also name each incident using the name of the nearest facility. It will then be referred to by that name by all involved personnel. The IC has responsibility to establish on-scene command, set up an incident command post, request necessary personnel and equipment and provide a staging area for responding personnel. The OCC must be provided with the location of the Command Post.

All personnel responding to the scene are to check in with the IC or designee before assuming duties. To accomplish this, the IC should assume command responsibility and appoint others to staff a field command post, assign missions, gather intelligence and delegate other tasks as necessary to establish control. Scene management and timing in the sequence of events that follow are of the essence.

BART Liaison Officer: The BART Liaison Officer will be responsible for coordinating and communicating with other BART personnel, the OCC, the Fire Department, or any other agency under Unified Command. This Officer will report to the IC (or Liaison Officer) at the Command Post.

BART Police Department: The BART Police Department is to provide crowd control, assist in evacuating patrons and/or employees, control traffic and provide security around and within the incident site. BART Police also enforce orders and laws, control crime scenes and assist the coroner in the operations of a temporary morgue. BART Police may work as the BART Liaison Officer and/or perform IC duties until Transportation personnel are on the scene to assume that role. BART Police will retain the role of IC after required rescues are accomplished when the emergency is a potential or actual crime. Transportation: Transportation is to provide coordination of all on-rail events in the field. This is to include all necessary clearances and access/egress at the scene. Transportation will assume the role of IC when the Fire Department or BART Police is not acting in that role. They will act as the BART Liaison Officer when Unified Command is in place. Transportation will communicate with the OCC and outside response agencies at the scene, if applicable.

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206.3.1 DUTIES: INCIDENT COMMANDER OR LIAISON OFFICER

BART INCIDENT COMMANDER OR LIAISON OFFICER (FIELD OPERATIONS)

(a) **Primary:** Transportation Supervisor, BART Police, or Maintenance & Engineering Management

(b) **Alternate:** Transportation Supervisor, BART Police, or Maintenance & Engineering Management

(c) **Reports To:** Operations Section Chief (EOC)

(d) **Responsibility:** To coordinate all field forces and activities, to identify needs, and to provide necessary resources.

General Duties:

- In conjunction with pertinent outside agencies, conduct rescue operations and help restore partial or full service;
- Provide necessary access to incident;
- Update and brief Operations Section Chief in the EOC;
- Support emergency medical treatment as required;
- Isolate and control releases of hazardous materials.

Action Checklist:

- Establish and maintain communications with the OCC and the EOC Operations Section;
- Identify yourself as IC or BART;
- Track your activities, time, and expenses to support the After Action Report and to support for reimbursement claims;
- Obtain a briefing on the extent of the Emergency from the Operations Section Chief in the EOC;
- Advise the EOC Operations Section Chief of the current situation, including the number of injuries if any, the damage, and the impact on train operations;
- Advise the EOC regarding the need for personnel and material resources;
- Set up a Field Command Post. Set up appropriate staging areas for responding personnel. Notify the EOC Operations Section Chief of command post and staging location;
- Insure that a Safety Officer has been assigned to monitor and observe personnel safety at the site;
- Advise field Division Supervisors of the EOC ACTION PLAN. Advise what limitations or restrictions exist;

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- Arrange for field personnel needs (food, water, shelter, etc) through the EOC Operations Section Chief;
- Get updated weather information and determine whether weather conditions will affect field operations;
- Log your activities, time and expenses for input to an after-action report and for future reimbursement claims.

206.4 EMERGENCY PROCEDURE CHECKLISTS

The following sections contain emergency procedure checklists specific to BART Police for various types of emergencies. Checklists for other District personnel may be found in the Emergency Plan.

206.4.1 FIRE/SMOKE

- Respond to the fire/smoke emergency scene, command post, or other designated location, and assume the duties of IC until relieved by a Transportation Supervisor or Fire Department IC. BART Police will resume the role of IC when the fire appears to have resulted from the commission of a crime and fire control activities have concluded;
- Establish communication with the OCC advising the exact location, nature and severity of the fire/smoke emergency, and the impact on train operations;
- Coordinate all BART emergency response efforts at the scene until a Transportation Supervisor or the Fire Department arrives, providing necessary access to, and staging areas for, the incident. Brief responding personnel;
- Brief the Fire Department on arrival. The Fire Department will assume IC if a fire or medical emergency. Assume BART Liaison function (if appropriate);
- Assisting officers should respond to passenger stations on either side of the fire emergency, maintenance of ways, or emergency exits as appropriate, to take charge of all BART response;
- Close and clear stations within the boundaries of the incident, as necessary;
- Sweep rescue/work trains;
- Assist the fire department in rescue operations if possible, when heavy rescue or evacuation is required.
- Support emergency medical treatment as required;
- Control traffic on the perimeter of the emergency to insure access for emergency vehicles;
- Provide crowd control and prevent unauthorized access to the scene;
- Protect fire department vehicles;
- Protect the scene and preserve evidence for investigation;
- Secure areas rendered unsafe and those which contain hazardous materials;

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- Periodically update the status of the emergency with the OCC advising of any known casualties;
- Determine the need for additional police personnel, I.D. technicians, detectives, including outside agencies, county emergency services, and the American Red Cross;
- Assist the coroner in his/her duties, and in the operations of a temporary morgue;
- Record actions taken to support the investigation and reporting of the incident.

206.5 TRAIN DERAILMENT/COLLISION

- Respond to the derailment/collision scene, or other designated location, and assume the duties of IC until relieved by a Transportation Supervisor or Fire Department IC. BART Police will resume the role of IC when the derailment or collision appears to have resulted from the commission of a crime.
- Establish communication with the OCC, advising the exact location, nature and severity of the incident, and the impact on train operations.
- Coordinate all BART emergency response efforts at the scene while acting as IC, providing necessary access to and staging areas for the incident;
- Brief responding personnel;
- Brief a relieving IC upon his/her arrival;
- Assisting officers should respond to passenger stations on either side of the emergency, maintenance of ways, or emergency exits as appropriate, to take charge of all BART response;
- Close and clear stations within the boundaries of the incident, as necessary;
- Sweep rescue/work trains;
- Assist in rescue and evacuation operations;
- Support emergency medical treatment as required;
- Control traffic on the perimeter of the emergency to insure access for emergency vehicles;
- Provide crowd control and prevent unauthorized access to the scene;
- Protect fire department vehicles;
- Protect the scene and preserve evidence for investigation;
- Secure areas rendered unsafe and those that contain hazardous materials;
- Periodically update the status of the emergency with OCC, advising of any known casualties;
- Determine the need for additional police personnel, I.D. technicians, detectives, including outside agencies, county emergency services, and the American Red Cross;

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- Assist the coroner in his/her duties, and in the operations of a temporary morgue;
- Record actions taken to support the investigation and reporting of the incident.

206.5.1 DEATH OR INJURY ON THE RIGHT-OF-WAY

- Respond to the scene and assume the duties of IC;
- If rescue is involved, the Fire Department is the IC;
- Obtain a briefing from the Train Operator;
- Establish communication with the OCC, verify that power is down at the incident scene, and advise of the need to enter the trackway to check the condition of the victim. Advise other rescuers to remain clear of the trackway until verification is received;
- Interview the victim if possible. Establish injuries. Provide first aid if necessary. Notify the coroner if appropriate;
- Assist emergency medical personnel in removal of an injured party from the trackway;
- It may be necessary to restore power, uncouple and move the train to provide access to the victim. Insure that all parts of the car being moved will clear the individual;
- Identify and interview all known witnesses to the incident. If it is not convenient at the time, a witness may be interviewed later. Take statements whenever possible;
- Protect the scene from unauthorized access and preserve evidence for investigation;
- Take photos of the scene. Take measurements for a scene diagram;
- Assist the coroner in his/her duties;
- Do not release information regarding the identity of a deceased person;
- Release the scene to Transportation for clean-up when the investigation is completed;
- If the incident occurred on a trackway secured by fence, check for insecure conditions which would have provided access to the victim, and have them corrected.

206.5.2 RIGHT-OF-WAY INTRUSION

- Respond to the scene and assume the duties of IC until relieved by a Transportation Supervisor for non-criminal incidents;
- Obtain a briefing from the reporting party if he/she is available;
- Establish communication with the OCC; advise of the nature of the intrusion, exact location, description of the intruder (person, vehicle, object etc.), how the incident will affect mainline operations, and whether the intruder has been injured;
- Advise OCC to terminate power if appropriate, particularly if the intruder is mentally unstable or violent;

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- Request additional officers to position themselves to prevent the escape of, and effect the apprehension of, the intruder;
- Coordinate with any involved outside agencies;
- Apprehend and remove the intruder from the right-of-way;
- Insure all personnel are clear of the right-of-way prior to restoring service;
- Check for insecure conditions created or used by the intruder to gain access to the right-of-way and have them corrected.

206.5.3 HAZARDOUS MATERIALS SPILL/LEAK

- BPD Officer(s) nearest to the reported incident shall be dispatched upwind of the scene as near as safety permits to: prohibit unauthorized personnel from entering, establish communications with the OCC and assume the duties of IC for mainline incidents;
- For those incidents occurring off property which will affect BART employees or operations, a police sergeant or officer in charge shall be sent to the Command Post in the appropriate jurisdiction to report information to the OCC and relay information to the Command Post;
- Respond to a position upwind of the scene as near as safety permits to prohibit unauthorized personnel from entering;
- Establish communications with the OCC and assume the duties of IC for mainline incidents; advise on the exact location, nature and severity of the incident, and of its effect on train operations;
- For those incidents occurring off-property which will affect BART, respond to the command post in the appropriate jurisdiction to relay information to the OCC;
- Close, evacuate and guard stations and/or other buildings as warranted;
- Advise of the need for PG&E, fire department, emergency medical services, and other outside agencies, and of the type of materials needed to contain the emergency, if known;
- Coordinate all BART emergency response efforts at the scene until the fire department arrives, providing necessary access to, and staffing areas for the incident;
- Isolate and arrange medical treatment for any contaminated persons. Prevent unauthorized access to the emergency scene.

206.5.4 EARTHQUAKE

- Check portable and vehicle radios to insure proper operations;
- Check all BART structures for damage and casualties; respond to specific locations assigned by BPD Dispatch;
- Report any damage or casualties to the OCC;

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- Request fire department, emergency medical services, additional police and American Red Cross response as necessary; provide access to the incident;
- Assume the duties of IC at any disaster scene until relieved by a Transportation Supervisor or Fire Department IC;
- Assist in evacuation of trains and structures, rescue, and emergency medical treatment as necessary;
- Cordon off areas which have incurred severe damage or pose life-threatening hazards;
- Check facilities which contain hazardous materials;
- Move emergency vehicles to open areas in case of after shocks;
- Assist the coroner in the disposition of deceased persons and in the operations of a temporary morgue;
- Record all actions taken to support documentation of the incident;
- If there is little or no damage to BART, be prepared to provide assistance to other jurisdictions.

206.5.5 HIGH VELOCITY WINDS

- Respond to stations or other designated locations bordering the emergency scene;
- Assume the duties of IC until relieved by a Transportation Supervisor;
- Advise the OCC of the severity of the emergency, any known obstructions or damage on the trackway or structures, and the affect of the emergency on train operations;
- Identify potential hazards (power lines, trees, etc.);
- Establish a security perimeter and assist in evacuating the area as necessary;
- Assess the need for response by the local police department and other emergency support agencies having jurisdiction in the area.

NOTE: Winds over 40 miles per hour may be hazardous to BART train operations and patrons.

206.5.6 FLOODING

- Respond to the emergency scene and assume the duties of IC until relieved by a Transportation Supervisor or Fire Department IC;
- Establish communication with the OCC and advise of the exact location, nature and severity of the emergency;
- Check for and report the number of injured persons and the extent of their injuries. Request fire department and emergency medical services if needed;
- Determine and report the condition that caused the flood. Request that the appropriate agency (water company, fire department) respond to terminate the water flow;

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- Report any known damage to the trackway, structures or equipment;
- Assess and report the effect of the emergency on train operations in the area;
- Request termination of electrical power in areas affected or threatened by the emergency;
- Evacuate the area if necessary;
- Secure the scene to prevent unauthorized personnel from entering.

206.5.7 EXPLOSIONS

- Respond to the scene or other designated location, and assume the duties of IC until relieved by a Transportation Supervisor or Fire Department IC. BART Police will assume the role of IC when the explosion appears to have resulted from the commission of a crime;
- Avoid radio transmissions at the scene if the explosion could have been caused by a bomb. Evaluate the potential presence of NBC agents;
- Establish telephone communication with the OCC, and advise of all known details regarding the incident (exact location, nature, severity, casualties, damage), whether a fire has resulted, and the effect on train operations;
- Keep all personnel at least 1000 feet from the blast site to protect them from a secondary explosion;
- Request fire department, emergency medical services, additional police assistance, and the coroner, if needed;
- Advise on the need for a rescue train;
- Administer first aid; determine whether anyone has been trapped by fallen debris;
- Evacuate the scene of all patrons and non-essential personnel;
- Secure the scene and allow only authorized emergency response personnel to enter;
- Protect physical evidence;
- Identify and interview witnesses;
- Request call-out of investigators and explosive ordinance detachment as indicated;
- Record all actions taken to support documentation of the incident.

206.5.8 HOSTAGE OR BARRICADED SUBJECT

- Respond to the scene, or other designated location, and assume the duties of IC until relieved by a BPD supervisor, command officer, or the SWAT Team Commander;
- Obtain a briefing from the reporting party regarding the exact location of the incident, suspects, weapons, hostages, demands, injuries, deaths, witnesses, and whether a train is involved;

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- Confirm that a hostage or barricaded subject incident exists at the reported location;
- Establish communication with the OCC and advise of all known details of the incident, what is being done to contain it, and its effect on train operations;
- Request notification and call-out of BPD SWAT Team and hostage negotiators;
- Request an ambulance and fire department stand-by;
- Request an explosive ordinance detachment stand-by if explosives are believed to be involved;
- Ascertain that sufficient BPD officers are on the scene to contain the emergency;
- Establish boundaries for the situation, subject to modification when significant changes occur;
- Notify the OCC immediately of any boundary changes;
- Request outside police agencies to assist in establishing an outer perimeter;
- Determine the exact location of the suspects. Attempt to isolate the suspects by establishing an inner perimeter to block all possible escape routes;
- Establish a command post in a safe location near the incident site, between the inner and outer perimeter;
- Establish communications, preferably by telephone, between the command post and the OCC;
- Establish an outer perimeter, staffed by BPD and outside agency officers;
- Contain the situation pending arrival of BPD SWAT Team and hostage negotiators;
- Avoid provoking or initiating contact or communication with the suspects while awaiting SWAT Team and hostage negotiators;
- Assist the SWAT Team in evacuating non-hostage persons who are stranded within the emergency scene;
- Identify and interview evacuees, escaped or released hostages, and other witnesses prior to releasing them;
- Record all actions taken to support investigation and documentation of the incident.

206.5.9 BOMB THREAT

- Respond to the location specified by BPD Communications and assume the duties of IC;
- Avoid radio transmissions at the scene;
- Establish landline telephone communication with BPD Communications and OCC, ascertain all details of the incident and the level of response ordered by the Watch Commander;

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- Evacuate and/or search a facility or train in accordance with the response level ordered by the Watch Commander;
- If a suspicious object or a known explosive device is discovered, establish boundaries for an emergency scene, and evacuate all patrons and personnel;
- Notify BPD Communications and the OCC by telephone if an object or device is found, and request response by the explosive ordinance detachment;
- Secure the scene and insure that only authorized emergency response personnel are allowed at the incident site.8. Complete a police report documenting the details of the incident and the actions taken.

206.6 POWER OUTAGE

(a) **Dispatch:**

1. Broadcast extent of the outage to all field units;
2. Dispatch available units to impacted stations.

(b) **Field Units:**

1. Verify the extent of the outage within the System;
2. Maintain communications and report conditions to Dispatch and the OCC;
3. Determine conditions within impacted stations. (Condition of emergency lights, Crowd control problems, Persons with special needs/accessibility problems);
4. Assist with station evacuations, as required.

206.6.1 PUBLIC DEMONSTRATIONS

(a) **Dispatch:**

1. Ensure that the OCC Manager is advised of the situation;
2. Dispatch available personnel to the site(s) of the demonstration;
3. Notify and coordinate with surrounding police agencies as directed by the Watch Commander.

(b) **Watch Commander/Incident Commander:**

1. If there is sufficient notice, communicate information to the OCC Manager and the Government and Community Relations Department for possible contact with demonstration organizers and development of a coordinated response plan;
2. Determine need for additional personnel from special assignments or call-in from off-duty;
3. Determine the location of the Command Post and establish on-scene IC;

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4. Determine availability of BART Police and outside agency resources to control entry station faregates;
5. Determine and implement strategy for demonstrator access to stations;
6. Make certain that the OCC Manager is updated on the strategies undertaken;
7. Attempt to establish contact and communicate District expectations to demonstration organizers;
8. Monitor progress of the demonstration and evaluate the need to close impacted stations;
9. In consultation with Incident Commanders from other involved police agencies, determine the strategy for the end of demonstration travel;
10. Direct the implementation of the strategies at the return station based on the crowd size, demeanor of the demonstration and local needs;
11. Direct the restoration of normal service when the situation warrants;

(c) **Responding Personnel:**

1. Make certain that transportation personnel at the impacted stations are aware of the demonstration;
2. Coordinate response with personnel from outside police agencies;
3. Implement strategies as determined by the Watch Commander/Incident Commander;
4. Control access to stations as appropriate;
5. Utilize video cameras to document incidents;
6. Continuously update dispatch on the size/demeanor of the demonstration;
7. Assist adjoining law enforcement agencies as required;
8. Avoid the escalation of minor violations.

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Training Policy and Program

208.1 PURPOSE AND SCOPE

It is the policy of this department to administer a training program that will provide for professional growth and continued development of its sworn and non-sworn police 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. Training has often been cited as one of the most important responsibilities in any law enforcement agency. Training serves three broad purposes. First, well-trained officers are generally better prepared to act decisively and correctly in a broad spectrum of situations. Second, training results in greater productivity and effectiveness. Third, training fosters cooperation and unity of purpose. Moreover, agencies are now being held legally accountable for the actions of their personnel and for failing to provide adequate initial or remedial training.

208.2 PHILOSOPHY

The department seeks to provide continued professional training and encourages all personnel to seek out other training opportunities and formal education on their own. 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. Training should be consistent with the agency's mission and values as well as its goals and objectives. Agency training functions should be the responsibility of the training committee, which shall be accountable for developing and administering training programs. Training program development should provide for input from several sources, including agency personnel in general, a training committee, the inspections function, the Deputy Chief of Police, and the Chief of Police.

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 (d) Provide realistic training under circumstances and conditions that employees could reasonably be expected to face in the course and scope of employment. All newly appointed sworn and non-sworn personnel shall receive pre and in service training information regarding: 1. The agency's role, purpose, goals, policies, and procedures; 2. Working conditions and regulations; and 3. The responsibilities and rights of employees.

208.4 TRAINING COMMITTEE

The training committee shall be responsible for establishing a prioritized listing of training programs and courses for the department, and should meet at least monthly. The training committee will conduct an annual training needs assessment of the Department. The needs assessment will be reviewed by the department's command staff. Upon approval by the command staff, the needs

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assessment will form the basis for the training plan for the upcoming fiscal year. The training officer will ensure that individual department member training records are current. A training committee shall be established by the training coordinator to assist in the development and evaluation of training needs and serve as the focal point for input from all units of the department. The training committee shall represent all of the major units of the agency, and shall be minimally composed of the following personnel: 1. Training coordinator 2. Training officer 3. A certified use of force instructor 4. A sworn member from the BPOA 5. A non-sworn member from the BPOA

208.4.1 TRAINING COORDINATOR
A training coordinator will be selected from the rank of management by the Chief of Police, Deputy Chief of Police, or his/her designee. The training coordinator shall have the overall responsibility of selecting the training committee members and directing the program.

208.4.2 TRAINING OFFICER
The training officer, with assistance from the Personnel and Training Community Service Officer, will be responsible for planning, facilitating and scheduling department training. Other assigned duties shall include: Ensuring resumes and course outlines are in POST compliance Preparing training orders and course reservations Collecting training rosters and daily evaluations Updating the Training Management System (TMS) Maintaining training files

208.4.3 RETENTION
Any member of the training committee may be removed from the committee by the training program coordinator, Deputy Chief of Police, or the Chief of Police for failure to remain in good standing with the Department.

Any training committee member wishing to withdraw from the program voluntarily should submit a memorandum, via the chain of command, directed to the training coordinator. Members withdrawing voluntarily or involuntarily being removed from the program may be readmitted at the determination of the training coordinator with the concurrence of the Chief of Police or Deputy Chief of Police.

208.5 TRAINING LESSON PLANS
Beginning in 2011, a continual two year department training plan will be maintained by the training department. It is the responsibility of the training department to maintain, review, and update the training plan on an annual basis. The plan will address the following areas:

Legislative Changes

State Mandated Training

Critical Issues Training

California POST Training Network (CPTN)

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Courses that are developed within the BART Police Department should routinely be sent to POST for certification. The department requires lesson plans for all training courses that are conducted to include:

1. a statement of performance and job-related objectives;

2. the content of the training and specification of the appropriate instructional techniques;

3. a process for approval of lesson plans;

4. the identification of any tests used in the training process.

The development of lesson plans should ensure that the subject to be covered in training is addressed completely, accurately and is properly sequenced with other training materials. Lesson plans establish the purpose of the instruction, set forth the performance objectives, relate the training to critical job tasks, and identify ethical considerations related to the topic. Consideration should be given to the relevance of training courses to the department's mission and values.

Instructors for department training shall be POST certified and are responsible for submitting lesson plans to the training officer, along with their resumes. The lesson plans should also include references, teaching techniques (i.e. lecture, group discussion, panel, seminars, and/or debate), relationships to job tasks, responsibilities of the participants for the material taught, and plans for evaluation of the participants.

The majority of the training by the department should qualify for POST certification and the training records documented in each individual's POST Profile on the Electronic Data Interchange (EDI) System.

208.6 TRAINING COMMITTEE

All employees assigned by the department to attend training, whether on or off BART District property, shall attend as scheduled unless previously excused by their immediate supervisor. Each participant must sign the attendance roster for the day of the training. Departmental instructors are responsible for generating and submitting each day's roster to the training officer. When an outside instructor is present, the instructor's point of contact will be responsible for generating and submitting each day's roster and instructor evaluation to the training officer.

There will be no discretionary time off granted for officers on their scheduled training date(s). No mutual exchanges are allowed.

The current department attendance procedures are outlined in Policy #1014 "Sick Leave and Attendance Control." Excused absences from mandatory training should be limited to the following:

1. Court appearances

2. Guaranteed vacation

3. Sick leave / FMLA / AB109

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4. Physical limitations preventing the employee's participation.

5. Supervisor approved emergency situations

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

1. Notify his/her supervisor or the Watch Commander no later than 45 minutes prior to the start of training. The supervisor or Watch Commander shall then notify the training officer of the employee's absence, who will forward the information to the training coordinator.

2. Document his/her absence in a memorandum to his/her supervisor. 3. Make arrangements through his/her supervisor and the training coordinator to attend the required training on an alternate date.

Corrective disciplinary action will be taken for personnel who miss their scheduled training without proper authorization.

208.7 TRAINING PROCEDURES

Prior to becoming a sworn BART police officer, personnel shall train and graduate at a California POST certified police academy. Personnel with previous experience from another California police agency shall have been previously trained and graduated from a California POST certified police academy.

208.7.1 ORIENTATION TRAINING

Upon graduation from the POST basic academy, newly sworn police officers will be required to complete a 4 week Field Operations Concentrated Uniform Session (FOCUS) program in order to provide an opportunity for new officers to transition from the basic training academy to the field training program. Refer to order #436€š#Field Training Program.

Community Service Officers and dispatchers will also be required to complete a formal training program for proper preparation and transition into their new occupation. Refer to the department's Community Service Officer and dispatcher training manuals.

208.8 DAILY TRAINING BULLETINS

Shift briefing/Roll Call training will generally be conducted at the beginning of the employees' assigned shift. Briefing provides an opportunity for important exchange between employees and supervisors. A supervisor generally will conduct briefing. However, supervisors may assign employees to conduct briefing/Roll Call training for employee development purposes. Shift briefing and Roll Call shall include regular training relevant to high risk/low frequency events focusing on topics such as the following: active shooter, officer involved shooting, suicide bomber, train derailment or fire, nuclear/biological/chemical/radiological attacks, etc. Also, upon request or when the situation dictates, personnel from other divisions (i.e. Detectives, Special Problems) will provide training during briefing.

Briefing should accomplish, at a minimum, the following basic tasks:

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Briefing employees with information regarding daily patrol activity, with particular attention given to unusual situations and changes in the status of wanted persons, stolen vehicles, and major investigations

Notifying employees of changes in schedules and assignments

Notifying employees of new bulletins and orders or changes to bulletins and orders

Reviewing recent incidents for training purposes

Providing training on a variety of subjects To complete Standard, Reliable, On-Going and Verifiable Training (SROVT) requirements

The supervisor conducting briefing is responsible for preparation of the materials necessary for a constructive briefing. Supervisors may delegate this responsibility to a subordinate employee in his or her absence. Supervisors shall ensure that rosters are signed by employees acknowledging attendance of line-up briefing. These rosters shall be sent to the training officer for record keeping.

208.9 CONTINUED PROFESSIONAL TRAINING

Continued professional training is training that exceeds the training required to meet or re-qualify in entry level minimum standards. Continued professional training is mandated for peace officers and dispatcher personnel to maintain in full compliance with the state of California Peace Officer Standards Training. The purpose of continued professional training is to maintain, update, expand, and/or enhance an individual's knowledge and/or skills.

208.9.1 MANDATED P.O.S.T. TRAINING

The department will remain in compliance with the State of California POST training mandate, and every peace officer, public safety dispatcher, and public safety dispatch supervisor shall satisfactorily complete the continued professional training requirement of 24 or more hours of POST-qualifying training during every two-year continued professional training cycle, based on the statewide continued professional training anniversary date. It will be the goal of the department to provide a minimum of 40 hours of POST training per calendar year for each sworn police officer.

The advanced officer continued professional training courses shall consist of time blocks of not less than 2 hours each, regardless of the subject matter, with an overall minimum of no less than 24 hours. The maximum time period for presenting an advanced officer course is 180 days.

All sworn personnel must complete annual continued professional training, including CPTN legal updates. Training should also be provided in policies and procedures that are specific to the department. The department shall ensure that personnel are kept up to date with new laws, technological improvements, and revisions in department policy, procedures, rules, and regulations. The updated training may be designed to provide supervisory, management, or specialized training to personnel. Updated training may also include promotional training, training prior to assignment to a specialized component, or executive development training for higher-ranking officers.

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208.9.2 CIVILIAN PERSONNEL

The department's civilian personnel shall receive initial and on-going training commensurate with their responsibilities. Such training should stress not only the skills necessary to perform technical aspects of their jobs but also the importance of the link they provide between citizen and the department, which often shapes a citizen's opinion of the department. It will be the goal of the department to provide a minimum of 20 hours of POST training per calendar year for each civilian police employee.

208.9.3 IMMEDIATE REMEDIAL TRAINING

Any employee who acts in a grossly unsafe manner or demonstrates dangerous and/or extremely poor decision making skills in the deployment of and/or application of any use of force related task while on duty, may be required to attend immediate remedial training prior to returning to full duty status.

If in the opinion of the supervisor/primary instructor the on duty employee's actions/decision making are so unsafe that if the employee were returned to full duty the employee may be a safety hazard to him or herself, fellow employees, and/or the public, the supervisor/primary instructor shall recommend immediate remedial training for the employee. The supervisor/primary instructor shall contact the on duty Watch Commander as soon as practicable and make the recommendation for immediate remedial training.

If the request for immediate remedial training is approved, the employee shall be removed from an on duty patrol capacity and placed into a temporary administrative position until such time as that employee satisfactorily completes the immediate remedial training. Failures to correct such deficiencies may result in implementation of the progressive discipline system.

Nothing in this policy precludes the department from requiring an employee to successfully complete remedial training to correct lesser safety violations and/or marginal tactical decision making skills without the employee first being removed from full duty status.

208.9.4 TRAINING DOCUMENTATION

The training department shall document the nature of the instruction, the identity of those attending the sessions, and the performance of the attendees. As personnel complete training programs, the date of the training, the types of training received, any certificates received, attendance, and test scores should be recorded for each trainee.

Every instructor/monitor should complete a roster of attendees and have each participant sign the roster which will certify completion of the instruction. The form should be sent to the training department where the information should be entered into each participant's training record and the sign-in sheet stored in accordance with records retention standards.

The department shall maintain records of all training to include, at a minimum:

1. course content (lesson plans)

2. names of attendees

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3. performance of individual attendees as measured by tests, if administered.

208.10 TRAINING REQUESTS

Department personnel wishing to attend any law enforcement related training shall complete a department Training Request Form, and submit it to the training department coordinator via the chain of command for approval. The training order must identify the description of the required training and training requirements.

Training requests deemed essential or desirable for personnel in special assignments for the purpose of developing and enhancing the skills, knowledge, and abilities particular to the specialized assignment (i.e. investigations, field training officers, identification technicians) shall also be submitted to the training department coordinator via the chain of command for approval. The manager of the specialized assignment will be responsible for ensuring that persons assigned to the assignment receive their allotted annual hours of training established by the training committee for their position.

All training requests will be reviewed on a case-by-case basis and approved by the training coordinator and the Chief of Police, Deputy Chief of Police, or his/her designee.

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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 electronic mail (e-mail) by employees of this department. E-mail is a communication tool available to employees to enhance efficiency in the performance of job duties and is to be used in accordance with generally accepted business practices and current law (e.g., California Public Records Act). Messages transmitted over the e-mail system must only be those that involve official business activities or contain information essential to employees for the accomplishment of business-related tasks and/or communication directly related to the business, administration, or practices of the Department. Note: The District's Management Procedure 75 (Electronic Communications Guideline), permits incidental and occasional personal use of e-mail.

Also see the District's *Management Procedure 75 Electronic Communications Guideline.* Management Procedure 75 is incorporated into the Department Policy.

212.2 E-MAIL RIGHT OF PRIVACY

All e-mail messages, including attachments, transmitted over the Department computer network are considered Department records and, therefore, are the property of the Department. The Department reserves the right to access, audit, and disclose for whatever reason, all messages, including attachments, transmitted over its e-mail system or placed into its storage.

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

212.3 PROHIBITED USE OF E-MAIL

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

E-mail messages addressed to the entire department are only to be used for official business related items that are of particular interest to all users and must be approved by the Chief of Police or a Bureau Deputy Chief. Personal advertisements are not acceptable.

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

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212.4 MANAGEMENT OF E-MAIL

Because the e-mail system is not designed for long-term retention of messages, e-mail that the employee desires to save or that becomes part of an official record should be printed. Users of e-mail are solely responsible for the management of their mailboxes. Messages received by the system are retained on the system until deleted by the recipient. A canceled Internet account will not retain its mail. Users are expected to remove old messages in a timely fashion. In order to conserve file space, the District's e-mail administrator may remove such messages if not attended to regularly by the user.

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Administrative Communications

214.1 FORMAT AND PROCESSING FOR ORDERS/BULLETINS

Orders and bulletins shall show the date of issuance and be numbered consecutively in separate series, beginning with number one on the first day in January each year. Each shall bear a title or caption showing the classification to which it belongs. The original order/bulletin will be forwarded to Support Services for numbering, logging, distribution and be maintained by the Support Services Bureau.

All orders/bulletins will be issued on white paper.

214.1.1 DEPARTMENT ORDERS

The Chief of Police shall have the authority to issue orders consistent with the law and in accord with the office of the General Manager. Such orders may be written or oral, and all employees shall observe, obey and enforce them.

214.1.2 BUREAU ORDERS

Bureau Deputy Chiefs may issue bureau orders within their respective commands, provided that such orders are not inconsistent with, or contrary to, the law or orders from the Chief of Police.

214.1.3 TRAINING ORDERS/BULLETINS

The Support Services Deputy Chief may issue training orders to all department personnel. Orders will include date, time, location and all particular conditions for the training.

The Support Services Deputy Chief may issue training bulletins to inform department personnel regarding topics of law enforcement interest.

214.1.4 SECTION/WATCH ORDERS

Watch Commanders or Section Supervisors may issue orders affecting a watch or section within their respective commands, provided that such orders are not inconsistent with or contrary to the law or to orders from their respective Bureau Deputy Chief and the Chief of Police.

214.2 PERSONNEL ORDERS

Personnel Orders may be issued by the Chief of Police to announce and document all promotions, transfers, hiring of new personnel, separations, extended leaves of absence, training assignments or other changes in status.

214.3 BULLETINS

The Chief of Police will issue bulletins for all information, announcements and other communications and matters which should be known to the entire department.

214.4 CORRESPONDENCE

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.

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Staffing Levels

216.1 PURPOSE AND SCOPE

The purpose of this policy is to: provide the best possible police coverage of the transit system, and proper supervision for all shifts, with the personnel and resources that are available; ensure the safety of BART patrons and employees; and protect all District and personal property that are within the police department's jurisdiction. 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 the operational requirements of the department.

216.2 RECOMMENDED PATROL BUREAU STAFFING LEVELS

Recommended minimum Patrol Bureau staffing levels will be in accordance with the Standard Operating Procedures. Staffing levels may be adjusted by management to serve the best needs of the department.

Lieutenants: A and B platoon staffing will be one per shift, Monday through Sunday.

Sergeants: A and B-platoon recommended staffing levels should result in the scheduling of five on-duty sergeants, one for each zone, whenever possible. Watch Commanders will ensure that at least one on-duty sergeant is deployed for C-platoon.

Officers: Officers will be assigned to beats established by command officers for optimal coverage and/or special department needs. Sergeants are responsible for staffing their zones in compliance with the designated recommended staffing levels, which may be adjusted by a Watch Commander, depending on the needs of the department.

Community-Service Officers (C.S.O.s): Staffing for C.S.O.s will be determined by the lieutenant assigned to the affected shift and zone.

216.2.1 SUPERVISION DEPLOYMENTS

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

With prior authorization from the Patrol Bureau Deputy Chief, a sergeant may act as the Watch Commander for a limited period of time.

216.3 RECOMMENDED SUPPORT SERVICES BUREAU STAFFING LEVELS

Recommended Support Services Bureau staffing levels will be in accordance with the Standard Operating Procedures established by the Bureau Deputy Chief.

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Retired Officer CCW Endorsements

220.1 PURPOSE AND SCOPE

The purpose of this policy is to outline the process and conditions associated with the issuance, revocation, and denial of a concealed weapons (CCW) endorsement for retired officers of this department. Retired officers should also review Policy 1055 for guidelines of eligibility for retiree identification cards.

220.2 QUALIFIED RETIREES

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

(a) For the purpose of this policy, honorably retired includes all peace officers who have qualified for, and accepted, a service or disability retirement, however, shall not include any officer who retires in lieu of termination.

(b) No CCW Approved endorsement shall be issued to any officer retiring because of a psychological disability (Penal Code 26305).

220.3 MAINTAINING A CCW ENDORSEMENT

In order to maintain a "CCW Approved" endorsement on an identification card, the retired officer shall (Penal Code § 12027(a)(2)):

(a) For firearms carried within the state of California retired officers must qualify every three years with an authorized firearm at a course approved by this department. The department will provide thirty rounds for one qualification shoot. The department will only provide the caliber of round authorized for patrol use. Any additional firearm qualifications will be at the expense of the retired officer.

(b) Remain subject to all department rules and policies as well as all federal, state and local laws.

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

220.4 CARRYING FIREARMS OUT OF STATE

Subject to 18 United States Code 926C and Policy Manual § 312.8, qualified retired officers of this department may be authorized to carry a concealed weapon in other states.

Qualified retired officer shall also carry certification of having met firearms qualification within the past twelve months. This certification will be documented on the retired officers identification card.

220.5 IDENTIFICATION CARD FORMAT

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

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(a) Photograph of the retiree.

(b) Retiree's name and date of birth.

(c) Date of retirement.

(d) Name and address of this department.

(e) A stamped endorsement #CCW Approved# along with the date by which the endorsement must be renewed (not more than one year). In the case in which a CCW endorsement has been denied or revoked, the identification card shall be stamped #No CCW Privilege#.

(f) If applicable, a notation that "This person is in compliance with 18 USC § 926C(d)(1)."

220.6 DENIAL OR REVOCATION OF STATE CCW ENDORSEMENT

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

(a) In the event that a CCW endorsement is initially denied, the retired officer shall have 15 days from the date of denial to request a formal hearing. The failure to submit a timely written request for a hearing shall be deemed a waiver of such right. The hearing, absent written agreement between the parties, shall be held no later than 120 days after the request is received.

(b) Prior to revocation of any CCW endorsement, the Department shall provide the affected retiree with written notice of a hearing by either personal service or first class mail, postage prepaid, return receipt requested to the retiree's last known address (Penal Code § 26315).

    1. The retiree shall have 15 days from the date of service to file a written request for a hearing.

    2. The hearing, absent written agreement between the parties, shall be held no later than 120 days after the request is received (Penal Code § 26315).

    3. The failure to submit a timely written request for a hearing shall be deemed a waiver of such right.

(c) The hearing for the denial or revocation of any CCW endorsement shall be conducted before a hearing board composed of three members, one selected by the Department, one selected by the retiree or his/her employee organization and one selected jointly (Penal Code § 26320).

    1. The decision of such hearing board shall be binding on the Department and the retiree.

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2. Any retiree who waives the right to a hearing or whose CCW endorsement has been revoked at a hearing shall immediately surrender his/her identification card. The Department will then reissue a new identification card which shall be stamped #No CCW Privilege#.

220.6.1 WATCH COMMANDER RESPONSIBILITY

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

(a) Take appropriate steps to promptly look into the matter.

(b) If warranted, contact the retiree in person and advise him/her in writing of the following:

1. The retiree's CCW endorsement is immediately and temporarily revoked.
2. The retiree will have 15 days to request a hearing to determine whether the temporary revocation should become permanent.
3. The retiree will forfeit his/ her right to a hearing and the CCW endorsement will be permanently revoked if the retiree fails to respond to the notice of hearing within the 15-day period.

(c) A current copy of Penal Code §§ 26305, 26312 and 26315 should be attached to the written notice.

(d) In the event that personal contact with the retiree cannot be reasonably achieved in a timely manner, the Watch Commander should attempt to make the above notice of temporary suspension through another peace officer. For example, if a retiree was arrested or detained by a distant agency, the Watch Commander may request that a peace officer of that agency act as the Department's agent to deliver the written notification.

(e) Notification of the temporary suspension should also be promptly mailed to the retiree via first class mail, postage prepaid, return receipt requested (Penal Code § 26312).

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

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Chapter 3 - General Operations

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Use of Force

300.1 PURPOSE AND SCOPE

This policy recognizes that the use of force by law enforcement requires constant evaluation. Even at its lowest level, the use of force is a serious responsibility. The purpose of this policy is to provide officers of this department with guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, each officer is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

300.1.1 DEFINITIONS

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

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

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

300.1.2 DUTY TO INTERCEDE

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of such excessive force. Such officers should also promptly report these observations to a supervisor.

300.2 POLICY

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

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

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300.2.1 DUTY TO INTERCEDE

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

300.2.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

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

(a) The conduct of the individual being confronted (as reasonably perceived by the officer at the time).

(b) Officer/subject factors (age, size, relative strength, skill level, injury/exhaustion and number of officers vs. subjects).

(c) Influence of drugs/alcohol (mental capacity).

(d) Proximity of weapons.

(e) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.

(f) Time and circumstances permitting, the availability of other options (what resources are reasonably available to the officer under the circumstances).

(g) Seriousness of the suspected offense or reason for contact with the individual.

(h) Training and experience of the officer.

(i) Potential for injury to citizens, officers and suspects.

(j) Risk of escape.

(k) Other exigent circumstances.

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

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

It is recognized however, that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the standard tools, weapons or methods provided

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by the Department. Officers may find it more effective or practical to improvise their response to rapidly unfolding conditions they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively reasonable and utilized only to the degree reasonably necessary to accomplish a legitimate law enforcement purpose.

300.2.2 NON-DEADLY FORCE APPLICATIONS

Any application of force that is not reasonably anticipated and intended to create a substantial likelihood of death or very serious injury shall be considered non-deadly force. Each officer is provided with equipment, training and skills to assist in the apprehension and control of suspects as well as protection of officers and the public.

Non-deadly force applications may include but are not limited to pain compliance techniques, takedown techniques, and personal body weapons as described in this policy manual, and leg restraints, control devices (baton, chemical agents, OC spray and SIMS), ECD device, and K-9 bites described in Policy Manual §§ 306, 308, 309 and 318 respectively.

300.2.4 PAIN COMPLIANCE AND TAKEDOWN TECHNIQUES

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

(a) The potential for injury to the officer(s) or others if the technique is not used

(b) The potential risk of serious injury to the individual being controlled

(c) The degree to which the pain compliance and/or takedown technique may be controlled in application according to the level of resistance

(d) The nature of the offense involved

(e) The level of resistance of the individual(s) involved

(f) The need for prompt resolution of the situation

(g) If time permits (e.g., passive demonstrators), other reasonable alternatives

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

300.2.3 CAROTID RESTRAINT

The carotid restraint is not authorized for use by this agency.

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300.2.4 PERSONAL BODY WEAPONS

Personal body weapon strikes, punches, lifts or kicks for which the officer has received P.O.S.T. or other departmentally approved training, and only when the officer reasonably believes that the use of such weapon appears necessary to further a legitimate law enforcement purpose, may be used.

As with the pain compliance and takedown techniques, officers utilizing personal body weapons should consider the totality of the circumstances prior to usage. Unless exigent circumstances exists, personal body weapon strikes, punches, lifts or kicks to the rear of the head, neck or spine are prohibited.

300.3 USE OF FORCE

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

(a) An officer may use deadly force to protect himself/herself or others from what he/she reasonably believe would be an imminent threat of death or serious bodily injury.

(b) An officer may use deadly force to stop a fleeing suspect when the officer has probable cause to believe that the suspect has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent or future potential risk of serious bodily injury or death to any other person if the suspect is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

300.3.1 TEMPORARY ASSIGNMENT OF EMPLOYEES WHO USE FORCE

When two or more BART Police officers are temporarily assigned to assist an outside agency or multi-agency task force in the performance of law enforcement activities, a BART police supervisor shall also be present.

When a BART Police employee applies a use of force under the above listed circumstances, the use of force must be reported and investigated per Policy 300.

300.4 DEADLY FORCE APPLICATIONS

Any use of force by a member of this Department which utilizes any method of pain compliance, personal body weapons, a "take down", impact weapons, alternate weapons, chemical agents, K-9 bite, electronic control devices, SIMS deployment, lethal force, or any other physical force that either results in injury or non-injury to the subject shall be documented promptly, completely, and accurately in an appropriate report depending on the nature of the incident. The use of particular weapons may require the completion of additional report forms as specified in Departmental policy and/or law. In addition to thorough documentation of the use of force in the narrative of the police report, the tab in the MO data entry section of the report writing program shall be utilized to document the type of force used.

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Supervisory notification shall be made as soon as practical following the application of physical force, under any of the aforementioned circumstances.

Supplemental reports will be completed by personnel who are present when force is used by another officer. Officers have a duty to report all pertinent facts known to them.

The application of an arm or wrist hold by an officer for the sole purpose of conducting a search of and/or placing handcuffs on a person is not considered a use of force.

The report must then be reviewed by a supervisor. The reviewing supervisor must review the use of force, and make a recommendation on whether the use of force was justified or not. In cases involving the use of force by a supervisor, the next rank shall conduct the review and recommendation. This recommendation will be documented on the Supervisors' Use of Force Report, and forwarded to the Chief of Police, via the chain of command. The appropriate Lieutenant and Deputy Chief will review the report and Use of Force Report, and comment on the use of the arrest control device (s) or technique. The report and Use of Force Report will be forwarded to the Chief of Police for information. The chief will forward the report to the Professional Standards Section for logging. The Professional Standards Section will forward the report to the Use of Force Review Board.

Whenever an officer draws a firearm during the performance of his/her duties to defend, detain or take any person into custody, it is considered a use of force and an account of the incident shall be made in a police report. The officer should include in the narrative of the report how the weapon was used in the incident, as well as the justification for such action. The documentation of how the weapon was used should include information on how the weapon was presented. Examples of such documentation include, but are not limited to; the firearm was concealed against the officer's thigh or held at a low-ready position or pointed directly at a person. As soon as practical, a supervisor shall be notified and a Supervisor's Use of Force Report completed as required by §300.5

Incidents involving the drawing of a firearm that do not involve defending, detaining or taking a person into custody, and not in the presence of bystanders, do not require documentation in a police report. An example of that type of incident would include, but is not limited to, the search of an empty building or car where no person is contacted during the search. Any situations where a firearm is pointed at a person or could in any way be perceived as being used to detain, or attempt to detain, a person shall be fully documented in a police report and Supervisor's Use of Force Report. Situations where an officer deploys a firearm in the presence of bystanders, but does not point the firearm at any person or use it to defend, detain or take any person into custody, is not considered to be a use of force, but must be fully documented in the narrative of a police report.

Once approved, the supervisor will attach a copy of the report in Blue Team and document on the Supervisor's Use of Force Report whether the drawing of the firearm was within departmental policy. The supervisor will forward the report with comments, via the chain of command, to the Chief of Police as described above. The Chief of Police will forward the Use of Force Report to

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the Internal Affairs Section for logging. The Internal Affairs Section will forward the report to the Use of Force Review Board. The Internal Affairs Section will notify the officer(s) of the finding.

Once the review board completes its review, the Supervisor's Use of Force Report will be forwarded to the affected officer(s) and the report and findings will be forwarded to the Internal Affairs Section. A record of all reported incidents, whether on or off-duty, will be maintained in the Internal Affairs Section Office.

Members of the Department's S.W.A.T. Team will document the use of S.W.A.T. weapon systems deployed during a team activation at the direction of the S.W.A.T. Commander.

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES
Supervisory notification shall be made as soon as practicable following the application of physical force, as defined in section 300.4.

300.4.1 MEDICAL ATTENTION FOR INJURIES SUSTAINED USING FORCE
Prior to booking or release, immediate medical assistance shall be obtained for any person who has sustained visible injury, expressed a complaint of injury or continuing pain, or who has been rendered unconscious. Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called 'excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death and should be examined by qualified medical personnel as soon as practicable. Any individual exhibiting signs of distress after such an encounter shall be medically cleared prior to booking.

300.5 REPORTING THE USE OF FORCE

A supervisor should respond to an incident in which there has been a report of an application of force. The supervisor is expected to:

(a) Obtain the basic facts from the involved officer(s)

(b) Ensure that any injured parties are examined and treated

(c) Separately interview the subject(s) upon whom force was applied

(d) Ensure that photographs have been taken of any areas involving visible injury or complaint of pain as well as overall photographs of uninjured areas

(e) Identify any witnesses not already included in related reports

(f) Review and approve all related reports

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(g) Complete a Supervisors' Use of Force Report in Blue Team and forward to the on duty Watch Commander.

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

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Use of Force Review Boards

302.1 PURPOSE AND SCOPE

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

302.2 POLICY

The Department is charged with the important responsibility of objectively evaluating the use of force. Any use of force by a member of this department which is subject to a Supervisor's Use of Force Report as required by Policy Manual §300.4 will be subject to review by the Use of Force Review Board.

The board will also investigate and review the circumstances surrounding every intentional or unintentional discharge of a firearm, whether the employee is on or off duty, excluding range training or recreational use.

The board will convene as often as deemed necessary by the chairperson or as directed by the Chief of Police.

302.2.1 COMPOSITION OF THE BOARD

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

- A chairperson from a command-level rank, selected by the Chief of Police.
- One sergeant and one peer member (from the involved employee's bargaining unit) who are current P.O.S.T. certified defensive tactics, baton, or TASER instructors or certified firearms instructors, selected by the chairperson.

The Use of Force Review Board may call other employees of the Department in an advisory capacity as deemed necessary by the chairperson. In every case involving serious injury to a person or significant liability to the District, the board may convene an advisory panel composed of subject matter experts, from within and/or outside the Department, to assist the board in its review of the incident. A representative of the District's General Counsel may join the advisory panel at the discretion of the Chief of Police.

302.2.2 RESPONSIBILITIES OF THE BOARD

The Use of Force Review Board is empowered to conduct an administrative investigation into the circumstances of an incident. The board members may request further investigation, call persons to present information, and may request that the involved employee appear before the board. The involved employee may be represented by legal counsel and/or other representation if called to appear before the board.

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

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The review shall be based on those facts which were reasonably believed by the employee at the time of the incident, applying legal requirement, department policy and procedures, and approved training to those facts. Facts later discovered but unknown to the employee at the time, can neither justify nor call into question an employee's decision regarding use of force.

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

(a) The employee's actions were within department policy and procedures.

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

A finding will represent the consensus of the board. After the board has concluded, the board chairperson will submit the board's findings via Blue Team to the Operations Bureau Deputy Chief of Police. After review by the Operations Bureau Deputy Chief of Police, the completed report findings will be forwarded to the Chief of Police for review and appropriate action.

At the conclusion of the review process, the completed Supervisor's Use of Force Report will be filed with the Internal Affairs Section.

Once the board has reached its specific finding, the Training Sergeant may convene a separate training committee to address specific training needs and to make recommendations for this department without specific reference to the facts of the incident considered by the board.

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Leg Restraint Devices

306.1 PURPOSE AND SCOPE

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

306.2 POLICY

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

306.3 USE OF RESTRAINTS

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

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

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

306.3.1 RESTRAINT OF DETAINEES

Situations may arise where it may be reasonable to restrain an individual who may, after brief investigation, be released without arrest. Unless arrested, the use of restraints on detainees should continue only for as long as is reasonably necessary to assure the safety of officers and others. When deciding whether to remove restraints from a detainee, officers should continuously weigh the safety interests at hand against the continuing intrusion upon the detainee.

306.3.2 RESTRAINT OF PREGNANT PERSONS

Persons who are known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety and in no event shall these persons be restrained by the use of leg irons, waist chains or handcuffs behind the body.

No person who is in labor, delivery or recovery after delivery shall be handcuffed or restrained except in extraordinary circumstances and only when a supervisor makes an individualized

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

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

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

306.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS

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

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

In most situations handcuffs should be applied with the hands behind the person's back. When feasible, handcuffs should be double-locked to prevent tightening, which may cause undue discomfort or injury to the hands or wrists and its completion should be documented on the related report. If not feasible, the officer should document on the related report why the handcuffs were not double-locked to prevent tightening.

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

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

306.5 APPLICATION OF SPIT HOODS/MASKS/SOCKS

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

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

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Officers utilizing spit hoods should ensure that the spit hood is fastened properly to allow for adequate ventilation and that the restrained person can breathe normally. Officers should provide assistance during the movement of restrained individuals due to the potential for impaired or distorted vision on the part of the individual. Officers should avoid comingling individuals wearing spit hoods with other detainees.

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

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

306.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES

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

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

306.7 APPLICATION OF LEG RESTRAINT DEVICES

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

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

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

(b) Whether it is reasonably necessary to protect the suspect from his/her own actions (e.g., hitting his/her head against the interior of the patrol unit, running away from the arresting officer while handcuffed, kicking at objects or officers).

(c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol unit).

306.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS

When applying leg restraints the following guidelines should be followed:

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

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

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

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

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

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

306.8 REQUIRED DOCUMENTATION

If an individual is restrained and released without an arrest, an officer shall document the details of the detention and the need for handcuffs or other restraints with the Axon Flex MVR and either a written report (CR-1), field interview card, or citation. If force is used a supervisor will respond to conduct a use of force investigation.

If an individual is arrested, the use of restraints other than handcuffs shall be documented in the related report (Policy 344). The officer should include, as appropriate:

(a) The amount of time the suspect was restrained.

(b) How the suspect was transported and the position of the suspect.

(c) Observations of the suspect's behavior and any signs of physiological problems.

(d) Any known or suspected drug use or other medical problems.

(e) Note that the restraints were checked for proper fit and double locked.

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Control Devices and Techniques

308.1 PURPOSE AND SCOPE

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

308.1.1 WHEN DEVICES MAY BE USED

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

Officers may immediately progress to a higher level of force, depending on the severity of the situation and the amount of force necessary to bring the suspect under control. If exigent circumstances exist, dual force (the deployment of more than one control device at the same time) is allowed.

308.1.2 TRAINING FOR CONTROL DEVICES

(a) Only officers trained and having shown adequate proficiency in the use of any control device and knowledge of this department's use of force policy are authorized to carry the device. Proficiency training must be monitored and documented by a certified weapons or tactics instructor.

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

(c) Officers failing to demonstrate proficiency with the weapon or knowledge of this department's use of force policy will be provided remedial training. If, after two additional attempts, an officer still cannot demonstrate proficiency with a weapon or knowledge of this department's use of force policy, the officer may be subject to discipline.

308.2 POLICY

The baton is authorized for use when, based upon the circumstances perceived by the officer, lesser force would not reasonably appear to result in the safe control of the suspect.

Sworn police and revenue personnel may only carry the baton after having received P.O.S.T. or other departmentally approved training.

308.2.1 LONG BATON

Sworn police personnel are authorized to use either the straight long baton or side handled long baton, and are required to have the straight long baton or side handled long baton readily available within their assigned vehicle.

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The straight long baton or side handled long baton shall be black or natural wood tone finish, no more than thirty (30) inches in length, and made from wood, polycarbonate material, or metal alloy such as aluminum. The straight long baton shall be equipped with a rubber grommet for wear on the Sam Browne gun belt.

Revenue protection personnel are required to carry the straight long baton only.

Tactical Team members are authorized to use the forty-two (42) inch riot long baton during call outs only.

308.2.2 EXPANDABLE BATON

Sworn police personnel in uniform or plainclothes are authorized to carry the expandable baton (either straight or side handled) as an optional impact weapon. Revenue protection personnel shall only carry the Monadnock model SX-24 twenty-four (24) inch expandable straight baton as an optional impact weapon.

The optional expandable baton must be black or the natural metal color, and constructed of a polycarbonate material or metal alloy. When carried by personnel in uniform, the expandable baton shall be carried in a basket weave holder designed for the baton.

Personnel assigned to a train beat for an entire shift will not be required to carry their straight long baton or side handled long baton if they are carrying an authorized expandable baton.

Sworn officers assigned to vehicle patrol will still be required to have the straight long baton or side handled long baton readily available within their assigned vehicle, but may also carry an expandable baton if desired.

308.2.3 SHORT BATON

Sworn police personnel in uniform or plainclothes are authorized to carry the short baton as an optional impact weapon.

The optional short baton must be ten (10) to fourteen (14) inches long, black or natural wood tone finish, and constructed of wood, polycarbonate material, or metal alloy such as aluminum. When carried by personnel in uniform, the short baton will be carried in the sap pocket of the standard uniform pants.

Personnel assigned to a train beat for an entire shift will not be required to carry their straight long baton or side handled long baton if they are carrying an authorized short baton.

Officers assigned to vehicle patrol will still be required to have the straight long baton or side handled long baton readily available within their assigned vehicle, but may also carry a short baton if desired.

308.2.4 BATON APPLICATION

The police baton may only be used by sworn personnel and revenue guards in the manner prescribed by department training.

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Officers' and revenue guards' proficiency in the use of the police baton, as well as related policy and procedures, will be tested on a regular basis.

Batons shall not be used as an impact weapon in mere anticipation of violence or resistance. They shall not be used merely to enforce compliance with verbal orders, and never used against a person who is under restraint.

Baton blows shall not be intentionally delivered to a person's head, neck, throat, spine, kidney, or groin area unless the officer's life, or the life of another is in imminent peril.

308.2.5 OTHER POLICE IMPACT WEAPONS
The same provisions governing the use of the baton shall apply to those authorized to use any other type of police impact weapon (i.e., Yawara stick, flashlight baton). Sap gloves are prohibited.

308.2.6 MEDICAL TREATMENT
Arrange to have the affected person evaluated by qualified medical personnel as soon as practical for clearance prior to booking. Medical personnel should determine if the suspect should be transported to a hospital prior to booking. Obtain a verbal waiver if the affected person refuses medical treatment. If any individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practical, should be witnessed by another officer and/or medical personnel.

308.3 ISSUING, CARRYING AND USING CONTROL DEVICES
The use of chemical agents for crowd control/dispersal or against barricaded suspects shall be based on the circumstances. The watch commander, incident commander or SWAT commander may authorize the delivery and use of chemical agents, evaluating all conditions known at the time and determining that lesser force would not reasonably appear to result in the safe control of the suspect(s). When practical, fire personnel should be alerted, or summoned to the scene, to control any fires and to assist in providing medical aid or chemical evacuation, when the scene is safe. Only officers or supervisors trained in the use of chemical agent weapons should discharge such devices at the scene.

308.4 RESPONSIBILITIES
Only authorized personnel may possess and maintain department-issued oleoresin capsicum spray. Oleoresin capsicum spray is used to minimize the potential for injury to officers, offenders, or other persons. It should be used only in situations where such force reasonably appears justified and necessary.

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

Flash bangs and chemical agents other than oleoresin capsicum shall only be used on the expressed orders of a command level officer, or in immediate life threatening situations. Chemical agents and tactical devices shall be tactically deployed only by officers trained in the use of the

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specific arrest control devices being utilized. Such devices will be deployed in a manner which will ensure the least hazard to the public.

308.4.2 RANGEMASTER RESPONSIBILITIES

Uniformed-field personnel carrying the oleoresin capsicum spray shall carry the device on their uniform. Plain-clothes and non-field personnel may carry the oleoresin capsicum spray as authorized, consistent with the needs of their assignment, or at the direction of their supervisor.

Canisters involved in any type of malfunction or damage shall be turned in to the property clerk for exchange. Damage to District property shall also be reported to the appropriate supervisor and the cause of damage explained.

Employees should check the expiration on their canister, and shall request a new canister prior to expiration. In the case of loss or depletion due to use, the affected employee shall submit a memo to his immediate supervisor requesting the replacement and explaining the need for same. The supervisor will arrange for immediate replacement.

The department will store at least two (2) spare oleoresin capsicum canisters in the sergeant's office on each line for emergency issuance by police management personnel.

308.4.3 APPLICATION OF OLEORESIN CAPISCUM

Oleoresin capsicum shall not be used indiscriminately or in mere anticipation of violence or resistance.

Except under conditions which represent an extreme hazard (immediate threat of serious injury or death), oleoresin capsicum is not to be used at any distance less than three (3) feet and is not to be aimed directly at the eyes at distances less than five (5) feet.

For maximum effectiveness, a targeted suspect should be at a distance of not less than six (6) feet or more than ten (10) feet away. At distances less than six (6) feet, it is difficult to protect oneself from being accidentally contaminated.

To be effective, oleoresin capsicum should come into contact with the face of the target. Spraying the target below the face may not cause the desired effect.

Oleoresin capsicum works well on persons who are intoxicated, under the influence of drugs, mentally deranged, or against other persons having reduced sensitivity to Mace.

Due to the close range of these encounters, it is extremely important for officers to spray a one (1) second burst of oleoresin capsicum into the face of the aggressor and then immediately move laterally to either side in order to side step any attempted attack.

Once contaminated by oleoresin capsicum, officers will have a difficult time protecting themselves since the effects are immediate and can last for up to forty-five (45) minutes.

Due to the extremely effective incapacitation qualities of oleoresin capsicum, extreme care and consideration should be exercised by officers when applying oleoresin capsicum to suspects in the field, stations, vehicles and BART trains so as not to contaminate themselves, other

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officers, or citizens who may be trying to assist in the control or apprehension of a resistive or aggressive/combative subject. Because oleoresin capsicum will affect passengers or bystanders, they normally should not be used on crowded trains or crowded platforms.

Do not attempt to discharge oleoresin capsicum when positioned upwind.

308.4.4 TREATMENT FOR CHEMICAL AGENTS/OLEORESIN CAPSICUM SPRAY EXPOSURE

Persons who have been affected by the use of chemical agents/oleoresin capsicum should be promptly provided with cold water, and exposure to fresh air as soon as practical. Remove glasses or contact lenses.

Advise the person affected not to rub the skin or eyes because of the possibility of spreading the oil to other areas. Do not apply salves, creams, oils, or lotions, as they can trap the irritant.

Arrange to have the affected person evaluated by qualified medical personnel as soon as practical. Medical personnel should determine if the suspect should be transported to a hospital prior to booking. If any individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practical, should be witnessed by another officer and/or medical personnel.

Whenever BART Police personnel use oleoresin capsicum to subdue an arrestee, custodial personnel will be informed of this fact when transferring custody of the prisoner.

308.4.5 REPORT OF USE

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

308.5 BATON GUIDELINES

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

SIMS projectiles are approved by the department and are fired from 40 mm launchers. Certain munitions can be used in an attempt to de-escalate a potentially deadly situation, with a reduced potential for death or serious physical injury.

308.5.1 DEPLOYMENT

Approved munitions are justified and may be used to compel an individual to cease his or her actions when such munitions present a reasonable option for resolving a situation. SIMS may also be used when dealing with vicious animals.

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

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Operators shall advise dispatch via radio when SIMS is deployed. If not on scene, sergeants shall respond immediately to assume control of the deployment and use. When an officer is deploying SIMS, he/she is the officer in charge until the arrival of a supervisor.

308.5.2 EXAMPLES OF CIRCUMSTANCES APPROPRIATE FOR DEPLOYMENT
Examples include, but are not limited to, the following types of situations where the subject:

(a) Is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions

(b) Has made credible threats to harm himself or others

(c) Is engaged in riotous behavior or is throwing rocks, bottles, or other dangerous projectiles at people and/or officers

308.5.3 DEPLOYMENT CONSIDERATIONS
Before discharging projectiles, the officer should consider the following factors:

(a) Severity of the crime or incident.

(b) Subject's capability to pose an imminent threat to the safety of officers or others.

(c) If the subject is actively resisting arrest or attempting to evade arrest by flight.

(d) The credibility of the subject's threat, as evaluated by the officers present, and the subject's physical capacity/capability.

(e) The proximity of weapons available to the subject.

(f) The officer's, versus the subject's, physical factors (e.g., age, size relative strength, skill level, injury/exhaustion, the number of officer(s) versus subject(s).

(g) The availability of other force options and their possible effectiveness.

(h) Distance and angle to target.

(i) Type of munitions employed.

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

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

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

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308.5.5 SHOT PLACEMENT

The need to immediately incapacitate the subject must be weighed against the risk of causing serious injury or death. The head and neck should not be intentionally targeted when deadly force is not reasonably justified.

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

308.5.6 APPROVED MUNITIONS

Only the department-approved Defense Technologies model 1325 40 MM SIMS launcher shall be carried and deployed.

308.5.7 USE OF SIMS PROJECTILES BY SUPERVISORS AND OFFICERS

A SIMS 40mm launcher designated for the use of SIMS projectiles, will normally be carried in the trunk of each supervisor's unit. An additional launcher should normally be available in each zone for Field Training Officers to carry in their vehicle.

Supervisors and officers will inspect this launcher at the beginning of each shift to ensure that it is in proper working order and loaded with approved projectiles only.

308.5.8 USE OF SIMS PROJECTILES BY SWAT

Officers who have completed a departmental-training course may carry and employ 40 mm projectiles while on duty, or while performing Special Weapons and Tactics (SWAT) missions.

308.5.9 POST DEPLOYMENT

(a) Medical personnel should be summoned for suspects shot with SIMS and be cleared prior to booking. Medical personnel should determine if the suspect should be transported to a hospital prior to booking.

(b) The SIMS projectile, if found, and casing should be placed into evidence.

(c) Photos should be taken of the impact site and placed into evidence.

(d) SIMS deployments and use shall be documented in a police report on the incident.

    1. A SIMS deployment is when the SIMS launcher is displayed in a manner intended to control or influence a suspect's actions. (Responding to a call with the launcher slung is not a deployment.)

    2. The immediate supervisor not involved in the deployment will make a copy of the report and determine if the deployment/use was appropriate. See Policy 344 for supervisor's responsibilities.

    3. The report will be forwarded to the Chief of Police via the chain of command.

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308.6 TEAR GAS GUIDELINES

Personnel who have successfully completed an approved departmental-training course shall be authorized to use SIMS projectiles. Supervisors and officers deploying SIMS projectiles will complete an annual recertification course.

308.7 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES

Any application of a control device and/or technique listed within this section is considered a use of force and shall be documented pursuant to Policy Manual § 300.4, 300.5 and 344. A reviewing supervisor shall complete a Supervisors' Use of Force Report and indicate whether the use of force was justifiable, unjustifiable or unintentional.

308.7.1 NON-DEADLY FORCE REVIEW

Incidents involving the use of a control devices or techniques should be reviewed in accordance with policies 300 and 302.

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Conducted Electrical Weapon - TASER

309.1 PURPOSE AND SCOPE

The Conducted Electrical Weapon (CEW) is a less lethal device which is intended to temporarily incapacitate or stun a violent or potentially violent individual without causing serious injury. It is anticipated that the appropriate use of such a device will result in fewer serious injuries to officers and suspects.

309.1.1 DEFINITIONS

Verbal Warning Reference - Any verbal notification to a subject(s) that an officer will activate a CEW.

Deployment - Removal of the CEW from the holster, regardless of where the CEW is held or pointed.

Activation - Depressing the trigger of the CEW causing an arc or firing the probes.

(For report writing purposes and supervisory response, exceptions to activation reporting are Department training and spark and maintenance tests).

309.2 POLICY

The only CEW authorized and issued by this Department is the TASER® X26. All sworn personnel shall receive Department-approved training and may be issued a TASER for use during their current assignment.

(a) A TASER shall be assigned and carried (i.e., worn on the person, as described at the end of this Section) as a part of a uniformed officer's and sergeant's equipment, in a holster that is designed to fit the TASER® X26. Employees must request and have the approval of the Chief, or his designee, to *not* carry the TASER as part of their uniform equipment. Non-uniformed officers may secure the TASER in the driver's compartment of their Department vehicle.

(b) All TASERs shall be clearly and distinctly marked with factory yellow X26 markings on the sides to differentiate them from the duty weapon and any other device.

(c) Officers should carry a total of two or more TASER cartridges on their person when carrying the TASER. Only Department issued cartridges are authorized.

(d) Officers shall be responsible for ensuring that their assigned TASER is properly maintained and in good working order at all times. Whenever an assigned TASER is damaged or inoperable, the officer shall immediately notify his/her supervisor and document the specific damage or inoperability issue in a memo sent via the chain of command to the Support Services Deputy Chief. The notified supervisor shall make an effort to have a reserve TASER assigned to the officer during that shift. Reserve TASERs shall be located in the Watch Commander's cabinet at LMA. The supervisor shall document the damaged TASER's serial

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number and the assigned officer's name and badge number in an email to the Support Services Lieutenant to facilitate the equipment repair.

(e) TASERS shall not be altered from the original factory specifications and markings.

(f) Officers should not hold both a firearm and the TASER at the same time unless lethal force is justified.

(g) Officers who locate a broken cartridge or have an unintentional discharge shall forward the cartridge to a Department TASER armorer. It should be loosely packaged and sealed in a brown evidence bag.

(h) TASERS with a battery life of 20% or less shall be removed from service. These TASERS should be forwarded to the Support Services Lieutenant for battery replacement.

(i) The Support Services Lieutenant will ensure that TASER armorers conduct annual TASER memory downloads for all TASERS.

(j) Due to the flammable contents in some chemical agent containers, officers shall only carry Department issued Oleoresin Capsicum (OC), which is water based and will not ignite.

There are two authorized ways for officers to carry the TASER:

- In a holster, opposite side from the duty weapon with no portion of the TASER crossing the mid-line of the officer's belt when it is holstered. When carried in this manner, the officer shall use a support-hand draw only.
- In a drop leg holster, worn on the support hand side only (opposite the duty weapon). When carried in this manner, the officer shall use a support-hand draw only.

309.3 ISSUANCE AND CARRYING CEDS

Unless it would otherwise endanger officer safety or is impractical due to circumstances, a verbal announcement of the intended use of the TASER shall precede its application in order to:

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

(b) Provide other officers and individuals with warning that a TASER may be activated

If after a verbal warning an individual continues to express an unwillingness to voluntarily comply with an officer's lawful orders, and it appears both reasonable and practical under the circumstances, the officer may, but is not required to, display the electrical arc (provided there is not a cartridge loaded into the TASER) or laser in a further attempt to gain compliance prior to the application of the TASER. 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 and/or other warning was given, or reasons a warning was not given, shall be documented in any related reports.

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309.4 VERBAL AND VISUAL WARNINGS

It is essential that officers exercise sound discretion and consider the totality of the circumstances surrounding any incident where the TASER may be activated. Objective facts must indicate the suspect poses an immediate threat to the officer or a member of the public.

As with any law enforcement equipment, the TASER has limitations and restrictions requiring consideration before its use. The TASER should only be used when its operator can safely approach the subject within the operational range of the TASER. Although the TASER rarely fails and is generally effective in subduing most individuals, officers should be aware of this potential and be prepared with other options in the unlikely event of such a failure.

Every application of the TASER becomes a separate use of force and must be justified by the officer. In instances where a warning is provided prior to the use of the TASER, the subject must be given reasonable time to comply.

If, after a single application of the TASER, an officer is still unable to gain compliance from an individual and circumstances allow, the officer should consider:

- Whether or not the probes are making proper contact
- If use of the TASER is limiting the ability of the individual to comply
- If other options or tactics may be more appropriate

This, however, shall not preclude an officer from multiple, reasonable applications of the TASER on an individual. When probes are in contact with the individual or when drive stun mode is in contact with the individual, no more than three activations should be administered on the same individual. The TASER should not be intentionally activated at the subject's head, neck, chest, or groin.

Authorized personnel may use the TASER when circumstances known to the individual officer at the time indicate that the application of the TASER is reasonable to subdue or control:

(a) A violent or physically resisting subject.

(b) A potentially violent or physically resisting subject, if:

1. The subject has verbally or physically demonstrated an intention to resist; and
2. The officer is able to justify that the use is based upon an objectively reasonable belief that a suspect poses an immediate threat to the officer or others; and
3. The officer has given the subject a verbal warning of the intended use of the TASER followed by a reasonable opportunity to voluntarily comply; and
4. Other available options reasonably appear ineffective or would present a greater danger to the officer or subject.

(c) A vicious animal that appears to present a danger to the officer or the public.

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Although not absolutely prohibited officers should avoid, absent extenuating circumstances, applying the TASER to any of the following individuals:

(a) Pregnant females

(b) Elderly individuals, obvious juveniles, or the visibly frail

(c) Individuals who have been recently sprayed with alcohol-based pepper spray or potentially flammable chemical agents, or who are otherwise in close proximity to any combustible material

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

(e) Handcuffed persons, unless they pose an immediate threat of great bodily injury to themselves or others

(f) Fleeing subjects (fleeing should not be the sole justification for activating a TASER against a subject; personnel should consider the severity of the offense, the subject's threat level to others, and the risk of serious injury to the subject before deciding to use a TASER on a fleeing subject)

(g) Subjects who are simply non-compliant or who are in control of a vehicle in motion (including automobiles, motorcycles and bicycles).

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

Personnel should evaluate whether the use of the TASER is reasonable, based upon all circumstances (including those listed above); if the TASER is used, the officer will be required to justify why the level of resistance or threat necessitated its use (e.g., potential for violence, nature of crime, proximity of weapons, etc.). In some cases, other control techniques may be more appropriate as determined by the subject's degree of resistance and/or threat level to others.

Because the application of the TASER in the drive stun mode (i.e., direct contact without darts) relies primarily on pain compliance and requires close proximity to the subject, the controlling effects may be limited. Additional caution should be exercised.

When the probes are in contact with a person, no more than one officer should intentionally activate a TASER against that person.

The TASER shall not be used:

- To torture, psychologically torment, or inflict undue pain on any individual
- As a prod or escort device

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- To rouse unconscious, impaired, or intoxicated individuals

309.4.1 FACTORS TO DETERMINE REASONABLENESS OF FORCE

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

(a) The conduct of the individual being confronted (as reasonably perceived by the officer at the time)

(b) Officer/subject factors (i.e., age, size, relative strength, skill level, injury/exhaustion, number of officers vs. subjects)

(c) Influence of drugs/alcohol (mental capacity)

(d) Proximity of weapons

(e) The degree to which the subject has been effectively restrained and his/her ability to resist, despite being restrained

(f) Time and circumstances permitting, the availability of other options (what resources are reasonably available to the officer under the circumstances)

(g) Seriousness of the suspected offense or the reason for contact with the individual

(h) Training and experience of the officer

(i) Potential for injury to citizens, officers, and suspects

(j) Risk of escape

(k) Other exigent circumstances

309.4.2 REPORT OF USE

It is essential that officers exercise sound discretion and carefully articulate the totality of the circumstances giving rise to every TASER application. Verbal warnings, deployments, and TASER activations shall be documented in the related crime report. The TASER tab in the MO data entry section of the report writing program shall be utilized to document the type of usage (verbal, deployment, or activation). The incident shall be thoroughly documented in the narrative of the police report.

When the TASER is activated the police report should include the following:

(a) Details of the subject's level of aggression justifying activation

(b) Number and approximate duration of cycle(s)

(c) Point of impact of the probes and/or drive stun mode on a subject

(d) Response and actions of the subject after activation

(e) Number of officers on scene

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(f) Names of individuals who provided medical care on scene and the names of medical personnel who removed the probes

(g) Serial numbers of the TASER and cartridge

(h) Photographic evidence, to include the subject prior to and after probe removal, the drive stun contact point, and any injuries incurred by the subject or officer as result of the incident

(i) Name of the person receiving custody of the subject and advised of the TASER activation on the subject

Supplemental reports shall be completed by personnel who are present during an activation.

A TASER armorer shall download the on-board TASER memory and save it with the related crime report; the on-scene supervisor is responsible for assigning this task. TASERs will not be taken out of service after an activation unless directed by a command-level officer.

309.4.3 SUPERVISORY RESPONSIBILITY

A supervisor shall respond to the scene of any CEW activation including negligent or unintentional activations. The supervisor shall confirm (with the officer) that any probes that have pierced a subject's skin are removed by medical personnel and that the subject is medically cleared, as outlined in Section 309.5, prior to being booked into a detention facility. The supervisor will confirm that all evidence (including the CEW's memory record) has been collected, review and approve the related crime reports, and provide a replacement CEW cartridge(s) as necessary.

Upon reviewing the report, the supervisor must make a copy for review by the officer's chain of command and complete a Supervisor's Use of Force Report. The reviewing supervisor must review the use of the CEW and make a recommendation on whether the use of the CEW was justified or not. A copy of the approved police report and completed Use of Force Report will be forwarded to the Chief of Police via the chain of command. The incident will be reviewed in accordance with Policies 300 and 301.

Justifiable: When the circumstances, at the time of using the CEW, were consistent with the provisions of this Policy, the use of the device shall be classified as justifiable.

Unjustifiable: When the circumstances, at the time of using the CEW, were not consistent with the provisions of this Policy, the use of the device shall be classified as unjustifiable.

The Professional Standards and Training Division Deputy Chief will forward the police report and Use of Force Report to the Chief of Police for review. The Chief of Police will forward the report and signed Use of Force Report to the Internal Affairs Section who will log the report and send it and the Supervisor's Use of Force report to the Use of Force Review Committee Chairperson.

Negligent or unintentional activations of a CEW cartridge shall be reported immediately to a supervisor. The incident shall not be documented as a use of force. The incident shall be documented in a memo, via the chain of command to the Division Deputy Chief to which the employee reports. This memo will include the CEW and cartridge serial numbers and an explanation of the circumstances surrounding the activations. Officers responsible for accidental,

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unintentional or unjustifiable discharges shall be subject to progressive discipline. Negligent activations shall be included in the Departments Early Intervention system.

309.5 USE OF THE CEW

Only qualified medical personnel, including certified paramedics, should remove TASER darts from a person's body. Used TASER darts shall be considered a sharp biohazard, similar to a used hypodermic needle. Universal precautions should be taken accordingly.

All detained or arrested persons who have been struck by TASER darts or who have been subjected to the electric discharge of the device shall be transported, by medical personnel, for medical assessment at a local medical facility as soon as practicable.

Special consideration (including enhanced observation and a Code 3 medical response) should be provided to individuals who fall under any of the following categories:

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

(b) The person may be pregnant

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

(d) The TASER darts are lodged in a sensitive area (e.g., groin, female breast, near the eyes)

(e) The person requests medical treatment

In addition, persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond physical characteristics, imperviousness to pain, or who require a protracted physical encounter with multiple officers to bring them under control, may be at an increased risk of sudden death and should be examined by qualified medical personnel as soon as practicable (a Code 3 medical response). All individuals shall be medically cleared, prior to booking.

If any person subjected to an unintentional application refuses medical attention, such a refusal should, absent extenuating circumstances, be witnessed by medical personnel and shall be fully documented in related reports. If an audio recording is made of the contact or interview with the individual, any refusal should be included.

The transporting officer shall inform any person receiving custody or any person placed in a position of providing care that the individual has been subjected to the application of the TASER.

309.6 DOCUMENTATION

In addition to the initial Department approved training required to carry and use a TASER, annual training will be provided to all sworn personnel. A reassessment of an officer's knowledge and/or practical skills may be required at any time if deemed appropriate.

A certified TASER instructor should ensure that TASER training material and lesson plans include the following:

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(a) A review of this Policy

(b) A review of the Use of Force Policy 300

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

(d) De-escalation techniques

(e) Scenario-based training

309.6.1 TASER INSTRUCTOR TRAINING

The below, listed training is from the Department's Training Plan and is either mandatory, essential, or desirable (the Training Plan is located within the G/drive, Training Unit folder):

- Mandatory TASER training - Basic instructor course
- Desirable TASER training - TASER armorer certification course, advanced instructor course

309.6.2 REMEDIAL TRAINING

Any employee who acts in a grossly unsafe manner or demonstrates dangerous and/or extremely poor decision-making skills in the deployment of and/or application of any use-of-force related task (in the field or in training) shall be required to attend mandatory remedial training prior to returning to full-duty status.

If, in the opinion of the supervisor/primary instructor at the site of the training, the employee's decision making and actions are so unsafe that if returned to full duty he/she may be a safety hazard to him or herself, fellow employees, and/or the public, the supervisor/primary instructor shall recommend additional mandatory remedial training for the employee. The primary instructor shall contact the on-duty Watch Commander as soon as practicable and make the recommendation for additional mandatory remedial training.

If the request for additional training is approved, the employee shall be removed from an on-duty patrol status and placed into a temporary administrative position until such time as that employee satisfactorily completes the mandatory remedial training.

Repeated failures to correct such deficiencies may result in implementation of the Progressive Discipline System, similar to Policy Section 461.5.1. Nothing in this Policy precludes the Department from requiring an employee to successfully complete remedial training to correct lesser safety violations and/or marginal tactical decision-making skills, without the employee first being removed from full-duty status.

309.7 TASER® X26 NOMENCLATURE

- 1 - Probes
- 2 - AFID Tags
- 3 - TASER Cartridge

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- 4 - Mechanical Sight
- 5 - Serial Number Plate
- 6 - Illumination Selector Switch
- 7 - Safety Switch
- 8 - Central Information Display (CID)
- 9 - DPM Release Button
- 10 - Stainless Steel Shock Plate
- 11 - Digital Power Magazine (DPM)
- 12 - Trigger
- 13 - Low Intensity Lights (LIL)
- 14 - Built-in Laser (pointing to beam)

See Attachment: taser.JPG

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Officer-Involved Shooting

310.1 PURPOSE AND SCOPE

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

310.2 INVESTIGATION RESPONSIBILITY

This department should conform to the four separate county officer-involved shooting protocols for investigating officer-involved shootings. Those four counties are Alameda, Contra Costa, San Francisco and San Mateo. Contra Costa and San Mateo counties have written protocols. Copies of those protocols can be located in the zone lieutenant's office as well as in the Criminal Investigations Section. At the direction of the Watch Commander, the local incident county's Officer-Involved Shooting (OIS) team should be called out by police communications.

Contra Costa County will follow its Law Enforcement Involved Fatal Incident Protocol. This is a joint investigation protocol utilizing a Multi Agency Task Force staffed by investigators from the Employer Agency, the Venue agency within whose territorial jurisdiction the incident occurred and the District Attorney's Office. Their Officer-Involved Shooting (OIS) team should be contacted through their County Communications Section

San Mateo County will conduct an independent investigation. They can be contacted at the San Mateo County Communications Section. They will respond to any fatal or non-fatal OIS.

San Francisco County requests a call to the SFPD Operation Center at 415-553-1071. They will respond to any fatal or non-fatal OIS.

Alameda County will conduct an independent investigation. They can be contacted at the Alameda County Sheriff's Office at 510-667-7721. They will only respond to a fatal incident.

310.3 TYPES OF INVESTIGATIONS

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

(a) A criminal investigation of the incident by this agency to determine if there was criminal conduct on the part of the involved officer(s). The on-duty or on-call command officer may direct a joint, parallel investigation by this department in conjunction with the local agency and utilizing the county protocol for which the shooting occurred. In the event the local jurisdiction declines to be involved with the investigation, the investigation shall be handled using a similar protocol to an on-property incident

(b) When the incident occurs and there is a question as to the jurisdiction for the criminal investigation, the investigating agency shall be either the agency that employs the involved personnel or the agency that has the greater interest in the case by virtue of having the

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predominant police involvement in the incident or by having had the majority of the acts leading up to the incident occurring within its jurisdiction.

(c) A criminal investigation of the involved officer(s) conducted by an outside agency.

(d) A civil investigation to determine potential liability conducted by a District designated agency or private firm.

(e) An administrative investigation conducted by the involved officer's agency or, at the involved agencies request, an outside agency or private firm to determine if there were any violations of department policy.

310.4 JURISDICTION

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

310.4.1 BAY AREA RAPID TRANSIT POLICE DEPARTMENT OFFICER_DEPUTY WITHIN THIS JURISDICTION

The department is responsible for the criminal investigation of the suspect's actions and the administrative investigation. The criminal investigation of the officer-involved shooting will be conducted as set by the county protocol in which the shooting occurred. The civil investigation will be determined by BART legal counsel.

310.4.2 ALLIED AGENCY'S OFFICER WITHIN THIS JURISDICTION

The department is responsible for the criminal investigation of the suspect's actions. The criminal investigation of the officer-involved shooting will be conducted as set by the county protocol in which the shooting occurs. The officer's employing agency will be responsible for any civil and/or administrative investigation(s).

310.4.3 BAY AREA RAPID TRANSIT POLICE DEPARTMENT OFFICER_DEPUTY IN ANOTHER JURISDICTION

The agency where the incident occurred has criminal jurisdiction and is responsible for the criminal investigation of the incident. That agency may relinquish its criminal investigation of the suspect(s) to another agency and/or conduct a joint investigation depending on the county where the shooting occurs protocol. This department will conduct an administrative investigation. A civil investigation will be determined by BART legal counsel.

310.4.4 INVESTIGATION RESPONSIBILITY MATRIX

The following table helps identify the possible scenarios and responsibilities for the investigation of officer-involved shootings. This may vary based on the incident county and their protocol.

	Criminal Investigation of Suspect(s)	Criminal Investigation of Officer(s)	Civil Investigation	Administrative Investigation

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BPD Officer in This Jurisdiction	BPD Investigators	BPD Investigators w/ District Attorney's Office	BART Legal Counsel	BPD Office of Professional Standards
Allied Agency's Officer in This Jurisdiction	BPD Investigators	District Attorney's Office	Involved Officer's Department	Involved Officer's Department
BPD Officer in Another Jurisdiction	Agency where incident occurred	Decision made by agency where incident occurred	BART Legal Counsel	BPD Office of Professional Standards

310.5 THE INVESTIGATION PROCESS

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

310.5.1 DUTIES OF INITIAL ON SCENE SUPERVISOR

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

(a) Take all reasonable steps to obtain emergency medical attention for all apparently injured individuals.

(b) If possible, request additional resources such as more patrol units, equipment, and traffic control.

(c) Make notifications as listed below in § 310.5.3, and to other effected LEAs.

(d) Take command of and secure the incident scene with additional personnel until relieved by a Detective Sergeant or other assigned personnel.

(e) Assign an officer to ride with injured person(s) with a tape recorder in the ambulance or helicopter.

(f) Immediately identify and protect all scenes and their contents.

(g) Strictly control scene access.

(h) Assign an employee to maintain a scene log.

(i) Immediately have weapons secured if left in an area which is not secured.

(j) Attempt to obtain a brief overview of the situation from any non-shooter officer(s).

    1. In the event that there are no non-shooter officers, the supervisor should attempt to obtain a brief voluntary overview from one shooter officer.

(k) If necessary, the supervisor may administratively order any officer from this department, including any shooting officer, to immediately provide public safety information necessary to secure the scene and pursue suspects.

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1. Public safety information shall be limited to such things as outstanding suspect information, description, mode of travel and direction , approximate location when shots were fired, number and direction of shots fired both from officer(s) and suspect(s), location of injured persons, parameters of the incident scene, weapons or evidence that needs to be secured, identity of known witnesses and similar information.

(l) Absent a voluntary statement from any officer(s), the initial on-scene supervisor should not attempt to order any officer to provide other than public safety information.

(m) Provide all available information to the Watch Commander and the Communications Section. If feasible, sensitive information should be communicated over secure networks.

(n) As soon as practical, shooter officers should be transported (separately, if feasible) and sequestered to the closest police sub-station or other designated location for further direction. Officer(s) shall be given the opportunity to contact a POA rep and/or legal counsel.

1. Each involved officer should be given an administrative order not to discuss the incident with other involved officers or any officer assigned to drive/sit with the officer pending further direction from a supervisor.
2. When an officer's weapon is taken or left at the scene (e.g., evidence), the officer may be provided with a comparable replacement weapon.

(o) Witnesses should be located and fully identified. Statements shall be taken.

(p) Crime Scene Technicians will review the scene with detectives. They should photograph and collect all evidence. Video if possible.

(q) Canvass area for additional witnesses, vehicles, evidence and routes of travel.

(r) Collect available information to brief investigators.

(s) Statements and/or supplement reports should be completed prior to releasing employees who were at the scene, regardless of their role.

310.5.2 WATCH COMMANDER DUTIES

Upon learning of an officer-involved shooting, the Watch Commander shall be responsible for coordinating all preliminary aspects of the incident.

310.5.3 NOTIFICATIONS

The following notifications shall be made soon as practical after an officer involved shooting:

- BART Police Communications Center
- On-duty supervisor and officers responsible for the area in which the incident occurred
- On-duty Watch Commander or on-call command officer
- If other than BART Police, the agency having primary investigative responsibility

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- Detective Sergeant and on-call detective
- Chief of Police and appropriate command officers
- Operations Control Center
- District Attorney's Officer Involved Shooting team
- Department of Media Affairs as directed by the Chief
- Coroner (if necessary)
- Officer representative (if requested)

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

310.5.4 MEDIA RELATIONS

A single press release shall be prepared by the Watch Commander with input and concurrence from the Criminal Investigations supervisor and Districts Media and Public Affairs Department representative. This release will be available to the Watch Commander, Criminal Investigations Section Bureau Deputy Chief and Media and Public Affairs Manager in the event of inquiries from the media.

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

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

310.5.5 INVOLVED OFFICERS

Involved officers and responding officers should not discuss the incident at the scene beyond the information required for notification to Dispatch, a public safety statement, scene security, and medical aid. Officers should not discuss the incident further except with authorized personnel or representatives until interviewed in the formal investigation. Once the involved officer(s) have arrived at the station, the Watch Commander or his or her designee should admonish each officer that the incident shall not be discussed except with authorized personnel or representatives. The following shall be considered for the involved officer:

(a) Any request for department or legal representation will be accommodated, however, no involved officer shall be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report (Government Code § 3303(i)).

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

(c) Discussions with department representatives (e.g., employee association) will be privileged only as to the discussion of non-criminal information however.

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(d) A psychotherapist shall be provided by the Department to each involved officer, or any other officer, upon request.

1. Interviews with a licensed psychotherapist will be considered privileged and will not be disclosed except to the extent that the officer is or is not fit for return to duty.
2. An interview or session with a licensed psychotherapist may take place prior to the involved officer providing a formal interview or report, but the involved officers shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.

(e) Although the Department will honor the sensitivity of communications with peer counselors, there is no legal privilege to such. Peer counselors are cautioned against discussing the facts of any incident with an involved or witness officer.

Unless specifically requested to assist a licensed psychologist during a subsequent psychological debrief of the involved or witness officer, a Trauma Response Team member's role shall be that of peer support. Care should be taken to preserve the integrity of any physical evidence present on the officer's equipment or clothing, such as blood or fingerprints, until investigators or lab personnel can properly retrieve it.

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

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

310.6 THE SHOOTING INCIDENT CRIMINAL INVESTIGATION

310.6.1 DETECTIVE PERSONNEL

Once notified of an officer-involved shooting, it shall be the responsibility of the Criminal Investigations Section supervisor to assign appropriate detective personnel to handle the investigation of related crimes. Detectives will be assigned to work with investigators from the District Attorney's Office and other agencies depending on what county the shooting occurred in and may be assigned to separately handle the investigation of any related crimes not being investigated by the District Attorney's Office.

All related departmental reports except administrative and/or privileged reports will be forwarded to the designated Detective supervisor for approval. High profile case reports shall only be viewed exclusively by those personnel involved in the investigation and authorized such access. Audits of the report writing system will be conducted weekly for high profile cases by the Support Services Lieutenant. This is to determine that only those authorized to review, amend and approve reports for that case are doing so. Any employee identified during the audit viewing these reports without authorization will be subject to discipline. Administrative reports will be forwarded to the appropriate Bureau Deputy Chief.

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310.6.2 CRIMINAL INVESTIGATION

The criminal investigation shall have priority over the administrative investigation and begin immediately after an incident has occurred. The criminal investigation should be conducted by the Criminal Investigations Section.

It shall be the policy of this department to utilize the appropriate District Attorney's Office to conduct an independent criminal investigation into the circumstances of any officer-involved shooting involving injury or death. Some counties may request a joint investigation per their protocol.

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

Whenever possible at least one of the assigned detectives should have attended Officer-Involved Shooting school.

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

(a) Supervisors and Internal Affairs Section personnel should not participate directly in any voluntary interview of officers. This will not prohibit such personnel from monitoring such interviews or indirectly providing areas for inquiry.

(b) If requested, any involved officer will be afforded the opportunity to consult with a representative of his or her choosing and/or an attorney, prior to speaking with criminal investigators.

(c) Any voluntary statement provided by the officer(s) will be made available for inclusion in the administrative or other related investigations.

(d) Absent consent from the involved officer or as required by law, no administratively coerced statement(s) will be provided to any criminal investigators.

310.6.3 REPORTS BY INVOLVED OFFICERS

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

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

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

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

310.6.4 WITNESS IDENTIFICATION AND INTERVIEWS

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

(a) Identify all persons present at the scene and in the immediate area.

    1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.

    2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to his/her departure.

(b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by department personnel.

    1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness in a department vehicle. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.

(c) Assign available personnel to promptly contact the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to contact with officers.

310.7 ADMINISTRATIVE INVESTIGATION

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

(a) Any officer involved in a shooting may be administratively compelled to provide a urine and breath 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. This test can be set up by notifying the OCC to request a post-incident shooting test.

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

1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his or her prior statement before proceeding with any subsequent interview(s) (Government Code § 3303(g)).

(c) In the event that an involved officer has elected to not provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.

1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer(s) physical and psychological needs have been addressed before commencing the interview.
2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview (Government Code § 3303(i)).
3. Administrative interview(s) should be recorded by the investigator (the officer may also record the interview) Government Code § 3303(g)).
4. The officer shall be informed of all constitutional "Miranda" rights (Government Code § 3303(h)) and, assuming no voluntary waiver, will then be given an administrative order to provide full and truthful answers to all questions (Government Code § 3303(e)). The officer shall be informed, however, that the interview will be for administrative purposes only and that the statement cannot be used criminally (The Lybarger or Garrity admonishment).
5. The administrative interview shall be considered part of the officer's confidential personnel file.
6. The Internal Affairs Section shall compile all relevant information and reports necessary for the department to determine compliance with applicable policies.
7. The completed administrative investigation shall be submitted to the Firearm Review Board, which will restrict its findings as to whether there was compliance with the department use of deadly force policy. Refer to policy 302
8. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

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Firearms

312.1 PURPOSE AND SCOPE

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

312.1.1 PERSONNEL AUTHORIZED TO POSSESS FIREARMS WHILE ON-DUTY

(a) All sworn personnel who have successfully completed a department authorized course of firearms instruction and qualified with the firearm at a department firearms qualification.

(b) Other police department employees performing the duties of Revenue Protection Guard and after successful completion of the PC 832 course of firearms instruction and qualified with the firearm at a department firearms qualification.

312.2 AUTHORIZED WEAPONS

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

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

312.2.1 DUTY HANDGUNS

The authorized departmental issued handgun is the Sig Sauer P226R DAK .40 caliber Smith & Wesson (S&W). The department will issue weapons only to personnel who will carry the Sig Sauer 226R DAK as their primary duty weapon while in uniform and/or plainclothes assignments. Members of the Range Staff may be issued Sig Sauer 226R DAK pistols for training purposes.

Personnel, who due to their physical stature, are unable to obtain a satisfactory firing grip on the 226R DAK pistol, may be issued a Sig Sauer 229R DAK or 239 DAK pistol (subject to availability) as their primary duty weapon. These alternate weapons will not be issued as a matter of course. Personnel desiring an alternate departmental issued firearm must demonstrate a shooting deficiency. The alternate firearm will only be issued when, in the opinion of the Rangemaster, their shooting proficiency will be improved by using a more compact handgun.

(a) Authorized Optional Duty Handguns:

1. Personnel choosing not to carry the department issued pistol may carry any 9mm, .40 S&W, or .45 ACP caliber pistol approved by the Support Services Deputy Chief. Authorized manufacturers include: Beretta, Glock, Heckler & Koch, Sig Sauer, Smith & Wesson, Colt, Kimber, Springfield Armory, Para Ordinance, STI, Walther, and others as approved by the Rangemaster.

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2. The pistol may be a single-action or double-action/safe-action type, semi-automatic, capable of carrying at least seven (7) rounds in its magazine. Personnel may carry a single-action type pistol after successfully completing a departmental single-action pistol training course or equivalent training and successfully completing a duty qualification course.
    (a) Authorized finishes include blue, black, parkerized, nickel or stainless steel.

(b) Stocks and Grips:
    (a) Duty handgun's stocks and grips will be natural wood, plastic with a natural wood appearance, black rubber, black plastic, or friction (aka skateboard) tape only (no pearl type grips). No surface design other than checkering, manufacturer's monograms, or pebble finish grip surfaces are authorized. Grips shall not interfere with the safe operation of the weapon.

All expenses incurred with regards to the optional firearm will be borne by the member/employees choosing to carry the weapon, except for duty ammunition and a reasonable amount of practice ammunition annually.

Any firearm used during an officer-involved shooting, may be retained as evidence for at least one year without compensation to the employee.

Personnel must request via the firearm authorization letter, permission to carry the optional firearm after completing a familiarization course and range qualification. The letter of authorization will be forwarded by the Rangemaster to the Support Services Deputy Chief. Documentation of this approval shall be maintained in the employee's administrative file.

Personnel choosing to carry an authorized optional duty handgun shall turn in their department issued pistol within 30 days.

312.2.2 SECONDARY (BACK-UP) HANDGUNS ARE NOT AUTHORIZED BY THIS DEPARTMENT

312.2.3 AUTHORIZED OFF-DUTY FIREARMS

The carrying of firearms by sworn personnel while off-duty is permitted by the Chief of Police, but may be rescinded should circumstances dictate (e.g., administrative leave). Carrying a firearm off-duty is optional, but if carried, personnel are subject to all directives, policies, procedures, rules and regulations of the department.

Personnel may carry any duty firearm they are currently qualified with, as an off-duty firearm. For other firearms, personnel must request via the firearm authorization letter, permission to carry the off-duty firearm after demonstrating proficiency and range qualification. The letter of authorization will be forwarded by the Rangemaster to the Support Services Deputy Chief. Documentation of this approval shall be maintained in the employee's administrative file.

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Sworn personnel who choose to carry a firearm while off-duty will be required to meet the following guidelines:

(a) The firearm shall be of good quality and workmanship (e.g., Colt, Smith & Wesson, Browning, Sig-Sauer, or any other brand approved by the Rangemaster).

(b) Off-duty firearms may be a semi-automatic pistol or a revolver (no derringers) capable of carrying at least five rounds.

(c) Single-action type pistols may be carried as an authorized handgun only after the employee successfully completes a departmental single-action pistol training course or equivalent training.

(d) The purchase of the firearm shall be the responsibility of the officer.

(e) The firearm shall be carried out of sight at all times and in such a manner as to prevent accidental cocking, discharge, or loss of physical control. Off-duty firearms will not be placed inside the waistband or pants pocket without a holster. Officers are cautioned that when off-duty they are subject to restrictions on carrying firearms in certain areas such as government buildings, property and parks, as well as posted-private property.

(f) It will be the responsibility of the officer to submit the firearm to the Rangemaster or designee for inspection prior to being carried off-duty. The Rangemaster shall ensure that the officer is proficient in handling and firing that firearm and it will be carried in a safe manner. The firearm shall be subject to inspection whenever deemed necessary. Personnel shall successfully qualify with the firearm prior to it being carried. Thereafter, annual qualifications are required with each firearm carried in an off-duty capacity.

(g) A complete description of the firearm(s) shall be contained on the qualification record approved by the Rangemaster.

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

(i) Ammunition should be of good quality and manufactured by a departmentally approved company as recommended by the Rangemaster.

(j) When armed while off-duty, personnel shall carry their badge and/or department identification.

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

312.2.4 AMMUNITION

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Personnel shall carry only department-authorized ammunition. Replacements for unserviceable or depleted ammunition issued by the department shall be dispensed by the Rangemaster when needed in accordance with established policy.

Required Ammunition (Quantity):

(a) All uniformed personnel carrying the department-issued handguns shall carry a minimum of two (2) extra full magazines of department-issued duty ammunition on their equipment belt in an approved case designed for this purpose.

(b) Personnel carrying an approved optional handgun while working a uniform assignment must carry a minimum of 22 rounds. This includes the magazine in the weapon and any additional magazines carried on the uniform equipment belt in an approved carrier.

(c) Personnel working plain clothes assignments are required to carry a minimum of one extra fully loaded magazine.

312.2.5 SHOTGUN

The department-issued shotgun is a Remington Model 870 pump action 12-gauge shotgun. Shotguns, when carried in police vehicles or District armored vehicles, must be secured in locking gun racks. The shotgun shall be carried in the "cruiser-ready" configuration (magazine tube loaded to capacity with 12-gauge, double-ought (00) buckshot, hammer forward on an empty chamber, and safety on). Additional rounds of double-ought buckshot shall be carried in the side saddle ammunition carrier attached to the weapon. Use of the police shotgun in enforcement situations shall be guided by officer/revenue guard discretion when warranted by the seriousness and hazards of the situation confronting the officer/revenue protection guard.

Shotguns will be removed from vehicles whenever the vehicle will not be driven on the on-coming shift.

312.2.6 LASER SIGHTS

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

So as not to be confused with the lasers on a Conducted Electrical Weapon (Tasers), red lasers are not authorized for use on-duty handguns.

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

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

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

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312.2.7 WEAPON-MOUNTED LIGHTS

Personnel may utilize weapon-mounted lights on their duty and off-duty firearms. Weapon-mounted lights are intended to be used for searching, threat assessment, and target acquisition of potentially dangerous persons. Weapon-mounted lights shall not be used as ordinary flashlights for routine lighting purposes.

Authorized brands include Blackhawk, Surefire, Streamlight, and any others approved by the Rangemaster.

Weapon-mounted lights are subject to the following requirements:

(a) Personnel must demonstrate proficiency with the weapon-mounted light prior to carrying it in an on-duty capacity.

(b) The weapon shall be carried with the light affixed to it. This will require a holster designed to accommodate the weapon and light combination.

(c) Personnel equipped with a weapon-mounted light shall also have a handheld light readily available to them at all times while on-duty.

312.3 SAFE HANDLING OF FIREARMS

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

312.3.1 SAFETY CONSIDERATIONS

(a) Personnel shall not unnecessarily display or handle any firearm.

(b) Personnel shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Range Staff.

(c) Personnel shall load and/or unload a firearms at clearing barrels, if available.

(d) Shotguns or rifles removed from vehicles or storage shall be loaded and unloaded in a safe manner, in an area out of public view when practical.

(e) When unloading shotguns, personnel shall visually inspect the firing chamber, shell lifter tray, and magazine tube to ensure no shells remain in the shotgun.

(f) Personnel shall not place or store any firearm on department premises except where the place of storage is locked.

(g) Any weapon authorized by the department to be carried on or off-duty that is found to be malfunctioning or needing service shall not be carried and shall be promptly presented to an armorer-trained member of the range staff for inspection. Any weapon determined to be in need of service or repair during the inspection will be immediately removed from service. If the weapon is a primary duty weapon, a replacement weapon may be issued to the individual until the duty weapon is again rendered serviceable. The individual also has

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the option of carrying a personally-owned optional duty weapon in compliance with standard authorization, including range qualification.

312.3.2 STORAGE AT HOME

Members shall ensure that all firearms and ammunition are locked and secured while in their homes, vehicles or any other area under their control, and in a manner that will keep them inaccessible to children and others who should not have access (Penal Code § 25100).

Members shall not permit department-issued firearms to be handled by anyone who is not authorized by the Department to do so.

Members shall be aware that negligent storage of a firearm could result in civil and criminal liability (Penal Code § 25100).

312.4 FIREARMS QUALIFICATIONS

The Rangemaster, with approval of the Chief of Police, shall establish acceptable levels of proficiency in the use of police firearms. Firearms qualification courses may be changed and modified in an effort to increase the proficiency of employees carrying firearms. Qualification and training records shall be forwarded to the Personnel & Training Section. The Patrol and Support Services Deputy Chief, or their designees, are to ensure that all sworn personnel and/or revenue protection guards under their respective commands qualify in accordance with this policy.

In addition to weapons qualifications, the Range Staff shall provide all authorized personnel with semi-annual practical firearms training designed to enhance skills and improve proficiency. At least annually, all personnel carrying a firearm in the performance of their duties, that attend semi-annual firearms training and qualification sessions, will receive training on the department's Use of Force and Shooting policies.

312.4.1 NON QUALIFICATION

- Day Light: semi-annually
- Low Light: annually

A duty qualification is required for any pistol carried as the primary handgun while in an on-duty capacity.

312.4.2 PATROL RIFLE QUALIFICATION

(applies to Patrol Rifle Operators only, refer to policy 432)

- Day Light and Low Light: annually

312.4.3 SPECIAL WEAPONS QUALIFICATIONS

As prescribed by the SWAT Commander, but not less than annual day light and low light qualifications.

312.4.4 FAILURE TO QUALIFY

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312.4.5 FAILURE TO QUALIFY WITH DUTY HANDGUN

Personnel who are unable to qualify by the end of their scheduled shift or the conclusion of the training day (whichever comes first) shall be reassigned to a non-armed administrative position and prohibited from carrying a firearm off-duty. The Rangemaster or on-site Range Sergeant shall, as soon as practicable, notify the on-duty Watch Commander of the failure to qualify. Progressive discipline may be implemented at the level of a Letter of Discussion. The Rangemaster or designee shall arrange for a 4-hour remedial firearms training session as soon as practicable for the non-qualifying personnel

Personnel who are unable to qualify by the conclusion of the first remedial firearms training session, shall remain assigned to a non-armed administrative position, restricted from carrying a firearm off-duty and shall be scheduled to attend a second 4-hour remedial firearms training session. Personnel will progress to the next level in progressive discipline, not less than an oral counseling.

Personnel who are unable to qualify by the conclusion of the second remedial firearms training session, shall remain assigned to a non-armed administrative position, restricted from carrying a firearm off-duty, and a third 4-hour remedial firearms training session will be scheduled. Personnel will progress to the next level in the discipline system, not less than a written reprimand.

Personnel that are unable to qualify by the conclusion of the third remedial firearms training session, shall remain assigned to a non-armed administrative position and restricted from carrying a firearm off-duty. Another opportunity to qualify will be scheduled. Personnel will progress to the next level in progressive discipline, not less than a pay-step reduction. The member/employee should be examined by a District medical doctor to ensure no medical condition exists that prevents the employee from qualifying.

Personnel who are unable to qualify by the conclusion of their fourth remedial firearms training session, shall remain assigned to a non-armed administrative position, restricted from carrying a firearm off-duty, and subject to the next step in progressive discipline, suspension without pay.

Personnel who are unable to qualify by the conclusion of their fifth remedial firearms training session, shall remain assigned to a non-armed administrative position, restricted from carrying a firearm off-duty, and are subject to the fourth level of progressive discipline, demotion, or the final level of discipline, termination.

312.4.6 FAILURE TO QUALIFY WITH SHOTGUN OR RIFLE

Personnel who fail to attain the minimum passing qualification score with the shotgun or rifle shall be allowed a minimum of one additional opportunity to qualify during that training day. Those personnel that are still unable to qualify may receive additional firearms training that day if training time and a sufficient number of Range Staff are available. In situations involving personnel that are unable to qualify by the end of their scheduled shift or the conclusion of the training day (whichever comes first), the Rangemaster or on-site Range Sergeant shall, as soon as practicable, notify the employee's immediate supervisor or the on-duty Watch Commander of the failure to qualify. Non-qualifying personnel shall not be authorized to deploy the shotgun or rifle in the performance

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of their duties until they are able to demonstrate acceptable proficiency and achieve a passing qualification score. Progressive discipline will be implemented at the level of a Letter of Discussion.

The Rangemaster or designee shall arrange for a 4-hour remedial shotgun or rifle training session as soon as practical for the non-qualifying personnel. Personnel that are unable to qualify by the conclusion of the first remedial firearms training session, shall not be authorized to deploy the shotgun or rifle in the performance of their duties, and a second 4-hour remedial shotgun or rifle training session will be scheduled. Progressive discipline will be administered in the same manner as described under the Failure to Qualify with Duty Handgun section.

Personnel who are unable to qualify by the conclusion of the second remedial firearms training session, shall not be authorized to deploy the shotgun or rifle in the performance of their duties, and a third 4-hour remedial shotgun or rifle training session will be scheduled. The member/employee should be examined by a District medical doctor to ensure no medical condition exists that prevents the employee from qualifying. Progressive discipline will move to the next step.

Personnel who are unable to qualify by the conclusion of the third remedial firearms training session, shall not be authorized to deploy the shotgun or rifle in the performance of their duties. The employee may, at the discretion of the Chief of Police, progress to the next level in progressive discipline.

312.4.7 FAILURE TO QUALIFY WITH OFF-DUTY HANDGUN

Sworn personnel that fail to annually qualify with their secondary and/or off-duty handguns shall be prohibited from carrying those firearms until they successfully complete the required departmental qualification course.

312.4.8 REMEDIAL TRAINING

Any employee who handles a firearm in a grossly unsafe manner, demonstrates dangerous and/or extremely poor decision-making skills in the deployment of and/or application of any use of force-related task, in the field or in training, may be required to attend mandatory remedial training prior to returning to full-duty status.

If in the opinion of the supervisor/primary trainer at the site of the training, the employee's actions/decision-making is so unsafe that if they were returned to full duty, the employee may be a safety hazard to themselves, fellow employees, and/or the public; the supervisor/primary trainer shall recommend mandatory remedial training for the employee. The primary trainer shall contact the on-duty Watch Commander as soon as practicable and make the recommendation for mandatory remedial training.

If the request for mandatory remedial training is approved, the employee shall be removed from a firearm-carrying capacity and placed into a temporary administrative position until such time as that employee satisfactorily completes the mandatory remedial training.

Repeated failures to correct such deficiencies may result in implementation of progressive discipline.

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Nothing in this policy precludes the department from requiring an employee to successfully complete remedial training to correct lesser safety violations and/or marginal tactical decision-making skills, without the employee first being removed from full-duty status.

312.5 RANGEMASTER DUTIES

The Rangemaster and Range Staff will be persons of management rank designated by the Chief of Police. The Rangemaster will be in charge of the range facility. The Rangemaster will have the authority and responsibility to insure that all range activity is performed in a safe and appropriate manner. In the absence of the Rangemaster, these duties will be assumed by a member of the Range Staff. The Rangemaster or a member of the Range Staff will be present at all departmental firearms qualifications and training.

The below listed training is from the Departments Training Plan and is either mandatory, essential or desirable for the Rangemaster, supervisor or firearms instructor. The Training Plan is located withing the G/drive, training unit folder.

Mandatory Rangemaster and Range Staff - Firearm instructor course.

Essential Rangemaster and Range Staff training - Firearm instructor update.

Essential firearms instructor training - Firearms instructor course, firearms instructor update.

Desirable firearms instructor training - Shooter analysis and remediation.

312.5.1 RANGE STAFF DUTIES

Members of the Range Staff will be assigned to assist the Rangemaster and/or Range Sergeants in conducting the established training program and will report directly to the Rangemaster or Range Sergeant. The range officers, under the direction of the Rangemaster or Range Sergeant, shall have authority to enforce rules and policies established by the Chief of Police.

312.6 MAINTENANCE AND REPAIR

Departmental personnel shall keep their duty firearms clean and maintained in serviceable condition. Since the use of personally-owned weapons is at the option of the individual officer, that officer will be responsible for the furnishing, maintenance and repair of such weapons.

Duty firearms shall be inspected by departmental armorers when reasonably necessary. It is the responsibility of each departmental member to contact one of the armorers for this service. The Rangemaster will maintain a list of trained armorers.

All firearms used in the performance of one's duties, are subject to inspection at any time by the Rangemaster, any member of the Range Staff, or anyone in the employee's chain of command.

Any duty firearm showing signs of neglect and/or damage shall be taken out of service until the condition is rectified to the satisfaction of the Rangemaster or designee. Personnel responsible for the neglect and/or damage are subject to the Progressive Discipline System.

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The Rangemaster or his/her designee has the authority to deem any privately-owned weapon unfit for service. Departmental personnel are responsible for all repairs to personal firearms carried on duty. The repaired firearm will not be returned to service until inspected by the Rangemaster or his/her designee.

The below listed training is from the Department's Training Plan and is either mandatory, essential or desirable. The Department's Training Plan can be located within the G/drive, Training Unit folder.

Essential armorer training - Armorer certification course.

312.6.1 REPAIR OR MODIFICATIONS OF DUTY WEAPONS
The Rangemaster or designee(s) shall be the only persons authorized to repair or modify any department issued weapon. All repairs and/or modifications of department issued weapons not performed by the Rangemaster or designee(s) must be approved in advance by the Rangemaster and accomplished by a department approved gunsmith.

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

312.7 FLYING WHILE ARMED

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

(a) Officers wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure purposes.

(b) Officers must carry their Department identification card which must contain a full-face picture, the officer's signature and the signature of the Chief of Police or the official seal of the Department and must present this identification to airline officials when requested. The officer should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver's license, passport).

(c) The Bay Area Rapid Transit Police Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the Bay Area Rapid Transit Police Department an NLETS message containing a unique alphanumeric identifier. The officer must present the message to airport personnel as authorization to travel while armed on the day of travel.

(d) An official letter signed by the Chief of Police authorizing armed travel must accompany the officer. The letter must outline the officer's need to fly armed, must detail his/her itinerary, and should include that the officer has completed the mandatory TSA training for law enforcement officer flying while armed.

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(e) Officers must have completed the mandated TSA security training covering officers flying while armed. The training shall be given by the department-appointed instructor.

(f) It is the officer's responsibility to notify the air carrier in advance of the intended armed travel. This notification can be accomplished by early check-in at the carrier's check-in counter.

(g) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The officers must keep the firearm concealed on his/her person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.

(h) Officers should not surrender their firearm but should try to resolve any problems through the flight captain, ground security manager or other management representative of the air carrier.

(i) Officers shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

312.8 CARRYING FIREARMS OUT OF STATE

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

(a) The officer shall carry his/her Department identification card whenever carrying such weapon.

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

(c) The officer is not the subject of any current disciplinary action.

(d) The officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.

(e) The officer will remain subject to this and all other Department policies (including qualifying and training).

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

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

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312.9 ALCOHOL & DRUGS

Firearms shall not be carried by any personnel who have consumed an amount of an alcoholic beverage or taken any drugs that would tend to adversely affect the employee's senses or judgment.

312.10 RETIREES

The Office of the Chief shall issue honorably retired sworn personnel an identification card with a CCW endorsement, see Policy Manual § 220.

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Vehicle Pursuit Policy

314.1 PURPOSE AND SCOPE

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

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

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

314.1.1 VEHICLE PURSUIT DEFINED

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

314.1.2 OTHER DEFINITIONS

Credible Threat: Information known by the officer at the time of initiating the pursuit that provides reasonable suspicion that the suspect, if allowed to escape, poses a threat of serious bodily injury or serious bodily harm. Sources of this information include, but are not limited to: information provided by victims, witnesses, and dispatchers, computerized criminal history, or confidential reliable informants.

Monitoring Supervisor: The supervisory or command staff officer who advises dispatch that he or she is monitoring a pursuit. When possible, this supervisor should be the functional supervisor of the primary officer.

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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, or a wound requiring extensive suturing or serious disfigurement.

Serious Bodily Harm: For the purpose of this policy, is defined as any mental or emotional condition that may result from being victimized during a serious crime that may not result in visible bodily injury as defined above. Examples of crimes in this category include, but are not limited to rape, robbery, kidnapping, and other sexual assaults.

Unmarked Unit: Any police department motor vehicle that is not equipped with departmental markings, but is equipped with a siren, and minimally, a forward red emergency light.

314.2 OFFICER RESPONSIBILITIES

Officers may initiate and/or continue a vehicle pursuit, only when the potential danger to the public posed by the fleeing suspect remaining at large, is greater than the potential danger to the public created by the pursuit itself. Strict supervisory control shall be maintained from the onset of any pursuit, and continue through the termination of a pursuit or at the termination point.

It shall also be the policy of this department that a motor vehicle pursuit shall be conducted only with red light and siren as required by Vehicle Code § 21055 for exemption from compliance with the rules of the road. The following policy is established to provide officers with guidelines for driving with due regard and caution for the safety of all persons using the highway as required by Vehicle Code § 21056.

314.2.1 WHEN TO INITIATE A PURSUIT

A vehicle pursuit may only be initiated when there is reasonable suspicion to detain, or probable cause to arrest, a suspect in a fleeing vehicle during any of the following situations:

- A violent crime involving serious bodily injury or serious bodily harm.
- A violent crime involving the use of a deadly weapon against a person.
- A credible threat of serious bodily injury, serious bodily harm, or use of a deadly weapon against a person.

314.2.2 WHEN TO TERMINATE A PURSUIT

The following factors must be considered while making the decision to initiate, continue, or terminate a pursuit. These factors and conditions should be continuously evaluated considering the totality of circumstances by the primary officer, monitoring supervisor and/or the watch commander.

- Seriousness of the known or reasonably suspected original crime or circumstance and its relationship to community safety
- The quality and quantity of information leading to the reasonable suspicion to detain or the probable cause to arrest that justifies the pursuit

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- 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
- The danger posed to the community and/or victim by the fleeing suspect should he or she be allowed to remain at large
- The identity of the suspect(s) has been verified and there is comparatively minimal risk in allowing the suspect(s) to be apprehended at a later time
- The volume of vehicular and pedestrian traffic in the area of the pursuit
- Safety of the public in the area of the pursuit (e.g., schools, parks, business districts)
- The speeds involved in the pursuit and the extent to which those speeds exceed the flow of traffic (i.e., pursuit speeds have become unreasonably unsafe for the surrounding conditions)
- Time of day (e.g., relative to number of vehicles and pedestrians out, nighttime visibility)
- Weather conditions such as, rain or fog that would hinder visibility
- Road conditions (e.g., slick pavement)
- Pursuing officer(s) familiarity with the area of the pursuit
- The quality of radio communications between the pursuing units and the dispatcher/ supervisor
- The driving capabilities of the pursuing officers under the conditions of the pursuit. Performance capabilities of the vehicles used in the pursuit in relation to the speeds and other conditions of the pursuit
- The availability of assisting units, including air support
- Other persons in or on the pursued vehicle (e.g., passengers, co-offenders and hostages)

314.2.3 SPEED LIMITS

- Every officer participating in a vehicle pursuit shall adhere to the policies governing emergency vehicle operations.
- The number of pursuit vehicles driving Code-3 should be limited to three units (primary unit and two secondary units). Additionally, the monitoring supervisor and the watch commander may drive Code-3 at their discretion. If due to the seriousness of the crime, number of suspects, or other circumstances, the monitoring supervisor or watch commander feels additional units are necessary, he/she may direct additional units to drive Code-3. At the direction of the dispatcher or monitoring supervisor, additional units not involved directly in the pursuit may be directed to the termination point, driving Code-2, if additional assistance at the scene is needed.

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- Whenever possible, marked units should occupy the primary and secondary positions in a pursuit. When an unmarked vehicle is involved in a pursuit, it should be withdrawn when marked units are in position to take over.
- Other vehicles not outfitted with a siren and minimally a red forward light, shall not initiate or participate in a pursuit. The exemptions provided by Vehicle Code § 21055 do not apply to officers using vehicles without emergency equipment.
- When involved in a pursuit, officers should normally have emergency lights and siren activated at all times, unless circumstances (such as having to pass a vehicle on the right) require them to be briefly de-activated for safety. Emergency lights and siren shall be activated at all times when approaching and passing through an intersection or when driving against traffic controls. If a pursuing unit's emergency lights or siren fails during a pursuit, or a unit's radio contact fails, that officer shall immediately withdraw from the pursuit.
- No officer shall attempt to pass other police units involved in a pursuit unless the passing officer is directed to do so by the primary unit or monitoring supervisor.
- Officers with prisoners, victims, witnesses, or other civilian passengers in their vehicles shall not become involved in a pursuit.
- The use of firearms to disable a pursued vehicle is not generally an effective tactic and involves all the dangers associated with discharging firearms. Firearms shall not be discharged at or from a moving vehicle unless the circumstances dictate that such use reasonably appears necessary to protect life.

314.2.4 TERMINATING A PURSUIT

The primary officer, monitoring supervisor, or watch commander may terminate a vehicle pursuit at anytime. The primary officer shall terminate a pursuit when any of the criteria for terminating a pursuit, listed in this policy, have been met, or when directed by a supervisor.

Pursuits should be discontinued whenever the totality of objective circumstances known or which reasonably ought to be known to the officer or supervisor during the pursuit indicates that the present risks (i.e., the immediate danger to bystanders, other motorists, or involved officers) of continuing the pursuit reasonably appear to be greater than the potential danger resulting from the suspect(s) remaining at large.

The factors listed in 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(s).

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

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- Distance between the pursuing officers and the fleeing vehicle(s) is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time and/or distance
- Pursued vehicle's location is no longer definitely known
- Officer's pursuit vehicle sustains any type of damage that renders it unsafe to drive
- The suspect can be identified to the point where later apprehension will likely be accomplished, and the pursuing officers reasonably believe that the public and/or victim are not placed in greater danger by the suspect remaining at large

314.2.5 PROTOCOL FOR TERMINATING A PURSUIT

Whenever a pursuit is terminated, the termination shall be broadcast over the police radio. All officers involved in the pursuit shall acknowledge the broadcast and immediately deactivate all emergency equipment, while returning to normal driving, unless otherwise advised by the monitoring supervisor or Watch Commander.

314.2.6 PROTOCOL AT PURSUIT TERMINATION POINT

When a pursuit ends, the primary officer is responsible for notification to the Communications Center so that other responding units can shut down their emergency equipment if necessary.

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 the pursued vehicle.

If the pursuit ends because the suspect vehicle stops, the primary officer is responsible for coordinating the response of other units until relieved by a supervisor. Coordinating the response of other units entails giving updates as to the status of the suspect(s), direction of flight if fleeing on foot, whether or not other units need to continue Code-3, and to broadcast any assignments and/or resources that are needed.

The monitoring supervisor shall proceed directly to the termination point of any pursuit to confer with the primary officer and provide supervision/coordination at the scene.

314.3 PURSUIT UNITS

The initial pursuing unit will be designated as the primary pursuit unit and will be responsible for the conduct of the pursuit unless it is unable to remain reasonably close enough to the violator's vehicle.

The primary responsibility of the officer initiating the pursuit is the apprehension of the suspect(s) without unreasonable danger to themselves or other persons. Notify the Communications Center that a vehicle pursuit has been initiated and as soon as practical provide information including, but not limited to:

(a) Reason for the pursuit

(b) Location and direction of travel

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(c) Speed of the fleeing vehicle

(d) Description of the fleeing vehicle and license number, if known

(e) Number of known occupants

(f) The identity or description of the known occupants

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

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

314.3.1 MOTORCYCLE OFFICERS

The secondary officer(s) in the pursuit is responsible for the following:

(a) 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) Broadcasting the progress of the pursuit unless the situation indicates otherwise

314.3.2 PRIMARY UNIT RESPONSIBILITIES

There should be no paralleling of the pursuit route. Officers are authorized to use emergency equipment at intersections along the pursuit path to clear intersections of vehicular and pedestrian traffic to protect the public. Officers should remain in their assigned area and should not become involved with the pursuit unless directed otherwise by a supervisor. Non-pursuing personnel needed at the termination of the pursuit should respond in a non-emergency manner, observing the rules of the road. The primary and secondary units should be the only units operating under emergency conditions (red light and siren) unless other units are assigned to the pursuit.

314.3.3 SECONDARY UNITS RESPONSIBILITIES

In the event the initiating unit from this agency either relinquishes control of the pursuit to another unit or jurisdiction, that initiating unit may, with permission of supervisor, trail the pursuit to the termination point in order to provide necessary information and assistance for the arrest of the suspect(s). The term trail means to follow the path of the pursuit at a safe speed while obeying all traffic laws and without activating emergency equipment. If the pursuit is at a slow rate of speed, the trailing unit will maintain sufficient distance from the pursuit units so as to clearly indicate an absence of participation in the pursuit.

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314.3.4 PURSUIT DRIVING TACTICS

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

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

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

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

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

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

  1. Requesting assistance from an air unit.

  2. Maintaining visual contact with the pursued vehicle by paralleling it on the correct side of the roadway.

  3. Requesting other units to observe exits available to the suspects.

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

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

314.4 SUPERVISORY CONTROL AND RESPONSIBILITY

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

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

(a) Upon becoming aware of the pursuit, notify the Communications Center that he/she is monitoring the pursuit.

(b) Ascertain all reasonably available information to ensure that the pursuit is conducted within the guidelines of this policy.

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(c) Continuously assess the situation and risk factors associated with the pursuit and take appropriate action as necessary. Direct that the pursuit be terminated if, in his/her judgment, it is unjustified to continue the pursuit under the guidelines of this policy.

(d) Engage in the pursuit, when in the area and when appropriate, to provide on-scene supervision.

(e) Ensure that radio communications are being maintained between pursuing units and the Communications Center. Ask for periodic updates of critical information as necessary.

(f) Ensure that the proper number and type of police units are involved in the pursuit.

(g) Confirm the notification and/or coordination of outside agencies in the pursuit as applicable.

(h) Request that aircraft assistance is requested, if needed.

(i) Proceed to the termination point of the pursuit and assume responsibility for controlling police activity at the scene.

(j) Ensure that all necessary reports are completed prior to the primary officer going off-duty, including the supervisor completing CHP Form 187.

(k) Advise the watch commander of the pursuit and the associated details.

(l) Determine if the pursuit was justified or not, complete the appropriate review process and forward the reports with comments to the watch commander.

314.4.1 WATCH COMMANDER RESPONSIBILITY

Upon becoming aware that a pursuit has been initiated, the Watch Commander is responsible for the following:

(a) Ensure that a patrol sergeant is aware of the pursuit and is acting as the monitoring supervisor.

(b) Monitor the pursuit along with the monitoring supervisor and continually assess the situation. Ensure the pursuit is conducted within the guidelines and requirements of this policy.

(c) Terminate any pursuit that does not conform to this policy.

(d) Coordinate with the monitoring supervisor and the Communications Center as needed.

(e) Assume overall responsibility for the coordination, control and termination of the pursuit.

The Watch Commander shall review all pertinent reports and review the justification as determined by the monitoring supervisor. The Watch Commander will forward the reports and justification, with comments, to the Bureau Deputy Chief.

314.5 COMMUNICATIONS

Radio communications related to the pursuit should be conducted on the primary channel unless instructed otherwise by a supervisor or Communications dispatcher. If the pursuit leaves the area of effective radio communications, or other units become involved in the pursuit, involved units

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may be directed to switch radio communications to another channel accessible to all participating units, such as High Level Law, a State Tac Channel, or one of the trunked radio channels used by allied agencies, such as Oakland or Richmond PDs.

314.5.1 COMMUNICATION CENTER RESPONSIBILITIES
Upon notification that a pursuit has been initiated, the Communications Center will:

(a) Activate a Code-33 on the appropriate radio channel

(b) Coordinate pursuit communications of the involved units and personnel

(c) Ensure that a supervisor is monitoring the pursuit

(d) Broadcast pursuit updates as well as other pertinent information as necessary. Record as much information as possible in the CAD/RMS system

(e) Notify and coordinate with other involved or affected agencies as practical

(f) Run the license plate of the suspect vehicle and/or the name of the suspect(s), if known

(g) Broadcast any relevant wants and warrants

(h) Notify the Watch Commander as soon as practical

(i) Assist in coordinating additional units/resources to the termination point

(j) Broadcast Code-34 when advised to do so by field units

314.6 INTER-JURISDICTIONAL CONSIDERATIONS

When a pursuit enters another agency's jurisdiction, the primary officer or supervisor, taking into consideration distance traveled, unfamiliarity with the area, and other pertinent facts, should determine whether or not to request the other agency to assume the pursuit. Unless entry into another jurisdiction is expected to be brief, it is generally recommended that the primary officer or supervisor ensure that notification is provided to each outside jurisdiction into which the pursuit is reasonably expected to enter, regardless of whether or not such jurisdiction is expected to assist.

314.6.1 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY
Units originally involved will discontinue the pursuit when advised that another agency has assumed the pursuit and assistance of this 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

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pursuit leaves the freeway and a request for assistance is made to this department, the CHP should relinquish control.

314.6.2 PURSUITS EXTENDING INTO THIS JURISDICTION

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

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

(a) Ability to maintain the pursuit

(b) Circumstances serious enough to continue the pursuit

(c) Adequate staffing to continue the pursuit

(d) The public's safety within this jurisdiction

(e) Safety of the pursuing officers

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

Assistance to a pursuing allied agency by officers of this department will terminate when the pursuing officers have sufficient assistance from other sources. Ongoing participation from this department may continue only until sufficient assistance is present.

In the event that a pursuit from another agency terminates within this jurisdiction, officers shall provide appropriate assistance to officers from the allied agency including, but not limited to, scene control, coordination and completion of supplemental reports and any other assistance requested or needed.

314.7 PURSUIT INTERVENTION

Deliberate pursuit intervention techniques (e.g., boxing, road spikes, roadblocks, ramming, PIT, etc.) are not authorized for use by officers of this department.

314.7.1 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.

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314.7.2 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 suspect(s) following the pursuit. Officers should consider safety of the public and the involved officers when formulating plans to contain and capture the suspect.

314.8 REPORTING REQUIREMENTS

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

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

(b) Pursuant to Vehicle Code § 14602.1(b), the monitoring supervisor shall complete form CHP 187, Allied Agency Vehicle Pursuit Report (to be filed by the Records Section with the CHP either electronically or on paper not later than 30 days after the pursuit). This pursuit report shall minimally contain the following information:

1. Whether any person involved in the pursuit or subsequent arrest was injured, specifying the nature of that injury and differentiating between the suspect driver, a suspect passenger and the officers involved.
2. The violation(s) that caused the pursuit to be initiated.
3. The identity of the officers involved in the pursuit.
4. The means or methods used to stop the suspect being pursued.
5. The charges filed with the court by the district attorney.
6. The conditions of the pursuit, including, but not limited to, all of the following:
   (a) Duration
   (b) Mileage
   (c) Number of officers involved
   (d) Maximum number of units involved
   (e) Time of day
   (f) Weather conditions
   (g) Maximum speeds
7. Whether the pursuit resulted in a collision and a resulting injury or fatality to an uninvolved third party, and the corresponding number of persons involved.
8. Whether the pursuit involved multiple agencies.

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9. How the pursuit was terminated.

(c) Vehicle pursuits are considered a use of force. The supervisor approving the police report should also complete a Supervisors' Use of Force Report, indicating whether the pursuit was justifiable or unjustifiable. See Policy 344 for further details on the completion of the Supervisor's Use of Force Report.

314.8.1 REGULAR AND PERIODIC PURSUIT TRAINING

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

314.8.2 POLICY REVIEW

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

314.9 APPLICATION OF VEHICLE PURSUIT POLICY

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

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Officer Response to Calls

316.1 PURPOSE AND SCOPE

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

316.1.1 LEVELS OF RESPONSE

316.1.2 DEFINITIONS

- **Code-1:** A non-emergency response. Officers should respond to the assignment as soon as practical, operate their vehicles without activation of emergency equipment, and obey all traffic laws.
- **Code-2:** A non-emergency response. Officers should respond directly to the assignment without unnecessary delay, operate their vehicles without activation of emergency equipment, and obey all traffic laws.
- **Code-3:** An emergency response. Officers will respond without delay, operate their vehicles with emergency equipment activated (minimally, red light forward and siren), and proceed with due regard for the safety of all persons and property.

316.1.3 REQUIRED CIRCUMSTANCES FOR CODE-3 RESPONSE:

Code-3 responses may only be used under the following circumstances:

(a) When a situation involves the reasonable potential for serious injury or death to officers or other persons (e.g., in-progress robberies, aggravated assaults, medical emergencies).

(b) When a Code-3 response would significantly enhance the likelihood of apprehending a felony suspect who has caused, is likely to cause, or has threatened to cause, serious injury or death.

(c) When there is a public hazard that presents an imminent or immediate threat to public safety (e.g., fire, explosion, chem-bio incident).

(d) When an officer requests Code-3 cover or broadcasts an "11-99."

(e) When approved by a sergeant or command officer.

316.2 RESPONSE TO CALLS

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

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

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Any call that is not dispatched as Code-3 is a routine call. Officers not authorized to respond Code-3 shall observe all traffic laws and proceed without the use of emergency lights and siren.

316.2.1 REQUIREMENTS FOR RESPONDING CODE-3

The vehicle's steady forward facing red light must be activated and visible under normal atmospheric conditions for 1000 feet. All other auxiliary lights should be activated as reasonably necessary. The auxiliary lights should be activated when entering and traveling through an intersection or if the vehicle is being driven against traffic controls.

The driver of the vehicle should sound the vehicle's siren as reasonably necessary. It should be sounded when entering and traveling through an intersection or if the vehicle is being driven against traffic controls.

The vehicle should be driven in compliance with California's basic speed law, which reads, "no person shall drive a vehicle upon a highway at a speed greater than is reasonable or prudent, having due regard for weather, visibility, the traffic on, and the surface and width of, the highway, and in no event at a speed which endangers the safety of persons or property." (Vehicle Code §22350)

The provisions regarding authorized emergency vehicles responding Code-3 do not relieve the officer/driver from the duty to drive with due regard for the safety of all persons and property (Vehicle Code §21807).

316.3 REQUESTING EMERGENCY ASSISTANCE

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

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

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

316.3.1 NUMBER OF UNITS ASSIGNED

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

316.4 INITIATING CODE 3 RESPONSE

If an officer believes a Code-3 response to any call is appropriate, the officer shall immediately notify the Communications Center. Generally, only one unit should respond Code-3 to any situation. Should another officer believe a Code-3 response is appropriate, the Communications

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Center shall be notified and the Watch Commander or field supervisor will make a determination as to whether one or more officers driving Code-3 is appropriate.

316.4.1 STANDARD TERMINOLOGY
If an officer is in need of emergency assistance, he/she should state, "send Code-3 cover," or "11-99" as appropriate. Non-standard terms such as "expedite cover" or "step it up" should not be used as a request for Code-3 cover, nor should assisting units automatically respond Code-3 when hearing these types of terms.

316.5 RESPONSIBILITIES OF RESPONDING OFFICER(S)

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

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

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

316.5.1 INITIATING/CONTINUING EMERGENCY RESPONSE
The first officer arriving on scene at an emergency should evaluate whether any other units need to initiate or continue a Code-3 response. The officer should broadcast this information via radio as soon as possible so that other units may respond appropriately.

When a Code-3 response is no longer required, and the unit(s) responding Code-3 become aware of this, those units are responsible for terminating their emergency response and advising the Communications Center of this.

Officers should not respond Code-3 with an arrestee or civilian in the vehicle.

316.6 COMMUNICATIONS RESPONSIBILITIES

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

(a) Attempt to assign the closest available unit to the location requiring assistance

(b) Immediately notify the Watch Commander and appropriate field supervisor

(c) Confirm the location from which the unit is responding

(d) Notify and coordinate allied emergency services (e.g., fire and ambulance)

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(e) Continue to obtain and broadcast information as necessary concerning the response and monitor the situation until it is stabilized or terminated

(f) Control all radio communications during the emergency and coordinate assistance under the direction of the Watch Commander or field supervisor

316.6.1 TERMINATION OF EMERGENCY RESPONSE
Upon termination of a Code-3 response, the communications center should advise all responding units of the termination. The Communications Center is responsible for confirming that each responding unit has acknowledged the termination.

316.7 SUPERVISORY RESPONSIBILITIES

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

(a) The proper response has been initiated.

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

(c) Affected outside jurisdictions are being notified as practical.

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

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

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

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

316.8 FAILURE OF EMERGENCY EQUIPMENT

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

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Canines

318.1 PURPOSE AND SCOPE

The Canine Program exists to enhance police services to the community. Highly trained and skilled teams of handlers and canines are used to supplement police operations.

318.1.1 DEFINITIONS

(a) **Police Canine**: A canine teamed with a police officer and trained in protection and/or explosives detection.

(b) **Canine Handler:** A sworn officer trained and designated to work with a police canine.

(c) **Canine Team:** A police officer/handler and assigned police canine.

(d) **Canine Coordinator:** A police sergeant designated to supervise department canine teams and assistants.

(e) **K-9 Unit:** Department canines and personnel assigned as coordinators, handlers, and assistants.

(f) **Protection Training:** Canine training involving searching for persons, apprehension of suspects, and protection.

(g) **Explosives Detection Training:** Canine training involving searching for and locating explosives.

318.1.2 TASKS AND OBJECTIVES OF CANINE TEAMS

Police canine teams will be used to accomplish a variety of police-related tasks and objectives including:

(a) Increase the perception of police presence by providing highly visible deterrent patrols within stations, trains and parking facilities

(b) Decrease the possibility of a terrorist attack against the District by performing security checks of trains and stations with explosives-detection canines

(c) Increase public awareness of anti-terrorism measures through regular patrol and explosives-detection training in trains and stations

(d) Increase the safety of District employees and patrons by providing a visible deterrent to crime and terrorism within the system

(e) Patrol checks of District facilities

(f) Canine units also act in support of other police personnel and respond to calls where the canine's presence will assist in resolving the situation safely and more effectively. Canine officers respond throughout the District to assist as needed. When assigned to a beat or detail, canine handlers shall seek supervisory approval to respond to other than his/her assigned beat or area.

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318.1.3 TASKS AND OBJECTIVES OF PROTECTION-TRAINED CANINE TEAMS

Protection-trained canine teams will be used to accomplish a variety of police-related tasks and objectives including:

(a) Reduce injuries to police officers and other District employees resulting from criminal attacks

(b) Reduce personnel deployment and time spent searching buildings, structures, and open areas for suspects, evidence or property

(c) Tracking persons

(d) Locating victims of fires, earthquakes, or other natural disasters and to aid at other disaster scenes

318.2 GUIDELINES FOR THE USE OF CANINES

(a) Canine use will be in accordance with all appropriate laws and departmental regulations.

(b) Canine training and performance will be maintained at appropriate levels to enhance the safety of patrons and employees.

(c) Use of a canine to apprehend a subject is considered an application of force and is therefore subject to review under departmental policy.

(d) Canines will not be used for crowd control or handling cases of civil disobedience.

(e) Canines governed by the Transportation Security Administration shall not be utilized for protection, apprehension, or searching for persons; and they will be used only in accordance with the TSA Standard Operating Practices and Procedures.

318.2.1 PREPARATION FOR UTILIZING A CANINE

(a) A protection-trained 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 offense in which one or more of the following conditions exists:

1. There is a reasonable belief that the suspect poses an immediate threat of violence or serious harm to the public, any officer, or the handler.
2. The suspect is physically resisting, or threatening to resist arrest and the use of a canine reasonably appears to be necessary to overcome such resistance.
3. The suspect is believed to be concealed in an area where entry by personnel other than the canine would pose a greater risk.
4. 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.

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

(c) A patrol sergeant or watch commander must give prior approval for a canine to search a contained area, absent exigent circumstances.

318.2.2 WARNINGS GIVEN TO ANNOUNCE THE USE OF A CANINE

(a) 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 reasonably available at the time. The information should include, but is not limited to the following:

1. The individual's age or estimate thereof
2. The nature of the suspected offense
3. Any potential danger to the public and/or other officers at the scene if the canine is released
4. The degree of resistance or threatened resistance, if any, the subject has shown
5. The potential for escape or flight if the police dog is not utilized
6. The potential for injury to officers or the public caused by the suspect if the police dog is not utilized

(b) The canine handler shall have the ultimate authority not to deploy the canine. The handler will evaluate the conditions, consider the ability of the canine, and then determine the feasibility of the task.

(c) A supervisor may direct a handler not to deploy the canine.

(d) The use of a canine team(s) in a building or area search for suspects should require the establishment of a perimeter to keep the suspect contained and to keep police personnel and uninvolved citizens out of harm's way. Handlers shall make every effort to ensure that the search area is clear of uninvolved persons prior to initiating the search.

(e) Personnel shall avoid entering canine search areas where their presence may contaminate or disturb scents left by suspects or victims.

318.2.3 USE OF NARCOTIC-DETECTION CANINES

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 warning shall be the following in essence: "This is the police. We are going to use a police canine to find you. If you surrender now, the canine will not be used. You have 30 seconds to surrender."

The canine handler, when practical, should 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

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shall document in any related report whether or not a verbal warning was given and, if none was given, the reasons why.

318.2.4 USE OF BOMB/EXPLOSIVE DETECTION DOGS

Between the TSA canine program and the cross-trained (protection/explosive detection) canines, it is the police department's intention to maintain canine coverage for all or most of revenue service. The goal is to also maintain a forty-five minute response time during revenue hours.

A qualified explosives-detection canine unit may be used in accordance with current law and under the following circumstances:

(a) To conduct explosives-detection searches of District facilities on a routine basis or in preparation for special events and dignitary visits, these searches are intended to detect and deter possible terrorist or criminal activity.

(b) To search an unattended item, package, or vehicle for the presence of explosives

(c) To assist in the search of a building, structure, area, or vehicle where an explosive device has been threatened or reported

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

(e) If, at any time, other than a controlled training exercise, an explosives-detection canine makes a positive indication that explosives are present, immediate action shall be taken, including:

    1. Officers shall evacuate the area.

    2. Dispatch will request the local or county EOD unit to respond.

    3. A watch commander or lieutenant will determine the extent of evacuation system-wide.

(f) Whenever visual inspection of an object leads emergency personnel to believe that the object could very well be an actual explosive device, the area will be evacuated and the local or county EOD unit shall be called out. Under these circumstances, an explosives-detection canine will not be used to determine if the suspected device is "safe" or "clear."

318.2.5 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.

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(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.

318.2.6 REPORTING CANINE USE, BITES AND INJURIES

(a) Handlers shall document any action taken by a police canine in a police report submitted to the canine coordinator for approval.

(b) Any bite or injury inflicted upon a person by a departmental canine outside of normal protection-training requires the following steps to be completed:

1. Any bite or injury must be treated at an approved hospital as soon as possible. The canine handler will ensure that injured persons are provided with first aid.
2. The canine handler will arrange for the bitten or injured person to be transported to the appropriate emergency hospital. The person shall not be transported in the canine handler's patrol vehicle.
3. The canine handler will immediately notify the Watch Commander and canine coordinator of the incident. The Watch Commander will notify the Chief of Police.
4. A supervisor or designated officer, other than the involved canine handler, shall respond to the hospital where the injured person is receiving treatment. After any visible wounds are cleansed by medical personnel, photographs of the injury will be taken. Photographs of non-injured extremities will also be taken for documentation. The photographs will be labeled "Canine Incident - Do Not Destroy," and booked into evidence.
5. If a subject alleges an injury that is not visible, notification shall be made to a supervisor and the location of the alleged injury should be photographed.
6. If the handler is on-duty at the time of the bite or injury, a police report shall be completed prior to the handler going off-duty.
7. If a bite or injury occurs while the handler is off-duty, a police report should be submitted as soon as possible and no later than 24 hours after the occurrence.

(c) Canine bites will be treated as uses of force, and reviewed and documented by the responding supervisor. Use of force reporting will be in accordance with Policy 300.

(d) The Canine Coordinator will be part of the use of force review board in cases where a canine use of force was reported.

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

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

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

318.2.8 ASSIGNMENT OF CANINES
Canine teams shall be assigned to the Patrol Bureau, and they should function primarily as cover units. They may be assigned by the Watch Commander to other functions based on the needs of the watch at the time. Canine teams should not be assigned to handle matters that will take them out of service for extended periods of time unless absolutely necessary and only with the approval of the Watch Commander.

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

318.3.1 REQUEST FOR ASSISTANCE FROM OTHER AGENCIES

(a) The Watch Commander or a Canine Coordinator must approve all requests for canine assistance from outside agencies subject to the following provisions:

    1. Canine teams shall not be used beyond the boundaries of the District to perform any assignment which is not consistent with this policy.

    2. Upon arrival at the scene, the handler has the ultimate decision as to whether or not the canine is to be used for a specific assignment.

    3. Canine teams shall not be called-out while off-duty or used outside the boundaries of the District unless authorized by the Watch Commander or the Unit Coordinator.

(b) Canine teams may lend assistance to outside agencies in exigent circumstances without prior supervisor approval; however, approval shall be sought whenever time allows.

(c) Handlers will complete a police report whenever their canine is used to assist an outside agency.

318.3.2 REQUEST FOR PUBLIC DEMONSTRATIONS
Requests for public appearances and demonstrations, both in-house and outside the District, must be approved by the Canine Coordinator. Apprehension work will not be part of the demonstration without specific approval of the Canine Coordinator.

318.4 SELECTION OF CANINE HANDLERS
The following are the minimum qualifications for the assignment of canine handler:

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(a) The selection of canine handlers will be in accordance with the basic requirements published by POST. Handlers must have a minimum of three (3) years non-probationary police experience, including at least one (1) year of non-probationary experience as a BART police officer.

(b) The selection process for canine handlers will include a supervisory recommendation, personnel file review, canine compatibility evaluation, physical agility evaluation, and panel interview.

(c) Handler applicants must pass the following tests in order to be considered for the assignment:

1. Walk an on-lead police canine through a basic obedience routine after being instructed how to do so
2. Be shown how to take an on-lead bite and then receive an actual on-lead bite
3. Be shown how to take an off-lead bite and then receive an actual off-lead bite
4. Jog or run 500 yards in two minutes or less (not in uniform and without a canine)
5. Lift a muzzled canine from the ground to a raised platform (simulating trackway to platform distance) in 30 seconds or less

(d) Handlers must have a residence capable of housing the assigned canine with a properly fenced yard large enough to accommodate a kennel. Family members of canine handlers must be agreeable to having a police canine living at their residence.

(e) Handlers are required to have a personal vehicle suitable for safely and securely transporting the canine. The vehicle must have enough space for the canine to lie down and to stand up. When transporting a canine in the bed of a truck, handlers shall comply with 23117 of the California Vehicle Code.

(f) In addition to previously described personal vehicle requirements, TSA handlers should use the department provided transportation kennel, strapping system, and ventilation system when transporting a TSA canine in their personal vehicle.

(g) Because of the investment in training time required to maintain a competent and proficient canine, handlers will only be allowed to participate in one other special assignment.

(h) Canine handlers will normally be expected to commit to serve at least three (3) years in the canine program.

(i) A canine and/or handler may be removed from the program at any time if it is determined that such removal is in the best interest of the department.

(j) If the handler leaves the program in less than three (3) years, the department may re-assign the canine as it deems appropriate, including retraining the canine with a new handler.

(k) At the end of three (3) continuous years of service in the canine program, the handler may elect to remain in the program with the concurrence of the program coordinator, or resign

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from the canine program. If the handler resigns, the department has the option to have the canine evaluated and assigned to a new handler. If the canine is to be retired due to a physical impairment after three(3) years of service with the handler, the canine handler will be given first option to have ownership of the canine transferred to him/her for $1.00.

318.5 CANINE HANDLER RESPONSIBILITIES

(a) During routine patrol of stations and trains, police canines may be on or off leash, but must be under full control of the assigned handler at all times.

(b) Within police facility offices, handlers will maintain control of their canines. If the handler must be away for an extended period, he/she shall arrange necessary relief for the canine. Canines should not be left unattended. If left unattended the canine shall be secured.

(c) Police canines will not be directed or controlled by anyone other than their designated handler, except in circumstances where the handler has become incapacitated.

(d) Only canine handlers and personnel who volunteer to assist shall participate in any in-house training of department canines. Any in-house training of a department canine must be approved in advance by the canine coordinator(s) and documented. Volunteers must be approved in advance by the canine coordinator.

(e) Canine handlers will be responsible for instructing fellow police employees regarding appropriate use of police canines, conduct around canines, and related information, including:

1. Police personnel shall not engage in any horseplay or physical contact among themselves which might cause a canine to intervene.
2. Never stand between a canine and a suspect who is physically resisting or threatening to resist arrest
3. When a canine is engaging a suspect, stand back and wait for direction from the canine handler
4. When a canine is chasing a suspect, do not run between the two, stay motionless off to the side or follow behind the handler
5. When available, additional officers should take the responsibility of handcuffing suspects while canine handlers control their canines
6. Only with the handler's permission will a canine's name be called aloud or disclosed to the general public or news media
7. Do not touch canines without permission from the handler

(f) Canine handlers shall report for duty with all necessary canine equipment in their possession, including appropriate collars and leashes. Canines shall wear their police

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canine badge while on duty. Protection trained canines shall wear their issued ballistic vest when warranted.

(g) If a canine relieves itself or vomits in any public walkway or building or in an area accessible to District employees, the handler shall make reasonable efforts to clean the soiled area. The handler will then notify BART System Service or the appropriate janitorial service for sanitation of the incident location.

(h) Transporting prisoners and suspects inside a canine patrol vehicle should only be done in extreme circumstances when there are no other patrol vehicles available for the transport. Supervisory approval is required, and the canine must be securely separated from the suspect.

(i) Witnesses, victims and other involved parties may be transported inside a canine patrol vehicle, with the handler's concurrence, as long as the canine is securely separated from the passenger area.

318.5.1 AVAILABILITY

Departmental canines shall not be bred.

318.5.2 CARE FOR THE CANINE AND EQUIPMENT

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

(a) Unless required by a particular application, the handler shall not expose the canine to any foreseeable and unreasonable risk of harm.

(b) The handler shall maintain all department equipment under his/her control in a clean and serviceable condition.

(c) Handlers shall permit the Unit Coordinator to conduct spontaneous on-site inspections of affected areas of their residence as well as the canine vehicle, to verify that conditions and equipment conform to this policy.

(d) Any changes in the living status of the handler that may affect the lodging or environment of the canine shall be reported to the Unit Coordinator as soon as possible.

(e) When off-duty, canines shall be maintained in kennels, provided by the District, at the homes of their handlers. When a canine is kenneled at the handler's home, the gate shall be secured with a lock. Handlers shall be responsible for keeping their canine's kennel clean and sanitary. Fresh water and shade shall be available to the canine at all times. When off-duty, canines may be let out of their kennels while under the direct control of their handlers.

(f) The canine should be permitted to socialize in the home with the handler's family for short periods of time and under the direct supervision of the handler.

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(g) Under no circumstances will the canine be lodged at another location unless approved by the Unit Coordinator or Watch Commander.

(h) Whenever a canine handler anticipates taking a vacation or an extended number of days off, it may be necessary to temporarily relocate the canine to an approved boarding facility.

(i) When off-duty, handlers shall not involve their canines in any activity or conduct unless approved in advance by the Unit Coordinator or Watch Commander.

(j) Only approved diets shall be fed to the canine. Diets are to be approved by either the department-designated veterinarian or contracted trainer.

(k) Canine handlers shall properly secure vehicles when canines are left unattended. Handlers shall ensure that the patrol car's canine-cooling system is operational whenever necessary; additionally, handlers shall check on their canines as needed.

(l) Any handler whose negligence causes illness, injury, or neglect to a canine is subject to disciplinary action, including removal from the unit.

318.5.3 HANDLER COMPENSATION

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

318.6 MEDICAL CARE OF THE CANINE

(a) Handlers will groom their canines daily and thoroughly examine the canine's physical condition. Any indication that the canine is not in good physical condition shall be immediately reported to the Canine Coordinator.

(b) Handlers shall be responsible for the proper medical care of his or her assigned canine. This shall include daily grooming, regular vaccinations, emergency care and any additional medical needs.

(c) The department, or TSA when applicable, will be responsible for all expenses associated with the medical care of an assigned canine.

(d) All veterinary care not of an emergency nature shall be approved through the canine coordinator. Routine veterinary care will be performed by the department-designated veterinary hospital.

(e) TSA handlers are required to have a medical examination completed on their canine every six months by a department approved veterinarian.

(f) When emergency veterinary care is necessary and the department-designated veterinarian is either not available or is not within reasonable proximity, the handler shall obtain necessary care through the most expedient means. At the completion of the emergency treatment, the handler must submit a memorandum and expense report to the canine coordinator upon returning to duty.

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318.7 TRAINING

(a) Before assignment in the field, each canine team shall be trained and certified to meet current POST standards.

(b) Canine teams cross-trained in explosives detection shall be certified to meet explosives detection standards as established by the department and our designated training vendor.

(c) TSA canine teams shall be trained and certified to meet the standards established by TSA.

318.7.1 CONTINUED TRAINING

Each canine team shall thereafter be recertified to current POST and departmental qualification standards on an annual basis. Additional training considerations are as follows:

(a) Canine teams shall receive training as defined in current contract with the department's canine training provider.

(b) Canine handlers are encouraged to engage in additional training with approval of the Unit Coordinator.

(c) In order to ensure that all training is consistent, no handler, trainer, or outside vendor is authorized to train to a standard that is contrary to the policies of the department.

(d) All canine training shall be conducted while on-duty unless otherwise approved by the Unit Coordinator or Watch Commander.

The below listed training is from the Department's training plan and either mandatory, essential or desirable. This is also located in the Departments Training Plan on the G/drive.

Mandatory for canine patrol officers - Basic Canine Course, all day maintenance training, officer safety / field tactics K-9 handler

Essential for canine patrol officers - Canine legal update, basic explosive detection.

The K-9 supervisor essential training - Officer safety/field tactics K-9 handlers, canine program management, TSA canine program supervisor/trainer seminar

Desirable - Canine legal update.

318.7.2 FAILURE TO SUCCESSFULLY COMPLETE POST TRAINING

Any canine team failing POST canine certification or departmental qualification standards shall not be deployed in the field until certification is achieved. When practical, pending successful certification, the canine handler shall be temporarily reassigned to regular patrol duties.

318.7.3 TRAINING RECORDS

(a) TSA handlers will receive training and evaluations per the TSA Standard Operating Practices and Procedures.

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(b) TSA canine teams shall adhere to all TSA regulations and guidelines. TSA canines shall not receive protection training.

(c) TSA handlers will follow TSA acclimation guidelines following their initial training.

(d) TSA handlers will maintain training records on the TSA website. The records shall be reviewed by the canine coordinator with the handler once a month.

(e) TSA canine teams must also be able to demonstrate proficiency in obedience and agility. The handler must be able to maintain control over the canine in various patrol conditions.

The below listed training is from the Department's Training Plan and is either mandatory, essential or desirable. This is also located in the Department's Training Plan on the G/drive.

Mandatory TSA canine training - TSA 10 week training course, TSA one week training course for experienced handlers with new K-9's, TSA canine re-certification course.

Essential TSA canine training - 240 minutes of actual sniff time per month.

318.7.4 CROSS-TRAINED CANINE TEAMS

(a) After completing their initial training, new handlers will participate in a two-week canine field-training program. An officer or sergeant with prior canine handling experience will work exclusively with the new canine team to ensure that the handler and canine are sufficiently skilled to work in the patrol environment. The field trainer will evaluate the team's performance, and submit a written evaluation to the canine coordinator.

(b) Canine handlers shall maintain accurate records of all training-related activity (e.g. maintenance training, trials, and public demonstrations). Training records will be reviewed and signed by the canine coordinator with the handler once a month. Training records shall be kept in the canine team's training file for the working life of the canine plus two years, after which they will be purged.

(c) Twice-monthly protection training with the contracted trainer is mandatory, unless excused by a canine coordinator or watch commander.

(d) All cross-trained canine teams should participate in explosive detection training for a minimum of two hours of every patrol shift that is worked. upon completion of the explosive detection training it should be documented daily in the canine folder in the department database.

318.7.5 EXPLOSIVES-DETECTION TRAINING AIDS

(a) TSA explosives-detection training aids shall be handled, stored and utilized as directed in the TSA Standard Practices and Procedures.

(b) Department explosives-detection training aids shall be utilized as follows:

1. Training aids must be signed in and out of the storage location.

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2. Handlers must maintain control and custody of explosive aids when checked out of storage.
3. Aids shall be returned prior to the end of the handler's shift.
4. Personnel must wear poly-gloves while handling training aids.

318.7.6 CANINE TRIALS

(a) Protection-trained canine teams should be assigned to compete in at least one annual canine trial.

(b) Handlers may participate in other canine trials with departmental approval.

(c) Memorandums/Training requests from handlers to compete in other canine trials are to be sent to the Canine Coordinator for consideration at least 30 days prior to the event.

318.8 CANINE UNIT COORDINATOR RESPONSIBILITIES

The Canine Coordinators shall be appointed by the Chief of Police and shall supervise the Canine Program. The Canine Coordinators are directly responsible to the Patrol Bureau Deputy Chief. The Canine Coordinators shall be responsible for, but not limited to, the following:

(a) Review all Canine Use Reports to insure compliance with policy and to identify training issues and other needs of the program

(b) Maintain liaison with the vendor kennel

(c) Maintain liaison with administrative staff and functional supervisors

(d) Maintain liaison with other agency canine coordinators

(e) Maintain accurate records to document canine activities

(f) Recommend and oversee the procurement of needed equipment and services for the unit

(g) Be responsible for scheduling all canine related activities

(h) Ensure the canine teams are scheduled for continuous training to maximize the capabilities of the teams

318.9 CONTROLLED SUBSTANCE TRAINING AIDS

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

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

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(a) To any duly authorized peace officer or civilian drug detection canine trainer working under the direction of a law enforcement agency

(b) Provided the controlled substances are no longer needed as criminal evidence

(c) Provided the person receiving the controlled substances, if required by the Drug Enforcement Administration, possesses a current and valid Drug Enforcement Administration registration that specifically authorizes the recipient to possess controlled substances while providing substance abuse training to law enforcement or the community or while providing canine drug detection training

318.9.1 IMMUNITY

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

318.10 EXPLOSIVE TRAINING AIDS

Explosive training aids are required to effectively train and maintain the skills of explosives detection dogs and can also provide effective training for law enforcement personnel and the public. Peace officers are permitted by law to possess, transport, store or use explosives or destructive devices while acting within the scope and course of employment (Penal Code § 12302). Explosive training aids designed specifically for K-9 teams should be used whenever feasible. Due to the safety concerns in the handling and transportation of explosives, inert or non-hazardous training aids should be employed whenever feasible. The use of explosives or destructive devices for training aids is subject to the following requirements:

(a) All explosive training aids, when not in use, shall be properly stored in a secure facility appropriate for the type of materials they contain.

(b) An inventory ledger shall be maintained to document the type and quantity of explosives training aids held by the Canine Unit.

(c) The Canine Coordinator shall be responsible to verify the explosives training aids on hand against the inventory ledger once each quarter.

(d) Only members of the Canine Unit shall have access to the explosives training aid storage facility.

(e) A primary and secondary custodian will be designated to minimize the possibility of loss of explosive training aids during and after the training. Generally, the handler will be designated as the primary custodian while the trainer or second person on scene will be designated as the secondary custodian.

(f) Any lost or damaged explosives training aid shall be promptly reported to the Unit Supervisor in writing who will determine if any further action will be necessary. Any loss of explosives will be reported to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).

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(g) All training aids will be transported in conditions consistent with all state and local requirements.

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Domestic Violence

320.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic violence through vigorous enforcement and to address domestic violence as a serious crime against society. The policy specifically addresses the commitment of this department to take enforcement action when appropriate, to provide assistance to victims and to guide officers in the investigation of domestic violence.

320.1.1 DEFINITIONS

Definitions related to this policy include:

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

320.2 POLICY

The Bay Area Rapid Transit Police Department's response to incidents of domestic violence and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is criminal behavior. It is also the policy of this department to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

320.3 OFFICER SAFETY

The investigation of domestic violence cases often places officers in emotionally charged and sometimes highly dangerous environments. No provision of this policy is intended to supersede the responsibility of all officers to exercise due caution and reasonable care in providing for the safety of any officers and parties involved.

320.4 INVESTIGATIONS

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

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

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

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

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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 Criminal Investigations Section in the event that the injuries later become visible.

(f) Officers should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.

(g) If the suspect is no longer at the scene, officers should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement and make an arrest or seek an arrest warrant if appropriate.

(h) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence. If the domestic violence involved threats of bodily harm, any firearm discovered in plain view or pursuant to consent or other lawful search must be taken into temporary custody (Penal Code § 18250).

(i) When completing an incident or arrest report for violation of a court order, officers should include specific information that establishes that the offender has been served, including the date the offender was served, the name of the agency that served the order and the provision of the order that the subject is alleged to have violated. When reasonably available, the arresting officer should attach a copy of the order to the incident or arrest report.

(j) Officers should take appropriate enforcement action when there is probable cause to believe an offense has occurred. Factors that should not be used as sole justification for declining to take enforcement action include:

1. Marital status of suspect and victim.
2. Whether the suspect lives on the premises with the victim.
3. Claims by the suspect that the victim provoked or perpetuated the violence.
4. The potential financial or child custody consequences of arrest.
5. The physical or emotional state of either party.
6. Use of drugs or alcohol by either party.
7. Denial that the abuse occurred where evidence indicates otherwise.
8. A request by the victim not to arrest the suspect.
9. Location of the incident (public/private).
10. Speculation that the complainant may not follow through with the prosecution.
11. The racial, cultural, social, professional position or sexual orientation of the victim or suspect.

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

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

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

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

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

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

1. Voluntary separation of the parties.
2. Appropriate resource referrals (e.g., counselors, friends, relatives, shelter homes, victim witness unit).

(b) Document the resolution in a report.

320.5 VICTIM ASSISTANCE
Victims may be traumatized or confused. Officers should:

(a) Recognize that a victim's behavior and actions may be affected.

(b) Provide the victim with the department's domestic violence information handout, even if the incident may not rise to the level of a crime.

(c) Alert the victim to any available victim advocates, shelters and community resources.

(d) Stand by for a reasonable amount of time when an involved person requests law enforcement assistance while removing essential items of personal property.

(e) Seek medical assistance as soon as practicable for the victim if he/she has sustained injury or complains of pain.

(f) Ask the victim whether he/she has a safe place to stay. Assist in arranging to transport the victim to an alternate shelter if the victim expresses a concern for his/her safety or if the officer determines that a need exists.

(g) Make reasonable efforts to ensure that children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.

(h) Seek or assist the victim in obtaining an emergency order if appropriate.

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

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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.

320.7 FOREIGN COURT ORDERS

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

320.8 VERIFICATION OF COURT ORDERS

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

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

(b) Check available records or databases that may show the status or conditions of the order.

(c) Contact the issuing court to verify the validity of the order.

(d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

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

320.9 LEGAL MANDATES AND RELEVANT LAWS

California law provides for the following:

320.9.1 STANDARDS FOR ARRESTS

Officers investigating a domestic violence report should consider the following:

(a) An arrest should be made when there is probable cause to believe that a felony or misdemeanor domestic violence offense has been committed (Penal Code § 13701). Any decision to not arrest an adult when there is reasonable cause to do so requires supervisor approval.

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1. Officers are only authorized to make an arrest without a warrant for a misdemeanor domestic violence offense if the officer makes the arrest as soon as probable cause arises (Penal Code § 836).

(b) An officer responding to a domestic violence call who cannot not make an arrest will advise the victim of his/her right to make a private person's arrest. The advisement should be made out of the presence of the suspect and shall include advising the victim how to safely execute the arrest. Officers shall not dissuade victims from making a lawful private person's arrest. Officers should refer to the provisions in the Private Persons Arrests Policy for options regarding the disposition of private person's arrests (Penal Code § 836(b)).

(c) Officers shall not cite and release a person for the following offenses (Penal Code § 853.6(a)(3)):

1. Penal Code § 243(e)(1) (battery against spouse, cohabitant)
2. Penal Code § 273.5 (corporal injury on spouse, cohabitant, fiancé/fiancée, person of a previous dating or engagement relationship, mother/father of the offender's child)
3. Penal Code § 273.6 (violation of protective order) if violence or threats of violence have occurred or the suspect has gone to the workplace or residence of the protected party
4. Penal Code § 646.9 (stalking)
5. Other serious or violent felonies specified in Penal Code § 1270.1

(d) In responding to domestic violence incidents, including mutual protective order violations, officers should generally be reluctant to make dual arrests. Officers shall make reasonable efforts to identify the dominant aggressor in any incident. The dominant aggressor is the person who has been determined to be the most significant, rather than the first, aggressor (Penal Code § 13701). In identifying the dominant aggressor, an officer shall consider:

1. The intent of the law to protect victims of domestic violence from continuing abuse.
2. The threats creating fear of physical injury.
3. The history of domestic violence between the persons involved.
4. Whether either person acted in self-defense.

(e) An arrest shall be made when there is probable cause to believe that a violation of a domestic violence court order has been committed (Penal Code § 13701; Penal Code § 836), regardless of whether the offense was committed in the officer's presence. After arrest, the officer shall confirm that a copy of the order has been registered, unless the victim provides a copy (Penal Code § 836).

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320.9.2 COURT ORDERS

(a) An officer who obtains an emergency protective order from the court shall serve it on the restrained person if the person can be reasonably located, and shall provide the person protected or the person's parent/guardian with a copy of the order. The officer shall file a copy with the court as soon as practicable and shall have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice (Family Code § 6271; Penal Code § 646.91).

(b) At the request of the petitioner, an officer at the scene of a reported domestic violence incident shall serve a court order on a restrained person (Family Code § 6383; Penal Code § 13710).

(c) Any officer serving a protective order that indicates that the respondent possesses weapons or ammunition shall request that the firearm/ammunition be immediately surrendered (Family Code § 6389(c)(2)).

(d) During the service of a protective order any firearm discovered in plain view or pursuant to consent or other lawful search shall be taken into temporary custody (Penal Code § 18250).

320.9.3 PUBLIC ACCESS TO POLICY

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

320.9.4 REPORTS AND RECORDS

(a) A written report shall be completed on all incidents of domestic violence. All such reports should be documented on the appropriate form, which includes information and notations specific to domestic violence incidents as required by Penal Code § 13730.

(b) Reporting officers should provide the victim with the case number of the report. The case number may be placed in the space provided on the domestic violence victim information handout provided to the victim. If the case number is not immediately available, an explanation should be given regarding how the victim can obtain the information at a later time.

(c) Officers who seize any firearm or other deadly weapon in a domestic violence incident shall issue the individual possessing such weapon a receipt and notice of where the weapon may be recovered, along with the applicable time limit for recovery (Penal Code § 18250; Penal Code § 33800; Family Code § 6389(c)(2)).

320.9.5 RECORD-KEEPING AND DATA COLLECTION

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

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320.9.6 DECLARATION IN SUPPORT OF BAIL INCREASE

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

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Search and Seizure

322.1 PURPOSE AND SCOPE

Both the federal and state Constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides general guidelines for Bay Area Rapid Transit Police Department personnel to consider when dealing with search and seizure issues.

322.2 POLICY

It is the policy of the Bay Area Rapid Transit Police Department to respect the fundamental privacy rights of individuals. Members of this department will conduct searches in strict observance of the constitutional rights of persons being searched. All seizures by this department will comply with relevant federal and state law governing the seizure of persons and property.

In accordance with the Training Policy, the Department will provide relevant and current training to officers as guidance for the application of current law, local community standards and prosecutorial considerations regarding specific search and seizure situations, as appropriate.

322.3 SEARCHES

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

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

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

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

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

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

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322.3.1 DETENTIONS

A detention occurs whenever a reasonable person would believe he/she is not free to leave or otherwise disregard the police and go about his/her business. (Hodari D. (1991) 499 U.S. 621, 627-628; Bostick (1991) 501 U.S. 429, 434; Souza (1994) 9 Cal.4th 224, 229; Daugherty (1996) 50 Cal.App.4th 275, 283.) Such belief may result from physical restraint, unequivocal verbal commands, or words or conduct by you that clearly relate to the investigation of specific criminal acts. (Brueckner (1990) 223 Cal.App.3d 1500, 1505.)

For a detention to be valid, you must have reasonable suspicion that: (1) criminal activity may be afoot and (2) the person you are about to detain is connected with that possible criminal activity. (Wardlow (2000) 528 U.S. 119; Ornelas (1996) 517 U.S. 690, 695-696; Sokolow (1989) 490 U.S. 1, 7-8; Bennett (1998) 17 Cal.4th 373, 386.) A detention can never be based solely on a hunch, rumor, intuition, instinct or curiosity. (Wardlow (2000) 528 U.S. 119, 123-124; Tony C. (1978) 21 Cal.3d 888; Raybourn (1990) 218 Cal.App.3d 308.) You must have specific facts justifying your suspicion and you must be able to articulate those facts.

A suspect has no right to resist a lawful detention. (Lloyd (1989) 216 Cal.App.3d 1425, 1429.) You may use whatever physical force necessary to make him/her stop. (Johnson (1991) 231 Cal.App.3d 1, 12-13; Gregory S. (1980) 112 Cal.App.3d 764, 778.)

Generally speaking, you should avoid using force and/or physical restraints, such as handcuffs or guns, during a detention. These indications of custody may cause a court to view the detention as an arrest. The use of force, handcuffs, etc., does not necessarily turn a detention into an arrest. The courts will look at the totality of the circumstances and evaluate the intrusiveness of the detention.

Be extremely careful in moving a subject during a detention. Moving a subject may turn a detention into an unlawful arrest. You may move a detainee a short distance for your protection (Courtney (1970) 11 Cal.App.3d 1185--crowd gathering), or to avoid embarrassment to the suspect (Rosenberg (5th Cir. 1972) 458 F.2d 1183--public place), but requiring the subject to accompany you to another location is only permitted under certain circumstances. These exceptions include: when there is probable cause to arrest, when the subject consents, when the victim cannot be moved, or if moving the subject is the best or only practical alternative (e.g., no other officers available). (Harris (1975) 15 Cal.3d 384; Rafael (1982) 132 Cal.App.3d 977; Gatch (1976) 56 Cal.App.3d 505.)

The time or the duration of a detention also needs to be considered. A detention is temporary and may last no longer than is necessary to resolve the circumstances that justified its initiation. There is no set time limit for a detention, the key is whether you took reasonable steps to confirm or deny your suspicions. (Sharpe (1985) 470 U.S. 675, 686-688.)

You are permitted to conduct a limited search of a detainee's outer clothing for weapons or objects that could be used as a weapon, only if you have specific facts indicating that the individual may pose a danger to you. (Terry (1968) 392 U.S. 1; Flippen (9th Cir. 1991) 924 F.2d 163, 166; Hill (1974) 12 Cal.3d 731.) "Standard procedure" isn't good enough. (Santos (1984) 154 Cal.App.3d 1178.) You must reasonably suspect that the person is armed or may be armed (Dickerson (1993)

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508 U.S. 366, 373; Limon (1993) 17 Cal.App.4th 524, 532), although you do not need to be positive ($109,179 (9th Cir. 2000) 228 F.3d 1080, 1086; Frank V. (1991) 233 Cal.App.3d 1232, 1240; Wright (1988) 206 Cal.App.3d 1107; Stephen L. (1984) 162 Cal.App.3d 257). Dealing with a suspected dangerous felon is by definition enough cause. Similarly, if you come across a container on the person being detained, you are entitled to seize and open it, as long as it is reasonable to believe that it is a weapon or contains a weapon. (Flippin (9th Cir. 1991) 924 F.2d 163, 166; Limon (1993) 17 Cal.App.4th 524, 535-536.)

If during a search for weapons, you discover an item of contraband which becomes immediately apparent to you, you may seize the item. You cannot conduct any additional feeling, grabbing or manipulating of the object in order to determine what it is. (Dickerson (1993) 508 U.S. 366.) This would be considered an illegal search.

322.3.2 ARRESTS

An arrest occurs when you take a person into custody. This requires either (1) that you physically restrain or at least touch the person, or (2) that he/she submits to your authority. (Pen. Code, § 835; Hodari D. (1991) 499 U.S. 621, 626; Turner (1994) 8 Cal.4th 137, 180.) Incident to a lawful, custodial arrest you are entitled to search the person you arrested incident to arrest. (Robinson (1973) 414 U.S. 218, 235.) Cite and release offenses are not included here because a cite and release offense does not qualify as a custodial arrest, even where you have the power to make such arrest. (Knowles (1998) 525 U.S. 113, 114-115; Arturo D. (2002) 27 Cal.4th 60, 75, fn. 15.)

A lawful, custodial arrest allows a full body search of the suspect, including any open or closed containers, involving any offenses from murder to outstanding traffic warrants. A search will be valid as incident to arrest only if the search was and arrest were carried out contemporaneously (i.e., same location at approximately the same time). (Rawlings (1980) 448 U.S. 98; Lennies H. (2005) 126 Cal.App.4th 1232; Gonzales (1989) 216 Cal.App.3d 1185; Fay (1986) 184 Cal.App.3d 882.)

You are also able to search, incident to arrest, the area within the immediate control of the suspect. (Robinson (1973) 414 U.S. 218, 235.) This generally means within arm's reach of the arrestee. (Chimel (1969) 395 U.S. 752.) You may also search any containers that are on his/her person or under his/her immediate control, such as a purse, fanny pack, or backpack. (Belton (1981) 453 U.S. 454; Dennis (1985) 172 Cal.App.3d 287; Rodriguez (9th Cir. 1989) 869 F.2d 479.)

322.3.3 SEARCHING FOR IDENTIFICATION

Normally, a search of a person being detained for identification is not permitted unless you have consent, probable cause to arrest, or other factors are present. For example, if a detainee admits to having identification on him/her but refuses to produce it, you may conduct a limited search for it (Calif. Peace Officers Legal Sourcebook, Search and Seizure-Persons, 2.14). Also, if a detainee verbally provided his/her name and states he/she has no identification, but you see what appears to be a wallet in a pocket, you may ask him/her to take it out and look through it while you observe. (Long (1987) 189 Cal.App.3d 77.) Additionally, if during a proper and legal search for weapons,

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you feel what appears to be a wallet, it would be proper to remove the wallet and look through it. (Loudermilk (1987) 195 Cal.App.3d 996.)

322.4 SEARCH PROTOCOL

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

(a) Members of this Department will conduct person searches with dignity and courtesy.

(b) Members of this Department will conduct property searches in a manner that returns the condition of the property to its pre-search status as nearly as reasonably practical.

(c) The officer will explain to the person being searched the reason for the search and how the officer will conduct the search.

(d) Members of this Department should attempt to gain keys to locked property when a search is anticipated, and the time and effort required to gain the keys makes it a practical option.

(e) When the person to be searched is of the opposite sex of the officer, an officer of the like sex should be summoned to the scene to conduct the search.

(f) However, in exigent circumstances exist or if officer safety reasons are readily apparent, a search may be undertaken of a member of the opposite sex when it is not practical to summon an officer of the like sex. In these instances the officers will adhere to the following guidelines:

1. A supervisor and/or other officer should witness the search, if practical.

2. Officers will use the back side of their hands and fingers to search sensitive areas of the opposite sex to include the breast, crotch and buttocks areas.

322.5 DOCUMENTATION

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

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

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

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322.6 VEHICLES

322.6.1 DETENTIONS

During a traffic stop or investigative vehicle detention, generally you may not conduct a full search either of the vehicle or its occupants. This is because the detention is based on reasonable suspicion and not probable cause to arrest or search. (Terry (1968) 392 U.S. 1; Orozco (1981) 114 Cal.App.3d 435.) There are two exceptions as follows:

(a) Limited search of the occupant(s) for weapons: You are permitted to conduct a limited search of any occupant for weapons or objects that could be used as a weapon, only if you have specific facts indicating that the individual may pose a danger to you (the rule for searching a driver or occupants does not change because the person(s) is in a vehicle - Calif. Peace Officer's Legal Sourcebook, 4.4a).

(b) Limited search of the vehicle for license and registration: During any vehicle stop, you are entitled to see and examine the driver's license and the vehicle's registration. (Arturo D. (2002) 27 Cal.4th 60; Webster (1991) 54 Cal.3d 411, 430; Hart (1999) 73 Cal.App.4th 852, 860.) If the driver, upon your request, fails to produce the necessary documentation, you have the right to conduct a limited search for the driver's license or identification and/or the vehicle registration. This search may include any area within the vehicle where such documentation reasonably may be expected to be found. (Arturo D. (2002) 27 Cal.4th 60.) This area would normally not include the trunk.

(c) Limited search of the vehicle for weapons: It is proper for you to enter a vehicle during a detention to conduct a limited, protective search for weapons in situations where the circumstances justify it. For example, a limited, protective search of the passenger compartment may be conducted in areas where a weapon could be placed or hidden if you believe, based on specific facts, that the suspect is dangerous and may gain immediate access to a weapon. (Long (1983) 463 U.S.1032; Lafitte (1989) 211 Cal.App.3d 1429; see also Molina (1994) 25 Cal.App.4th 1038, 1042.)

322.6.2 ARRESTS

When you make a lawful arrest of the driver or any occupant of a vehicle, you are entitled to search both the person you arrested and the passenger compartment of the vehicle incident to arrest. (Belton (1981) 453 U.S. 454; Stoffle (1991) 1 Cal.App.4th 1671.) Cite and release traffic offenses are not included here because a cite and release offense does not qualify as a custodial arrest, even where you have the power to make such arrest. (Knowles (1998) 525 U.S. 113, 114-115; Arturo D. (2002) 27 Cal.4th 60, 75, fn. 15.) A lawful custodial arrest allows a full body search of the driver, any occupant, or any recent occupant, including any containers. (Robinson (1973) 414 U.S. 218; Gustafson (1973) 414 U.S. 260.) If the arrest is of an occupant of a vehicle, you may search the passenger compartment, including the glove compartment, and any containers (Belton (1981) 453 U.S. 454; Banks (1990) 217 Cal.App.3d 1358, 1364), including those possessed by non-arrested occupants. (Mitchell (1995) 36 Cal.App.4th 672, 677; accord Prance (1991) 226

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Cal.App.3d 1525.) A search will be valid as incident to arrest only if the search was and arrest were carried out contemporaneously (i.e., same location at approximately the same time).

322.6.3 SEARCHES BASED ON PROBABLE CAUSE

You may conduct a warrantless search of any part of a vehicle that is being used on a public thoroughfare or which is reasonably capable of such use as long as you have probable cause to believe the object you are looking for may be located in that portion of the vehicle. This would include the glove compartment, under the hood, the locked trunk, or in any of the vehicle's contents, as long as what you are looking for might reasonably be located there. (Houghton (1999) 526 U.S. 295; Ross (1982) 456 U.S.798, 820-821; Acevedo (1991) 500 U.S. 565, 569-570, 580; Panah (2005) 35 Cal.4th 395, 469; Superior Court (Nasmeh) (2007) 151 Cal.App.4th 85, 100-101; Carpenter (1997) 15 Cal.4th 312, 365.) Additionally, any containers located in these areas may also be searched which may reasonably contain the object you are looking for. This automobile exception also applies to other vehicles, including motor homes, vans, bicycles, motorcycles, and houseboats.

322.6.4 PLAIN VIEW

Because an individual does not have an expectation of privacy as to items that are in plain view, no "search" has taken place in a constitutional sense when an object is viewed from a location where the officer has a right to be. An item in plain view may generally be seized when all of the following conditions exist: it was viewed from a lawful location; there is probable cause to believe that the item is linked to criminal activity; and, the location of the item can be legally accessed. It is important to note that the so-called "Nexus Rule" requires that even items in plain view must not be seized unless there is probable cause to believe that the item will aid in an investigation. Such a nexus should be included in any related reports.

322.6.5 EXIGENT CIRCUMSTANCES

Exigent circumstances permitting entry into premises without a warrant or valid consent generally include any of the following: imminent danger of injury or death, serious damage to property, imminent escape of a suspect, or, the destruction of evidence. An exigency created by the officer's own conduct as an excuse for a warrantless entry is not generally permitted.

322.7 CONSENT

Entry into a location for the purpose of conducting a search for any item reasonably believed relevant to any investigation is permitted once valid consent has been obtained. A search by consent is only valid if the following criteria are met:

- Voluntary (i.e., clear, specific, and unequivocal)
- Obtained from a person with authority to give the consent
- Does not exceed the scope of the consent given

Unless unusual circumstances would not otherwise prevent the use of the Department's Consent to Search form, officers should have the subject read the form, ensure he/she understands it,

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have the subject sign the form, and then provide him/her with a copy. If unusual circumstances prevent the use of the Consent to Search form, officers should describe such circumstances in related report(s). While there is no requirement that an individual be told of their right to refuse consent, such a warning and the use of the Consent to Search form provide strong support for the validity of any consent. Consent must be obtained as the product of a free will. It cannot be obtained through submission to authority, expressed or implied. A person with authority to consent to search should be present or otherwise in a position to communicate a withdrawal of consent should they so desire. Absent other legal justification, any related search should be discontinued at any point that consent is withdrawn.

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Warrants

323.1 PURPOSE AND SCOPE

To establish a procedure for the service and processing of all warrants as ordered by the courts of issuance and in accordance with applicable statutes and departmental policies.

323.2 POLICY

It shall be the policy of this Police Department to make a diligent effort to serve all warrants issued for BART-related offenses, as well as those brought to our attention through inquiry to AWS, NCIC, or other channels of communication within the law enforcement community. Pursuant to the guidelines set forth in 827.1 P.C., it shall be the policy of this department to issue citations, in lieu of booking, for most misdemeanor/infraction warrants.

323.3 DEFINITIONS

Arrest Warrant - An order of the court to a peace officer, directing the officer to arrest a person and bring him/her before a magistrate.

AWS - Automated Warrant System: Comprised of warrant data from all enforcement agencies within Alameda, San Francisco and San Mateo counties.

WPS - Wanted Persons System: Comprised of high misdemeanor and felony warrant data from law enforcement agencies within California. Only felony warrants and misdemeanor warrants with bail $1,000.00 or more from this agency shall be entered into WPS.

NCIC - National Crime and Information Center: Comprised of felony warrant data from law enforcement agencies within the United States and U.S. territories.

Time of Service - Felony warrants may be served at any time in any location. warrants for misdemeanors and infractions may be served any time in a public place and between 0700 and 2200 hours at a place of residence, unless authorized for night service by the issuing magistrate.

Select Traffic Warrants - Warrants issued for the following violations of the Vehicle Code: 10851 , 14601, 14601.1, 20002, 23152 , 23103 , 23104, 23109. Unlike non-select traffic warrants, select traffic warrants have no restrictions regarding the booking process.

Non-Select Traffic Warrant (40304.5 CVC) - Warrants issued for failure to appear on parking citations or traffic infractions not specified in the definition for Select Traffic Warrants and warrants issued for violation of local ordinances.

Local Warrant - A warrant issued by a court within the District as a result of BART Police action (includes warrants issued by Northern Judicial District, San Mateo County).

Foreign Warrant - A warrant issued by a court outside the District.

No-Bail Warrant - Posting of bail is not allowed; booking is mandatory.

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Ramey Warrant - An arrest warrant issued on probable cause authorizing an officer to arrest the subject named in the warrant inside his/her residence.

Search Warrant - An order in writing, in the name of the people, signed by a magistrate, directed to a peace officer, commanding him to search for personal property, and bring it before a magistrate.

Arrest Warrant Postcard - A postcard sent from the warrant clerk to notify a person that a BART arrest warrant is currently outstanding.

323.4 PROCEDURE

Due to varying procedures utilized by the courts and jails in the numerous jurisdictions that interface with the BART Police Department, the following procedures have been established:

(a) **Dispatch Warrant Files:**

1. The BART Police Department shall maintain a file for the purpose of holding all warrants awaiting service. It shall be the responsibility of the warrant clerk to promptly enter and remove material in order to maintain a current file.
2. Access to all warrant files located in BART Police Dispatch are restricted to the warrant clerk, warrant clerk's supervisor, dispatchers, dispatchers' supervisors, call takers, any police officer working his/her shift as a dispatcher, and others as authorized by the warrant supervisor.
3. Any warrant removed from the dispatch file shall not be refiled by any person other than the warrant clerk. Warrants removed with no action taken shall be placed in the warrant refile box for refiling by the warrant clerk. Dispatchers and Call-takers are reminded to check the warrant refile box when looking for a warrant.

(b) **Arrest Warrant Postcard:** It shall be the responsibility of the warrant clerk to send an arrest warrant postcard to all recipients of a BART Police misdemeanor/infraction warrant for the purpose of notification, due diligence, and to reduce the hours spent serving warrants at incorrect or non-existent addresses.

323.4.1 FIELD SERVICE OF ARREST WARRANTS

Upon receipt of information that a subject of inquiry has outstanding warrants, the officer shall determine the charge(s) and total bail if applicable.

The officer may exercise discretion in the service of warrants and consider the available alternatives, including:

(a) Foreign "non-select" traffic warrants where the aggregate bail of two or fewer warrants is under $200.00; release the subject after advising that he is still subject to arrest until bail is posted for the warrants.

1. Exception: All BART "non-select" traffic warrants shall be served regardless of dollar amount.

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(b) Issue a notice to appear pursuant to 818 P.C., 853.6 P.C., and 827.1 P.C.

1. Exception: Persons named in misdemeanor/infraction warrants will not be released on a citation if any of the following conditions exists:

(a) The warrant violation is for drunk driving;

(b) The recipient of the warrant has 3 or more failures to appear.

323.4.2 RESIDENTIAL SERVICE

(a) Patrol officers, at the direction of a sergeant, may assist the Special Operations and Investigations Bureau in the service of warrants. Warrants shall be served by patrol officers in accordance with procedures outlined herein. Warrant Service Cards containing all pertinent information will be used to effect service in the field.

(b) Run PIN check on subjects of all warrants prior to attempted service to determine if there are other outstanding warrants for the same persons.

(c) Record all attempts to serve the warrant on the reverse side of the Warrant Service Card in the area provided. This should include date and time of attempted contact, name(s) of person(s) contacted, summary of information received, and new address information if subject has moved.

(d) The officer shall check the face of the Warrant Service Card for special instructions as to time of service, mandatory appearance, and bail forfeiture. Some of the Warrant Service Cards may be marked "1029" to alert officers to possible hazardous conditions.

(e) On contacting the subject of the warrant, the officer shall obtain warrant verification through dispatch prior to service and arrest. When arrest and booking become necessary, dispatch shall forward a warrant abstract to the appropriate booking agency.

1. When the subject is booked, dispatch shall update the status of the warrant.

2. If the county issuing the warrant is different than the county in which the subject is arrested, an 821-822 PC statement form must be signed by the subject prior to transporting to the county of issuance.

(f) Upon collection of bail or issuance of a notice to appear, BART Police Dispatch shall update the status of the warrant in the appropriate automated system and affix the printout(s) to the warrant and place the warrant into the record box for processing by the warrant clerk.

(g) The officer shall immediately notify Dispatch of the disposition.

(h) The officer shall complete the face of the Warrant Service Card. In the event that no Warrant Service Card exists, the return of service on the original warrant shall be completed.

323.4.3 TWO OFFICER WARRANT SERVICE GUIDELINES

After receiving supervisory approval, an officer may be teamed with a second officer for the purpose of serving any warrant, under the following conditions:

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- All felony warrants.
- A potentially hazardous warrant violation and/or location.

323.4.4 PAROLE SEARCHES, RAMEY AND SEARCH WARRANTS

When conducting a parole search, serving a Ramey warrant, or search warrant, the following guidelines shall apply:

- A BART Police manager shall be present and responsible for coordinating and overseeing all activities at the scene of the above listed warrant and parole searches.
- It shall be the responsibility of the manager to notify the jurisdiction wherein the warrants will be served and/or the parole searches conducted.

323.4.5 WARRANT SERVICE BY OUTSIDE AGENCIES

Outside agencies shall be assisted in the service of BART warrants according to the following:

(a) BART Police Dispatch shall forward abstracts on warrants when requested by outside agencies. Warrant verification shall not be sent if the original warrant cannot be located.

  1. Warrant abstracts shall be sent immediately to any agency within the AWS System.
  2. If the warrant status has not been changed within twenty-four hours of sending the abstract, Dispatch shall contact the agency who requested the abstract to determine the status. If the warrant has not been served, it shall be returned to the warrant refile box for return to the active file. If the warrant has been served, Dispatch shall request the serving agency to make the update. If the agency is located outside the PIN area, Dispatch shall request a teletype.

(b) Dispatch shall attach the update to the warrant and place the warrant and all related material in the records box for processing by the warrant clerk.

(c) When the subject is in custody and is unable to post bail and must be transported to a local jail or other detention facility by our department, notify the Watch Commander to arrange for transportation.

323.4.6 BOOKING AND TRANSPORTING

The booking/transporting officer shall:

(a) Obtain a copy of the pick-up request from Dispatch.

(b) Confirm with the holding agency that the defendant will still be in custody upon your arrival.

(c) Advise the holding agency of your ETA.

(d) Confirm with the holding agency that the defendant has signed the 821 and 822 PC statement form authorizing inter-county transportation.

(e) After the transporting officer advises that he/she has picked up the prisoner, Dispatch shall send a warrant abstract to the facility to which the prisoner is being transported.

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(f) Request a computer generated report on the transportation assignment. NOTE: Under Sections 821 and 822 PC, the subject must be taken before the magistrate who issued the warrant within five (5) days of notification that the subject is ready for pick-up. Dispatch shall forward the original pick-up request to the Traffic/Warrant Clerk, along with the advisory note, setting out the date and time of the prisoner pick-up.

(g) Dispatch shall update WPS and NCIC Systems when applicable.

(h) When the subject is in custody outside the local AWS area and is unable to post bail and must be transported to a holding facility in another jurisdiction pending arraignment, notification shall be made to the Operations Deputy Chief. The Operations Bureau Deputy Chief will then make the necessary arrangement to either return the subject to the Bay Area or secure the subject's release as may be appropriate. Notification shall have been deemed to have been made when Dispatch forwards the original pick-up request to the Operations Bureau Deputy Chief and the on-duty watch commander.

323.4.7 OUT-OF-STATE WARRANT BOOKING (S) AT THE SAN FRANCISCO JAIL
In order for the San Francisco Police Department's Fugitive Unit to meet its responsibilities when an arrestee is booked by this department on an out-of-state warrant, the following procedures shall be followed to enable proper follow-up on the warrant.

(a) When Dispatch is in contact with the agency holding the warrant, request agency to send a confirmation TT to SFPD Warrants (XTWO) as well as to this agency.

(b) If the agency holding the warrant refused to send the second TT to SFPD Warrants, Dispatch shall send a TT to SFPD Warrants (XTWO) containing the suspect and warrant information plus the fact that this agency has booked the fugitive at the San Francisco jail.

(c) The booking officer shall respond to the Central Warrant Bureau, Room 460 at SFPD, obtain the above mentioned TT, and attach same to the booking paperwork.

323.5 OFFICE SERVICE

323.5.1 WEEKDAY BUSINESS HOURS
Individuals who voluntarily appear at the Police Department wishing to post bail in person should be referred directly to the Warrant Clerk or Traffic Officer. If the Clerk or Officer is unavailable, the following steps shall apply:

323.5.2 WEEKEND/WEEKDAY AFTER BUSINESS HOURS
In the absence of either the Warrant Clerk or Traffic Officer, the records supervisor shall accept bail from those individuals who appear in person at the Police Department.

The department receipt book shall be utilized for issuance of a receipt for all bails posted. Each receipt consists of a serialized original and two copies. The receipts are distributed as follows:

- Original: Attach with bail and warrant.
- Yellow: Give to defendant or person posting bail.

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- Pink: Dispose of.

A separate bail receipt shall be prepared for warrants issued out of different jurisdictions. When bail is collected on other than a BART warrant, attach the bail and receipt to the abstract available in Dispatch.

323.5.3 BAIL RECEIPTS
Bail receipts shall be completed as follows:

- Bail: Check box.
- Amount: Amount of bail monies.
- Date: Date monies received.
- For: Defendant.
- Address/City: Defendant's address and city of residence.
- Received From: Name of person posting bail if other than defendant.
- Address/City: Address and city of residence of person posting bail.
- Charge: Quote violations listed on face of warrant.
- Warrant/ Report No.: Quote warrant and/or docket number.
- Judicial District: Insert name of court where warrant emanated from.
- Issuing Magistrate: Insert name of judge who signed the warrant.
- Payment Received: Check appropriate box, either cash or other. If payment received by money order, insert the money order number over the line designated "other." Money orders shall be written to the appropriate court. Record the warrant number on the money order. Personal checks shall not be accepted for warrants issued out of the Oakland-Piedmont Judicial District.
- Surety Bond: Disregard this line. DO NOT issue receipt on a Surety Bond. The bond acts as a receipt.
- Treasury Bond: Disregard this line. Treasury Bonds are not to be accepted for bail.
- Disposition: As appropriate, check "Will Appear" or "Forfeit." NOTE: If warrant states that appearance of the defendant is mandatory, or if defendant is released on a notice to appear, a court date shall be set and the defendant shall be instructed to appear at the date, time and place stated on the warrant. Appearance information can be taken from the face of the warrant, except Oakland, which is available through Dispatch. Warrants which do not specifically state that bail may be forfeited shall be considered as a mandatory appearance warrant and court date shall be set.
- Time: Insert time of appearance.

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- Date: Insert date of appearance. NOTE: Officer sets date as dictated by court, not for convenience of defendant.
- Court: Insert court name and department number (indicated on warrant).
- Address: Insert street address of court.
- City: Insert name of city where court is located.
- Received By: Insert name of police employee receiving bail.

323.5.4 DISPOSITION OF RECEIPTS, MONIES, AND SERVED WARRANT(S)

(a) The officer's supervisor shall compare the bail(s) collected by the officer, and the original receipt(s) attached to those monies.

(b) The warrant, bail and original receipts shall be placed in an envelope, clearly marked "Warrant Bail Money", sealed and deposited in evidence Locker #1 by the officer who collected same.

(c) All discrepancies between receipts and bails that are not immediately resolved are to be reported via memo to the Chief of Police, via the chain of command. Unresolved discrepancies shall be cause for disciplinary action.

(d) Citations issued at Lake Merritt in lieu of physical arrest or bail collection shall be attached to the warrant, abstract, or verification, placed in an envelope, clearly marked "Warrant Citation" and deposited in the Citation File Box located in the squad room. No receipt shall be issued when defendant is released on an NTA.

(e) The officer shall complete a brief police report entitled "Warrant Service."

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Temporary Custody of Juveniles

324.1 PURPOSE AND SCOPE

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

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

324.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

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

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

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

Examples of secure custody include:

(a) A juvenile left alone in an unlocked room within the secure perimeter of the adult temporary holding area.

(b) A juvenile handcuffed to a rail.

(c) A juvenile placed in a room that contains doors with delayed egress devices that have a delay of more than 30 seconds.

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(d) A juvenile being processed in a secure booking area when an unsecure booking area is available.

(e) A juvenile left alone in a secure booking area after being photographed and fingerprinted.

(f) A juvenile placed in a cell within the adult temporary holding area, whether or not the cell door is locked.

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

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

324.2 POLICY

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

324.3 JUVENILES WHO SHOULD NOT BE HELD

Juveniles who exhibit any of the following conditions should not be held at the Bay Area Rapid Transit Police Department:

(a) Unconscious

(b) Seriously injured

(c) A known suicide risk or obviously severely emotionally disturbed

(d) Significantly intoxicated except when approved by the Watch Commander. A medical clearance shall be obtained for minors who are under the influence of drugs, alcohol or any other intoxicating substance to the extent that they are unable to care for themselves (15 CCR 1151).

(e) Extremely violent or continuously violent

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

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

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

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

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

324.4 CUSTODY OF JUVENILES

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

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

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

324.4.1 CUSTODY OF JUVENILE NON-OFFENDERS
Non-offenders taken into protective custody in compliance with the Child Abuse Policy should generally not be held at the Bay Area Rapid Transit Police Department. Custodial arrangements should be made for non-offenders as soon as reasonably possible. Juvenile non-offenders shall not be held in secure custody (42 USC § 5633; Welfare and Institutions Code § 206).

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

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324.4.3 CUSTODY OF JUVENILE OFFENDERS

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

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

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

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

In all other cases the juvenile offender may be:

(a) Released upon warning or citation.

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

(c) Referred to a probation officer for a decision regarding whether to transport the juvenile offender to a juvenile facility.

(d) Transported to his/her home or to the place where the juvenile offender was taken into custody (Welfare and Institutions Code § 207.2).

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

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

324.5 ADVISEMENTS

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

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

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

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

324.5.1 TRUANCY REDUCTION INTERVENTION PROGRAM (T.R.I.P.)

Students should normally be in class by 0900 hours. Detentions for truancy should occur between 0930 to 1400 hours. A call to the school can verify the student's class schedule.

Officers contacting truant students should request dispatch to do a PIN/NCIC check. In Alameda County, a check of JUVIS may be appropriate. Record checks from any other county are available via telephone to any officer who desires that information.

Middle/Junior or Senior high school students should be asked their counselor's name. When contacting the school, asking if such a counselor is on the staff there may expedite the locating of the student's correct school, or reveal that the child is giving you false information.

Unless otherwise indicated, officers should deliver the student to the school's main office and release the juvenile to the Principal, Vice'"Principal, Assistant Principal, or Dean. Officers delivering a student to a school or school district facility without incident shall complete a police report.

Officers shall complete a police report on any child found not to be currently enrolled in any school. The report may be forwarded to the appropriate school district attendance office or District Attorney. A child who is not enrolled in any school should be released to a parent or responsible relative whenever possible.

Officers who find that a juvenile in question is on probation should attempt to contact the juvenile's probation officer prior to releasing the juvenile. The juvenile's truancy may be a probation violation, and the probation officer may request that the minor be admitted to Juvenile Hall for the probation violation. In the event a Juvenile Hall admission, a police report is required.

When a police report is required, it should be done on a CR-1 report form as: 48200 Education Code - Truancy. The victim is the school district from which the juvenile is absent.

Officers should attempt to notify the child's parent(s) of the detention. Any juvenile detained for a crime committed during school hours should not be released except to a parent or guardian, school, school district, or the Probation Department (Juvenile Hall) unless the arresting officer is advised otherwise by a supervisor.

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324.6 JUVENILE CUSTODY LOGS

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

(a) Identifying information about the juvenile being held.

(b) Date and time of arrival and release from the Bay Area Rapid Transit Police Department (15 CCR 1150).

(c) Watch Commander notification and approval to temporarily hold the juvenile.

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

(e) Any changes in status.

(f) Time of all safety checks.

(g) Any medical and other screening requested and completed (15 CCR 1142).

(h) Circumstances that justify any secure custody (Welfare and Institutions Code § 207.1(d); 15 CCR 1145).

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

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

324.7 NO-CONTACT REQUIREMENTS

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

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

324.8 TEMPORARY CUSTODY REQUIREMENTS

Members and supervisors assigned to monitor or process any juvenile at the Bay Area Rapid Transit Police Department shall ensure the following:

(a) The Watch Commander should be notified if it is anticipated that a juvenile may need to remain at the Bay Area Rapid Transit Police Department more than four hours. This will

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enable the Watch Commander to ensure no juvenile is held at the Bay Area Rapid Transit Police Department more than six hours.

(b) A staff member of the same sex shall supervise personal hygiene activities and care, such as changing clothing or using the restroom, without direct observation to allow for privacy.

(c) Personal safety checks and significant incidents/activities shall be noted on the log.

(d) There shall be no viewing devices, such as peep holes or mirrors, of which the juvenile is not aware. Therefore, an employee should inform a juvenile under his/her care that the juvenile will be monitored at all times, unless he/she is using the toilet. This does not apply to surreptitious and legally obtained recorded interrogations.

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

(f) Food shall be provided if a juvenile has not eaten within the past four hours or is otherwise in need of nourishment, including any special diet required for the health of the juvenile (15 CCR 1143).

(g) Juveniles shall have reasonable access to a drinking fountain or water (15 CCR 1143).

(h) Juveniles shall have reasonable opportunities to stand and stretch, particularly if handcuffed or restrained in any way.

(i) Juveniles shall have privacy during family, guardian and/or lawyer visits (15 CCR 1143).

(j) Juveniles shall be permitted to remain in their personal clothing unless the clothing is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody (15 CCR 1143).

(k) Blankets shall be provided as reasonably necessary (15 CCR 1143).

(l) Adequate shelter, heat, light and ventilation should be provided without compromising security or enabling escape.

(m) Juveniles shall have adequate furnishings, including suitable chairs or benches.

(n) Juveniles shall have the right to the same number of telephone calls as an adult in custody.

(o) No discipline may be administered to any juvenile, nor may juveniles be subjected to corporal or unusual punishment, humiliation or mental abuse (15 CCR 1142).

324.9 USE OF RESTRAINT DEVICES

Juvenile offenders may be handcuffed in accordance with the Handcuffing and Restraints Policy. A juvenile offender may be handcuffed at the Bay Area Rapid Transit Police Department when the juvenile presents a heightened risk. However, non-offenders and status offenders should not be handcuffed unless they are combative or threatening (15 CCR 1142).

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

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

324.10 PERSONAL PROPERTY

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

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

324.11 SECURE CUSTODY

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

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

(a) Age, maturity and delinquent history

(b) Severity of offense for which the juvenile was taken into custody

(c) The juvenile offender's behavior

(d) Availability of staff to provide adequate supervision or protection of the juvenile offender

(e) Age, type and number of other individuals in custody at the facility

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

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

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

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

324.11.1 LOCKED ENCLOSURES

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

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

(a) The juvenile shall constantly be monitored by an audio/video system during the entire custody.

(b) Juveniles shall have constant auditory access to department members (15 CCR 1147).

(c) Initial placement into and removal from a locked enclosure shall be logged (Welfare and Institutions Code § 207.1(d)).

(d) Unsceduled safety checks to provide for the health and welfare of the juvenile by a staff member, no less than once every 15 minutes, shall occur (Welfare and Institutions Code § 207.1(d); 15 CCR 1147; 15 CCR 1151).

    1. All safety checks shall be logged.

    2. The safety check should involve questioning the juvenile as to his/her well-being (sleeping juveniles or apparently sleeping juveniles should be awakened).

    3. Requests or concerns of the juvenile should be logged.

(e) Males and females shall not be placed in the same locked room (15 CCR 1147).

(f) Juvenile offenders should be separated according to severity of the crime (e.g., felony or misdemeanor).

(g) Restrained juveniles shall not be mixed in a cell or room with unrestrained juveniles.

324.12 SUICIDE ATTEMPT, DEATH OR SERIOUS INJURY OF A JUVENILE

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

(a) Immediate notification of the on-duty supervisor, Chief of Police and Criminal Investigations Section Bureau Supervisor.

(b) Notification of the parent, guardian or person standing in loco parentis, of the juvenile.

(c) Notification of the appropriate prosecutor.

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(d) Notification of the District attorney.

(e) Notification to the coroner.

(f) Notification of the juvenile court.

(g) In the case of a death, providing a report to the Attorney General under Government Code § 12525 within 10 calendar days of the death, and forwarding the same report to the Board of State and Community Corrections within the same time frame (15 CCR 1046).

(h) A medical and operational review of deaths and suicide attempts pursuant to 15 CCR 1046.

(i) Evidence preservation.

324.13 INTERVIEWING OR INTERROGATING JUVENILE SUSPECTS

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

324.14 FORMAL BOOKING

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

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

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

(a) The gravity of the offense

(b) The past record of the offender

(c) The age of the offender

324.15 RELEASE OF INFORMATION CONCERNING JUVENILES

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

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

Welfare and Institutions Code § 828 authorizes the release of certain information to other agencies. It shall be the responsibility of the Records Supervisor and the appropriate Criminal

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Investigations Section supervisors to ensure that personnel of those bureaus act within legal guidelines.

324.16 BOARD OF STATE AND COMMUNITY CORRECTIONS CERTIFICATION

The Patrol Operations Bureau Deputy Chief shall coordinate the procedures related to the custody of juveniles held at the Bay Area Rapid Transit Police Department and ensure any required certification is maintained (Welfare and Institution Code § 210.2).

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Adult Abuse

326.1 PURPOSE AND SCOPE

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

326.2 DEFINITIONS

Definitions related to this policy include:

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

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

326.3 MANDATORY NOTIFICATION

Members of the Bay Area Rapid Transit Police Department are mandated reporters.

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

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

326.3.1 RECORDS SECTION RESPONSIBILITY

The Records Bureau is responsible for the following:

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

(b) Retain the original elder/dependent abuse report with the initial case file.

326.4 OFFICER'S RESPONSE

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

326.4.1 INITIAL RESPONSE

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

326.4.2 STABILIZE THE SITUATION

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

(a) Attempt to identify the victim, suspect and witnesses as well as the roles and relationships of all parties. Parties should be interviewed separately when possible.

(b) Preserve the crime scene where evidence may be present. All persons should be removed from the scene until it has been photographed and processed. Any evidence that may change in appearance (e.g., injuries) should be photographed as soon as practicable.

(c) Assess and define the nature of the problem. Officers should assess the available information to determine the type of abuse that may have taken place or the potential for abuse in the future that may be eliminated by intervention.

(d) Make on-scene arrests when appropriate. Officers may arrest a person without a warrant when probable cause exists to believe that the person has committed an assault or battery, whether or not the assault or battery has in fact been committed, upon an adult to whom the suspect is related by blood or legal guardianship, provided the arrest is made at the time probable cause arises (Penal Code § 836).

If an arrest is not otherwise required by law, officers should consider the consequences that the immediate arrest of a sole supporting family caretaker might have on the victim. The decision to arrest should be based on the best interests and caretaking needs of the elderly or dependent adult victim. The present and future safety of the victim is of utmost importance.

326.4.3 SUPPORT PERSONNEL

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

- Patrol supervisor

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

326.4.4 EMERGENCY PROTECTIVE ORDERS

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

326.5 ADULT ABUSE REPORTING

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

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

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

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

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Discriminatory Harassment

328.1 PURPOSE AND SCOPE

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

328.2 POLICY

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

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

328.3 DISCRIMINATION PROHIBITED

328.3.1 DISCRIMINATION

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

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

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

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

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328.3.2 SEXUAL HARASSMENT

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

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

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of employment, position or compensation.

(b) Submission to, or rejection of, such conduct is used as the basis for any employment decisions affecting the member.

(c) Such conduct has the purpose or effect of substantially interfering with a member's work performance or creating an intimidating, hostile, or offensive work environment.

328.3.3 ADDITIONAL CONSIDERATIONS

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

(a) Acts or omission of acts based solely upon bona fide occupational qualifications under Equal Employment Opportunity Commission and the Department of Fair Employment and Housing guidelines.

(b) Bona fide requests or demands by a supervisor that an employee improve his/her work quality or output, that the employee report to the job site on time, that the employee comply with District or department rules or regulations, or any other appropriate work-related communication between supervisor and employee.

328.4 RESPONSIBILITIES

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

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

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

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

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328.4.1 SUPERVISOR RESPONSIBILITY
Each supervisor and manager shall:

(a) Continually monitor the work environment and strive to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.

(b) Take prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment or retaliation.

(c) Ensure that their subordinates understand their responsibilities under this policy.

(d) Ensure that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.

(e) Notify the Chief of Police or Department Manager or Office of Civil Rights in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment or retaliation no later than the next business day.

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

(a) Behavior of supervisors and managers should represent the values of our Department and professional law enforcement standards.

(b) False or mistaken accusations of discrimination, harassment or retaliation can have negative effects on the careers of innocent members.

(c) Supervisors and managers must act promptly and responsibly in the resolution of such situations.

(d) Supervisors and managers shall make a timely determination regarding the substance of any allegation based upon all available facts.

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

328.5 INVESTIGATION OF COMPLAINTS

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

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328.5.1 SUPERVISORY RESOLUTION

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

328.5.2 FORMAL INVESTIGATION

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

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

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

Members who believe they have been discriminated against, harassed or retaliated against because of their protected status are encouraged to follow the chain of command but may also file a complaint directly with the Chief of Police, Office of Civil Rights, Human Resourses or the General Manager.

328.5.3 EQUAL OPPORTUNITY EMPLOYMENT COMPLAINTS

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

328.6 NOTIFICATION OF DISPOSITION

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

328.7 DOCUMENTATION OF COMPLAINTS

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

- Approved by the Chief of Police, the General Manager or the Department Manager, Human Resourses if more appropriate

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

328.8 TRAINING

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

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

328.8.1 QUESTIONS REGARDING DISCRIMINATION OR SEXUAL HARASSMENT

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

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Child Abuse Reporting

330.1 PURPOSE AND SCOPE

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

330.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

330.2 POLICY

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

330.3 MANDATORY NOTIFICATION

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

(a) There is a known or suspected instance of child abuse or neglect reported, which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or

(b) A person responsible for the child's welfare fails to adequately protect the child from abuse when the person knew or reasonably should have known that the child was in danger of abuse.

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

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

For purposes of notification, the abuse or neglect includes physical injury or death inflicted by other than accidental means upon a child by another person; sexual abuse (Penal Code § 11165.1); neglect (Penal Code § 11165.2); the willful harming or injuring of a child or the endangering of the

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person or health of a child (Penal Code § 11165.3); and unlawful corporal punishment or injury (Penal Code § 11165.4). Child abuse or neglect does not include a mutual affray between minors, nor does it include an injury caused by the reasonable and necessary force used by a peace officer acting within the course and scope of his/her employment as a peace officer.

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

(a) Notification shall be made immediately, or as soon as practicable, by telephone, fax or electronic transmission.

(b) A written follow-up report should be forwarded within 36 hours of receiving the information concerning the incident.

330.4 QUALIFIED INVESTIGATORS

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

(a) Conduct interviews in child appropriate interview facilities.

(b) Be familiar with forensic interview techniques specific to child abuse investigations.

(c) Present all cases of alleged child abuse to the prosecutor for review.

(d) Coordinate with other enforcement agencies, social service agencies and school administrators as needed.

(e) Provide referrals to therapy services, victim advocates, guardians and support for the child and family as appropriate.

(f) Participate in or coordinate with multidisciplinary investigative teams as applicable (Welfare and Institutions Code § 18961.7).

330.5 INVESTIGATIONS AND REPORTING

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

Investigations and reports related to suspected cases of child abuse should address, as applicable:

(a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected child abuse victim was contacted.

(b) The exigent circumstances that existed if officers interviewed the child victim without the presence of a parent or guardian.

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

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

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

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

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

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

(i) Previous addresses of the victim and suspect.

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

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

330.5.1 EXTRA JURISDICTIONAL REPORTS

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

330.6 PROTECTIVE CUSTODY

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

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

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

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

(a) The officer reasonably believes the child is a person described in Welfare and Institutions Code § 300, and further has good cause to believe that any of the following conditions exist:

1. The child has an immediate need for medical care.
2. The child is in immediate danger of physical or sexual abuse.
3. The physical environment or the fact that the child is left unattended poses an immediate threat to the child's health or safety. In the case of a child left unattended, the officer shall first attempt to locate and determine if a responsible parent or guardian is available and capable of assuming custody before taking the child into protective custody.

(b) The officer reasonably believes the child requires protective custody under the provisions of Penal Code § 279.6, in one of the following circumstances:

1. It reasonably appears to the officer that a person is likely to conceal the child, flee the jurisdiction with the child or, by flight or concealment, evade the authority of the court.
2. There is no lawful custodian available to take custody of the child.
3. There are conflicting custody orders or conflicting claims to custody and the parties cannot agree which party should take custody of the child.
4. The child is an abducted child.

(c) The child is in the company of, or under the control of, a person arrested for Penal Code § 278 or Penal Code § 278.5.

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

330.6.1 CALIFORNIA SAFELY SURRENDERED BABY LAW

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

330.7 INTERVIEWS

330.7.1 PRELIMINARY INTERVIEWS

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

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

330.7.2 DETAINING SUSPECTED CHILD ABUSE VICTIMS FOR AN INTERVIEW
An officer should not detain a child involuntarily who is suspected of being a victim of child abuse solely for the purpose of an interview or physical exam without the consent of a parent or guardian unless one of the following applies:

(a) Exigent circumstances exist, such as:

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

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

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

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

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

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

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330.9.1 SUPERVISOR RESPONSIBILITIES
The Criminal Investigations Section 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 Criminal Investigations Section supervisor that the officer has responded to a drug lab or other narcotics crime scene where a child is present or where evidence indicates that a child lives there.

(c) Develop a report format or checklist for use when officers respond to drug labs or other narcotics crime scenes. The checklist will help officers document the environmental, medical, social and other conditions that may affect the child.

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

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

(b) Notify the Criminal Investigations Section supervisor so an interagency response can begin.

330.10 STATE MANDATES AND OTHER RELEVANT LAWS
California requires or permits the following:

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

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

330.10.3 CACI HEARING OFFICER
The Criminal Investigations Section 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

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CACI. Upon receiving a qualified request for removal, the hearing officer shall promptly schedule a hearing to take place during normal business hours and provide written notification of the time and place of the hearing to the requesting party.

330.10.4 CACI HEARING PROCEDURES

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

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

(a) Case reports including any supplemental reports

(b) Statements by investigators

(c) Statements from representatives of the District Attorney's Office

(d) Statements by representatives of a child protective agency who may be familiar with the case

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

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

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

330.10.5 CHILD DEATH REVIEW TEAM

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

330.11 TRAINING

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

(a) Participating in multidisciplinary investigations, as appropriate.

(b) Conducting forensic interviews.

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

(d) Availability of specialized forensic medical exams.

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(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

332.1 PURPOSE AND SCOPE

This policy provides guidance for handling missing person investigations.

332.1.1 DEFINITIONS

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

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

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

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

332.2 POLICY

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

332.3 REQUIRED FORMS AND DNA COLLECTION KITS

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

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

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

332.4 ACCEPTANCE OF REPORTS

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

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

332.5 INITIAL INVESTIGATION

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

(a) Respond to a dispatched call for service as soon as practicable.

(b) Interview the reporting person and any witnesses to determine whether the person qualifies as a missing person and, if so, whether the person may be at risk.

(c) Notify a supervisor immediately if there is evidence that a missing person is either at risk or may qualify for a public alert, or both (see the Public Alerts Policy).

(d) Broadcast a #Be on the Look-Out# (BOLO) bulletin if the person is under 16 years of age or there is evidence that the missing person is at risk. The BOLO should be broadcast as soon as practicable but in no event more than one hour after determining the missing person is under 16 or may be at risk (Penal Code § 14205).

(e) Ensure that entries are made into the appropriate missing person networks as follows:

    1. Immediately, when the missing person is at risk.
    2. In all other cases, as soon as practicable, but not later than two hours from the time of the initial report.

(f) Complete the appropriate report forms accurately and completely and initiate a search as applicable under the facts.

(g) Collect and/or review the following:

    1. A photograph and a fingerprint card of the missing person, if available.
    2. A voluntarily provided biological sample of the missing person, if available (e.g., toothbrush, hairbrush).

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

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

(i) Contact the appropriate agency if the report relates to a previously made missing person report and another agency is actively investigating that report. When this is not practical, the information should be documented in an appropriate report for transmission to the appropriate agency. If the information relates to an at-risk missing person, the officer should notify a supervisor and proceed with reasonable steps to locate the missing person.

332.6 REPORT PROCEDURES AND ROUTING

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

332.6.1 SUPERVISOR RESPONSIBILITIES

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

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

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

332.6.2 RECORDS SECTION RESPONSIBILITIES

The receiving employee shall:

(a) As soon as reasonable under the circumstances, notify and forward a copy of the report to the law enforcement agency having jurisdiction over the missing person's residence in cases where the missing person is a resident of another jurisdiction (Penal Code § 14205).

(b) Notify and forward a copy of the report to the law enforcement agency in whose jurisdiction the missing person was last seen.

(c) Notify and forward a copy of the report to the law enforcement agency having jurisdiction over the missing person's intended or possible destination, if known (Penal Code § 14205).

(d) Forward a copy of the report to the Criminal Investigations Section.

332.7 CRIMINAL INVESTIGATIONS SECTION FOLLOW-UP

The investigator assigned to a missing person investigation:

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(a) Shall ensure that the missing person's school is notified within 10 days if the missing person is a juvenile.

1. The notice shall be in writing and should also include a photograph (Education Code § 49068.6).
2. The investigator should meet with school officials regarding the notice as appropriate to stress the importance of including the notice in the child's student file, along with contact information if the school receives a call requesting the transfer of the missing child's files to another school.

(b) Should recontact the reporting person and/or other witnesses within 30 days of the initial report and within 30 days thereafter to determine if any additional information has become available via the reporting party.

(c) Should consider contacting other agencies involved in the case to determine if any additional information is available.

(d) Shall verify and update CLETS, NCIC and any other applicable missing person networks within 60 days of the original entry into the networks and every 45 days thereafter until the missing person is located (42 USC § 5780).

(e) Should continue to make reasonable efforts to locate the missing person and document these efforts at least every 45 days.

(f) Shall maintain a close liaison with the National Center for Missing and Exploited Children® (NCMEC) if the missing person is under the age of 21 (42 USC § 5780).

(g) Should make appropriate inquiry with the coroner or medical examiner.

(h) Should obtain and forward medical records, photos, X-rays and biological samples pursuant to Penal Code § 14206 and Penal Code § 14250.

(i) Shall attempt to obtain the most recent photograph for persons under 18 years of age if it has not previously been obtained and forward the photograph to California DOJ (Penal Code § 14209).

(j) Should consider making appropriate entries and searches in the National Missing and Unidentified Persons System (NamUs).

332.8 WHEN A MISSING PERSON IS FOUND

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

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

(a) Notification is made to California DOJ.

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(b) The missing person's school is notified.

(c) Entries are made in the applicable missing person networks (Penal Code § 14207).

(d) When a child under 12 years of age or a person who is at risk is found, the report of finding shall be made within 24 hours to the California Attorney General's Office (Penal Code § 14207(b)).

(e) Notification shall be made to any other law enforcement agency that took the initial report or participated in the investigation (Penal Code § 14207(b)).

332.8.1 UNIDENTIFIED PERSONS

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

(a) Obtain a complete description of the person.

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

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

332.9 CASE CLOSURE

The Criminal Investigations Section supervisor may authorize the closure of a missing person case after considering the following:

(a) Closure is appropriate when the missing person is confirmed returned or evidence has matched an unidentified person or body.

(b) If the missing person was reported missing from BART or this department is the lead agency, the case should be kept under active investigation for as long as the person may still be alive. Exhaustion of leads in the investigation should not be a reason for closing a case.

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

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

332.10 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)

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3. Confirming missing status and custody status of minors
4. Evaluating the need for a heightened response
5. Identifying the zone of safety based on chronological age and developmental stage

(b) Briefing of department members at the scene.

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

(d) Verifying the accuracy of all descriptive information.

(e) Initiating a neighborhood investigation.

(f) Investigating any relevant recent family dynamics.

(g) Addressing conflicting information.

(h) Key investigative and coordination steps.

(i) Managing a missing person case.

(j) Additional resources and specialized services.

(k) Update procedures for case information and descriptions.

(l) Preserving scenes.

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

(n) Media relations.

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Public Alerts

334.1 PURPOSE AND SCOPE

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

334.2 POLICY

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

334.3 RESPONSIBILITIES

334.3.1 EMPLOYEE RESPONSIBILITIES

Employees of the Bay Area Rapid Transit Police Department should notify their supervisor, Watch Commander or Criminal Investigations Section Supervisor as soon as practicable upon learning of a situation where public notification, a warning or enlisting the help of the media and public could assist in locating a missing person, apprehending a dangerous person or gathering information.

334.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor apprised of the need for a public alert is responsible to make the appropriate notifications based upon the circumstances of each situation. The supervisor shall promptly notify the Chief of Police, the appropriate Bureau Commander and the Media and Public Affairs Manager 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 Bureau Commander

334.4 AMBER ALERTS

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

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334.4.1 CRITERIA FOR AMBER ALERT

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

(a) Abduction has been determined to have occurred.

(b) The victim is 17 years of age or younger, or has a proven mental or physical disability.

(c) The victim is in imminent danger of serious injury or death.

(d) There is information available that, if provided to the public, could assist in the child's safe recovery.

334.4.2 PROCEDURE FOR AMBER ALERT

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 Media and Public Affairs Manager 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

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2. National Center for Missing and Exploited Children (NCMEC)

334.5 BLUE ALERTS

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

334.5.1 CRITERIA FOR BLUE ALERTS

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

(a) A law enforcement officer has been killed, suffered serious bodily injury or has been assaulted with a deadly weapon, and the suspect has fled the scene of the offense.

(b) The investigating law enforcement agency has determined that the suspect poses an imminent threat to the public or other law enforcement personnel.

(c) A detailed description of the suspect's vehicle or license plate is available for broadcast.

(d) Public dissemination of available information may help avert further harm or accelerate apprehension of the suspect.

334.5.2 PROCEDURE FOR BLUE ALERT

The supervisor in charge should ensure the following:

(a) An initial press release is prepared that includes all available information that might aid in locating the suspect:

1. The license number and/or any other available description or photograph of the vehicle
2. Photograph, description and/or identification of the suspect
3. The suspect's identity, age and description, if known
4. Detail regarding location of incident, direction of travel, potential destinations, if known
5. Name and telephone number of the Media and Public Affairs Manager 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:

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1. Entry into the California Law Enforcement Telecommunication System (CLETS)
2. The FBI local office

334.6 SILVER ALERTS

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

334.6.1 CRITERIA FOR SILVER ALERTS

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

(a) The missing person is 65 years of age or older.

(b) The department has utilized all available local resources.

(c) The investigating officer or supervisor has determined that the person is missing under unexplained or suspicious circumstances.

(d) The investigating officer or supervisor believes that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of a potentially dangerous person, or that there are other factors indicating that the person may be in peril.

(e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

334.6.2 PROCEDURE FOR SILVER ALERT

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

334.7 MUTUAL AID

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

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

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

(a) Notify the Sheriff's Department Watch Commander of the incident and the request for assistance. He/she will provide you with a telephone number for the public to call.

(b) In the press release, direct the public to the telephone number provided by the Sheriff's Department Watch Commander.

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

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Victim and Witness Assistance

336.1 PURPOSE AND SCOPE

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

336.2 POLICY

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

336.3 CRIME VICTIM LIAISON

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

336.3.1 SPECIFIC VICTIM LIAISON DUTIES

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

336.4 CRIME VICTIMS

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

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

336.5 VICTIM INFORMATION

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

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

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(b) Community resources for victims of sexual assault.

(c) Assurance that sexual assault victims will not incur out-of-pocket expenses for forensic medical exams (42 USC § 3796gg; Penal Code § 13823.95(a)).

(d) An explanation that no victim of sexual assault shall be required to participate or agree to participate in the criminal justice system, either prior to examination or at any other time (Penal Code § 13823.95(b)).

(e) An advisement that a person who was arrested may be released on bond or some other form of release and that the victim should not rely upon an arrest as a guarantee of safety.

(f) A clear explanation of relevant court orders and how they can be obtained.

(g) Information regarding available compensation for qualifying victims of crime.

(h) VINE® information (Victim Information and Notification Everyday), including the telephone number and whether this free service is available to allow victims to check on an offender's custody status and to register for automatic notification when a person is released from jail.

(i) Notice regarding U-Visa and T-Visa application processes.

(j) Resources available for victims of identity theft.

(k) A place for the officer's name, badge number and any applicable case or incident number.

(l) Any additional information required by state law (Penal Code § 13701; Penal Code § 679.02; Penal Code § 679.05; Penal Code § 679.026).

336.6 WITNESSES

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

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

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Hate Crimes

338.1 PURPOSE AND SCOPE

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

338.2 DEFINITIONS

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

(a) Disability

(b) Sex

(c) Nationality

(d) Race or ethnicity

(e) Religion

(f) Sexual orientation

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

(h) Examples of hate crimes include, but are not limited to:

1. Interfering with, oppressing or threatening any other person in the free exercise or enjoyment of any right or privilege secured by the constitution or laws because of one or more of the actual or perceived characteristics of the victim (Penal Code § 422.6).
2. Defacing a person's property because of one or more of the actual or perceived characteristics of the victim (Penal Code § 422.6(b)).
3. Terrorizing a person with a swastika or burning cross (Penal Code § 11411).
4. Vandalizing a place of worship (Penal Code § 594.3).

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

338.3 PREVENTING AND PREPARING FOR LIKELY HATE CRIMES

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

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(a) Officers should make an affirmative effort to establish contact with persons and groups within the community, who are likely targets of hate crimes, to form and cooperate with prevention and response networks.

(b) Accessing assistance by, among other things, activating the California Department of Justice Hate Crime Rapid Response Protocol when necessary.

(c) Providing victim assistance and follow-up as outlined below, including community follow-up.

338.4 PROCEDURE FOR INVESTIGATING HATE CRIMES

Whenever any member of this department receives a report of a suspected hate crime or other activity that reasonably appears to involve a potential hate crime, the following should occur:

(a) Officer(s) will be promptly assigned to contact the victim, witness, or reporting party to investigate the matter further as circumstances may dictate

(b) A supervisor should be notified of the circumstances as soon as practical

(c) Once #in progress# aspects of any such situation have been stabilized (e.g., treatment of victims, apprehension of present suspects, etc.), the assigned officer(s) will take all reasonable steps to preserve available evidence that may tend to establish that a hate crime was involved

(d) The assigned officer(s) will interview available witnesses, victims and others to determine what circumstances, if any, indicate that the situation may involve a hate crime. No victim of or a witness to a hate crime who is not otherwise charged with or convicted of a crime under state law may be detained for or turned over to federal authorities exclusively for any actual or suspected immigration violation (Penal Code § 422.93(b))

(e) Depending on the situation, the assigned officer(s) or supervisor may request additional assistance from detectives or other resources to further the investigation

(f) The assigned officer(s) will include all available evidence indicating the likelihood of a hate crime in the relevant report(s). All related reports will be clearly marked as #Hate Crimes# and, absent prior approval of a supervisor, will be completed and submitted by the assigned officer(s) before the end of the shift

(g) The assigned officer(s) will provide the victim(s) of any suspected hate crime with a brochure on hate crimes (Penal Code § 422.92). Such brochures will also be available to members of the general public upon request. The assigned officer(s) should also make reasonable efforts to assist the victim(s) by providing available information on local assistance programs and organizations

(h) The assigned officer(s) and supervisor should take reasonable steps to ensure that any such situation does not escalate further (e.g., Possible Temporary Restraining Order through the District Attorney or General Counsel Penal Code § 136.2 or Civil Code § 52.1 as indicated).

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338.4.1 CRIMINAL INVESTIGATIONS SECTION RESPONSIBILITY

If a case is assigned to the Criminal Investigations Section, the assigned detective will be responsible for following up on the reported hate crime as follows:

(a) Coordinate further investigation with the District Attorney and other appropriate law enforcement agencies, as appropriate

(b) Maintain contact with the victim(s) and other involved individuals as needed

(c) Maintain statistical data on suspected hate crimes and tracking as indicated and report such data to the Attorney General upon request pursuant to Penal Code § 13023

338.5 TRAINING

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

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Conduct

340.1 PURPOSE AND SCOPE

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

340.2 DISCIPLINE POLICY

It shall be the policy of the department to adhere to the guidelines of the District's Progressive Discipline Model.

The intent of progressive discipline system is to hold employees accountable, and to correct and emphasize employees' responsibility for their behavior.

The continued employment of every employee of this department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure of any employee to meet the guidelines set forth in this policy, whether on-duty or off-duty, may be cause for disciplinary action.

An employee's off-duty conduct shall be governed by this policy to the extent that it is related to act(s) that may materially affect or arise from the employee's ability to perform official duties or to the extent that it may be indicative of unfitness for his/her position.

Any disciplinary action initiated by the department will comply with the district's progressive discipline model and any labor agreements then in effect. The level of disciplinary action taken will be determined by the seriousness of the employee conduct and previous performance by that employee. Before the issuance of formal discipline, members of the department's command staff may meet to discuss the matter and make a recommendation to the affected Bureau Deputy Chief or Chief of Police. The final determination will be made by the Chief of Police.

Supervisors are also expected to recognize and document the good performance of their employees. This may be done informally in a conversation with the employee, or more formally with written documentation, such as a written memorandum to the employee, which will be placed in the employee's personnel file. Other forms of positive recognition may include certificates of commendation and other awards.

340.3 INVESTIGATION OF DISCIPLINARY ALLEGATIONS

Regardless of the source of an allegation of misconduct, all such matters will be investigated in accordance with Personnel Complaint Procedure Policy Manual § 1020. Pursuant to Government Code §§ 3304(d) and 3508.1, the investigation should be completed within one year of the discovery of the allegation unless such investigation falls within one of the exceptions delineated within those provisions.

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340.3.1 INFORMAL PRE-DISCIPLINE

The informal steps of the progressive discipline system are as follows:

(a) Informal Counseling (first level of pre-descipline): When warranted, an informal counseling may be the first step of the process. It is an informal discussion between a supervisor and an employee about conduct, attendance or work performance. It is not documented and is pre-disciplinary.

(b) Letter of Discussion (second level of pre-discipline): A letter of discussion may be the next step of the process of the informal process. It is a written memorandum to the employee making the employee aware of the unacceptable behavior. A letter of discussion is pre-disciplinary, however, if the employee fails to correct the behavior, there will be cause to move to the next level of the process or to move to formal progressive discipline. An employee who may be issued a letter of discussion is entitled to appropriate representation.

    1. After the supervisor has discussed the performance or infraction with the employee, the Letter of Discussion memorandum should be presented to the employee for his or her signature. The supervisor shall give a copy of the Letter of Discussion to the employee, and the supervisor then forwards a copy to the Support Services Deputy Chief for placement into the employee's personnel file. The Letter of Discussion will remain in the employee's personnel file for a period of up to six (6) months from the date of issuance, at which time the Letter of Discussion will be purged from the employee's personnel file.

(c) Oral Counseling (third level of pre-discipline): An oral counseling may be the next step of the informal process. It is documented in a memorandum to the employee entitled "Oral Counseling." Prior to issuance, the supervisor should discuss the performance or infraction in detail with the employee. The purpose of the discussion is for the employee to be made aware of the unacceptable behavior. An employee who is covered by a collective bargaining agreement and who may be issued an Oral Counseling is entitled to appropriate association representation. An Oral Counseling is pre-disciplinary, however, if the employee fails to correct the behavior, there will be cause to move to progressive discipline. After the supervisor has discussed the performance or infraction with the employee, the Oral Counseling memorandum should be presented to the employee for his or her initials. The supervisor shall give a copy of the Oral Counseling to the employee, while the supervisor then forwards a copy to the Support Services Deputy Chief for placement into the employee's personnel file. The Oral Counseling will remain in the employee's personnel file for a period of up to one (1) year from the date of issuance, at which time the Oral Counseling will be purged from the employee's personnel file.

References to Letter (s) of Discussion/Oral Counseling (s) may be included in an employee's semi-annual performance evaluation if the informal pre-discipline was issued during the evaluation period. Later annual performance evaluations received by the employee shall not reference the letter of discussion or the oral counseling.

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340.3.2 FORMAL DISCIPLINE

If informal pre-discipline does not correct the conduct, attendance, work performance or the violation is of such a nature to warrant formal discipline, formal discipline may be warranted.

(a) The steps of formal discipline are:

1. First level: Written Reprimand- This step is kept in the employee's personnel file for up to two (2) years from date of issuance
2. Second level: Pay Step Reduction (up to six months)-This step is kept in the employee's personnel file for up to two (2) years from date of issuance
3. Third level: Suspension without pay (thirty (30) day maximum-This step is kept in the employee's personnel file for up to two (2) years
4. Fourth level: Demotion-kept in the employee's file for up to five (5) years

(b) Application:

1. A single occurrence may be serious enough to warrant formal disciplinary action.

(c) Removal of Discipline:

1. If there have been no re-occurrences at the end of the time frames listed above, the immediate supervisor shall meet with the employee and advise him/her that the progressive discipline has become inactive and has been removed from the employee's personnel files.
2. If an employee is unable to perform his/her assigned duties due to a non-industrial injury, leave of absence, or military leave occurring during the active period of the discipline, the deactivation date shall be extended for the total number of days the employee was unable to perform his/her assigned duties.
3. The Support Services Bureau removes the progressive discipline from the employee's departmental personnel file and also sends a memorandum to Human Resources instructing them to remove the discipline from the employee's District personnel file. A copy of this memorandum will also be sent directly to the employee.
4. References to formal discipline should be made in the employee's semi-annual performance evaluation, if the discipline was issued during the evaluation period. Material in the personnel file not more than twenty-four (24) months old may be utilized in progressive discipline and/or grievance proceedings.

340.3.3 TERMINATION

Termination is the final level of Progressive Discipline.

340.3.4 CRISIS SUSPENSION

A crisis suspension should be used when an employee's inappropriate behavior is so serious that immediate removal from the workplace is necessary. The employee may be placed on

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administrative leave, with pay, pending further investigation by supervisory personnel. The preliminary investigation should normally be conducted within twenty-four (24) hours of the incident. The employee will be informed by his/her immediate supervisor to report to the Support Services Deputy Chief at 10:00 hours on the next business day. The Chief of Police and the employee's zone Lieutenant or Bureau Deputy Chief must be notified as soon as appropriate on all crisis suspensions.

(a) Cause for Crisis Suspensions

1. Allegations or infractions serious enough to result in termination may result in a crisis suspension.

340.4 POST INVESTIGATION PROCEDURES

340.4.1 BUREAU COMMANDER RESPONSIBILITIES

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

The Bureau Deputy Chief may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

(a) Prior to forwarding recommendations to the Chief of Police, the Bureau Deputy Chief may return the entire investigation to the assigned detective or supervisor for further investigation or action

(b) When forwarding any written recommendation to the Chief of Police, the Bureau Deputy Chief shall include all relevant materials supporting the recommendation. Actual copies of an employee's existing personnel file need not be provided and may be incorporated by reference

340.4.2 RESPONSIBILITIES OF THE CHIEF OF POLICE

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials.

The Chief of Police may modify any recommendation and/or may return the file to the Bureau Deputy Chief for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any, to be imposed.

In the event disciplinary action is recommended, the Chief of Police shall provide the employee with written (Skelly) notice of the following information within one year of the date of the discovery of the alleged misconduct (absent an exception set forth in Government Code § 3304(d) or 3508.1):

(a) Specific charges set forth in separate counts, describing the conduct underlying each count.

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(b) A separate recommendation of proposed discipline for each charge.

(c) A statement that the employee has been provided with or given access to all of the materials considered by the Chief of Police in recommending the proposed discipline.

(d) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the Skelly notice.

1. Upon a showing of good cause by the employee, the Chief of Police may grant a reasonable extension of time for the employee to respond.

2. If the employee elects to respond orally, the presentation shall be recorded by the Department. Upon request, the employee shall be provided with a copy of the recording.

340.5 EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

(a) This Skelly response is not intended to be an adversarial or formal hearing.

(b) Although the employee may be represented by an uninvolved representative or legal counsel, the Skelly response is not designed to accommodate the presentation of testimony or witnesses.

(c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.

(d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results of such subsequent investigation prior to the imposition of any discipline.

(e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issue(s) of information raised in any subsequent materials.

(f) Once the employee has completed his/her Skelly response or, if the employee has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall thereafter render a timely written decision to the employee imposing, modifying or rejecting the recommended discipline. In the event of a termination, the final notice of discipline shall also inform the employee of the reason(s) for termination and the process to receive all remaining fringe and retirement benefits.

(g) Once the Chief of Police has issued a written decision, the discipline shall become effective

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340.6 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that an employee tenders a written retirement or resignation prior to the imposition of discipline, it shall be noted in the file.

The tender of a retirement or resignation by itself shall not serve as grounds for the termination of pending discipline.

340.7 POST SKELLY PROCEDURE

In situations resulting in the imposition of a suspension, punitive transfer, demotion, termination of a non-probationary employee, the employee shall have the right to an evidentiary appeal of the Chief of Police's imposition of discipline pursuant to the operative Memorandum of Understanding (MOU) and personnel rules.

340.8 DISCIPLINARY ACTION AGAINST PROBATIONARY EMPLOYEES

In the event that a probationary employee is terminated solely for unsatisfactory performance or the failure to meet department standards, the employee shall have no right to appeal and the following shall be considered:

(a) Termination of a probationary employee for such failure to pass probation shall be so reflected in the employee's personnel file

(b) In the event that a probationary employee is disciplined or terminated for misconduct, the employee shall only be entitled to appeal the decision in the same manner as set forth in the *Skelly* procedure as set forth above. This appeal process may be held prior to or within a reasonable time after the imposition of discipline

(c) At all times during any investigation of allegations of misconduct involving a probationary officer, such officer shall be afforded all procedural rights set forth in Government Code § 3303 and applicable Department policies

(d) A probationary employee's appeal of disciplinary action shall be limited to an opportunity for the employee to attempt to establish that the underlying allegations should not be sustained. Nothing in this policy or procedure, however, should be construed to establish any sort of property interest in or right to the employee's continuation of employment

(e) The burden of proof for any probationary employee's appeal of disciplinary action shall rest with the employee and will require proof by a preponderance of the evidence

(f) In the event that a probationary employee meets his or her burden of proof in such a disciplinary appeal, the Department shall remove all reference to the underlying allegations of misconduct from the employee's personnel file

(g) In the event that a probationary employee fails to meet his or her burden of proof in such a disciplinary appeal, the employee shall have no further right to appeal beyond the Chief of Police

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Department Computer Use

342.1 PURPOSE AND SCOPE

This policy describes the use of District computers, software, and systems.

342.1.1 PRIVACY POLICY

Any employee utilizing any computer, electronic storage device or media, Internet service, phone service, information conduit, system or other wireless service provided by or funded by the Department expressly acknowledges and agrees that the use of such service, whether for business or personal use, shall remove any expectation of privacy the employee, sender and recipient of any communication utilizing such service might otherwise have, including as to the content of any such communication. The Department also expressly reserves the right to access and audit any and all communications, including content that is sent, received and/or stored through the use of such service.

342.2 DEFINITIONS

The following definitions relate to terms used within this policy:

Computer System - Shall mean all computers (on-site and portable), hardware, software, and resources owned, leased, rented, or licensed by the Bay Area Rapid Transit Police Department, which are provided for official use by agency employees. This shall include all access to, and use of, Internet Service Providers (ISP) or other service providers provided by or through the agency or agency funding.

Hardware - Shall include, but is not limited to, computers, computer terminals, network equipment, modems or any other tangible computer device generally understood to comprise hardware.

Software - Shall include, but is not limited to, all computer programs and applications including "shareware." This does not include files created by the individual user.

Temporary File or **Permanent File** or **File -** Shall mean any electronic document, information or data residing or located, in whole or in part, whether temporarily or permanently, on the system, including but not limited to spreadsheets, calendar entries, appointments, tasks, notes, letters, reports or messages.

342.3 SYSTEM INSPECTION OR REVIEW

An employee's supervisor has the express authority to inspect or review the system, any and all temporary or permanent files and related electronic systems or devices, and any contents thereof when such inspection or review is in the ordinary course of his/her supervisory duties, or based on cause.

When requested by an employee's supervisor, or during the course of regular duties requiring such information, a member(s) of the agency's information systems staff may extract, download, or otherwise obtain any and all temporary or permanent files residing or located in or on the system.

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Reasons for inspection or review may include, but are not limited to system malfunctions, problems or general system failure, a lawsuit against the agency involving the employee, or related to the employee's duties, an alleged or suspected violation of a department policy, or a need to perform or provide a service when the employee is unavailable.

342.4 AGENCY PROPERTY

All information, data, documents, communications, and other entries initiated on, sent to or from, or accessed on any department computer, or through the department computer system on any other computer, whether downloaded or transferred from the original department computer, shall remain the exclusive property of the Department and shall not be available for personal or non-departmental use without the expressed authorization of an employee's supervisor.

342.5 UNAUTHORIZED USE OF SOFTWARE

Employees shall not copy or duplicate any copyrighted and/or licensed software except for a single copy for backup purposes. To reduce the risk of personal computer virus infection, employees are not permitted to install personal copies of any software onto the District's computers. If an employee must copy data onto a disk and download it on a non-District computer, the employee shall scan the disk for viruses before reloading the data on an District computer system.

No employee shall knowingly make, acquire, or use unauthorized copies of computer software not licensed to the District/department while on District property or on a District computer system. The District and individuals can be subject to civil damages of as much as $100,000 per title copied, along with criminal penalties including fines and imprisonment.

342.6 PROHIBITED AND INAPPROPRIATE USE

Internet use provided by the District is a privilege and shall be utilized in a responsible, efficient, ethical and legal manner. Incidental and occasional personal use of the Internet is permitted. Acceptable use of the Internet includes communications with other users and vendors, study and research in support of District or department projects, collaboration with others, and in support of other District activities.

Internet sites containing information that is not appropriate to District or departmental use and which shall not be intentionally accessed include, but are not limited to, adult forums, pornography, chat rooms and similar or related web sites. Certain exceptions may be permitted with the approval of a supervisor as a function of an assignment.

Downloaded information shall be limited to messages, mail, and data files. Internet users must respect the privacy of other users, the protection provided by copyright law and software licenses to computer programs and data, and the integrity of computing systems. Employees should not access the Internet and then leave their access unattended. Employees shall not interfere with or disrupt network users, services or equipment. Such interference or disruption includes, but is not limited to, propagation of computer viruses and/or using the internet to make unauthorized entry to other computational , information, or communications devices or resources.

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Failure to adhere to this policy may result in the revocation of privileges, possible disciplinary action, and if the use violates state or federal law, civil or criminal prosecution.

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

342.7 PROTECTION OF AGENCY SYSTEMS AND FILES

All employees have a duty to protect the system and related systems and devices from physical and environmental damage and are responsible for the correct use, operation, care, and maintenance of the system.

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

342.8 DISTRICT MANAGEMENT PROCEDURES

All employees should review the following BART Management Procedures regarding District computer use:

- Management Procedure 5 - District Computer Information Systems;
- Management Procedure 25 - Personal Computer (PC) Procedure;
- Management Procedure 40 - Internet Use Guidelines;
- Management Procedure 75 - Electronic Communications Guidelines.

Management Procedures can be located in WebBART.

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Report Preparation

344.1 PURPOSE AND SCOPE

Report preparation is a major part of each officer's job. The purpose of reports is to document sufficient information to refresh the officer's memory and to provide sufficient information for follow-up investigation and successful prosecution. Report writing is the subject of substantial formalized training and on-the-job training.

344.1.1 REPORT PREPARATION

It is the primary responsibility of the assigned officer to ensure that reports are fully prepared or that supervisory approval has been obtained to delay the report before going off duty. The preparing officer must determine whether the report will be available in time for appropriate action to be taken, such as follow-up on investigative leads or in cases where a suspect is in custody. In general, all in-custody reports should be completed and approved before the reporting officer goes off duty. Exceptions to this policy may only be made in unusual circumstances, and with supervisory approval. The following types of reports should be approved by a supervisor or command officer prior to the reporting officer going off-duty: use of force cases involving lethal or less lethal weapons; vehicle tows; forcible entries to AFC equipment or District facilities; and any report requiring notification of command level officers (incidents of media significance, incidents requiring investigative expertise, call-out of special units, extensive property loss or damage, or serious misdemeanor or felony cases involving department or District employees as suspects or victims). Officers should make every effort to complete **all** pending reports prior to beginning their regular days off.

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 repress, conceal or distort the facts of any reported incident, nor shall any employee make a false report orally or in writing.

344.2 REQUIRED REPORTING

Written reports are required in all of the following situations on the appropriate department approved form unless otherwise approved by a supervisor.

344.2.1 CRIMINAL ACTIVITY REPORTING

When an employee responds to a call for service, or as a result of self-initiated activity becomes aware of any activity where a crime has occurred, the employee is required to document the activity. The fact that a victim is not desirous of prosecution is not an exception to documenting a report. The following situations require the preparation of written crime reports:

(a) In every instance where a felony has occurred

(b) In every instance where a misdemeanor crime has occurred and the victim desires a report

(c) In every case where any force is used against any person by department personnel

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(d) All incidents involving domestic violence

(e) All arrests

(f) Outside traffic enforcement stops

(g) Citizens Arrests

(h) Detention of juveniles

(i) Warrant arrests or citations

344.2.2 NON-CRIMINAL ACTIVITY

The following incidents require the preparation of a written report:

(a) When an officer points a firearm at any person, or deploys a firearm, TASER or SIMS launcher in the presence of bystanders to defend, detain, or take any person into custody

(b) Reported missing persons (regardless of jurisdiction)

(c) Found contraband and found evidence

(d) All incidents involving the death of a human being (see Policy Manual § 360 Death Investigations)

(e) Traffic collisions above minimum reporting level (see Policy Manual § 502 Traffic Accident Reporting)

(f) Suspicious Persons or Circumstances where a CADS entry would not be sufficient to explain the incident

(g) Hazardous Material incidents where a CADS entry would not be sufficient to explain the incident

(h) Sick or injured person(s), employee or contractor transported from District property by ambulance to a medical facility. Illness or injuries not occurring on District property may be documented on a Field Interview Repo

344.2.3 DEATH CASES

Cases of obvious suicide must be investigated and completed by the officer. If the officer is unable to determine the manner of death, he/she shall proceed as though it is a homicide.

The on-call detective will be notified in all unattended death cases. Detectives may respond to the scene to assist the reporting officer with the investigation.

344.2.4 INJURY OR DAMAGE BY DISTRICT PERSONNEL

Reports shall be taken if an injury occurs that is a result of an act of a District employee. Additionally, reports shall be taken involving significant damage to District property or District equipment, as directed by a supervisor.

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344.2.5 MISCELLANEOUS INJURIES
Any injury that is reported to this department shall require a report when:

(a) The injury/illness is a result of drug overdose.

(b) Attempted suicide

(c) The injury or illness is major/serious, whereas death could result. Assigned personnel should conduct a follow up on the medical condition of the subject, and docum

(d) The circumstances surrounding the incident are suspicious in nature and it is desirable to record the event.

(e) The injury occurred on District property.

(f) An ambulance responds to District property for a medical reason. Injuries not occurring on District property may be documented on a Field Interview Report.

The above reporting requirements are not intended to be all-inclusive. A supervisor may direct an employee to document any incident he/she deems necessary.

344.2.6 MANDATORY REPORTING OF JUVENILE GUNSHOT INJURIES
A report shall be taken when any incident in which a child 18 years or younger suffered an unintentional or self-inflicted gunshot wound. The Records Section shall notify the California State Department of Health Services of the incident, including the nature of the injury, on a form provided by the state. Forms may be obtained from DHS Epidemiology and Prevention for Injury Control (EPIC) Branch, Tel: (910) 552-9849 (Penal Code § 23685).

344.2.7 MANDATORY REPORTING OF JUVENILE DETENTIONS
Welfare and Institutions Code section 210.2(b) requires the tracking of all juvenile detentions which occur in any police facilities that contain any secure or non-secure detention rooms. Officers will document juvenile detention information in their reports. This information will then be compiled by the Records Section and forwarded to the Board of Corrections.

344.3 GENERAL POLICY OF EXPEDITIOUS REPORTING
In general, all officers and supervisors shall act with promptness and efficiency in the preparation and processing of all reports. An incomplete report, unorganized reports or reports delayed without supervisory approval are not acceptable. Reports shall be prepared according to the severity of the crime/incident being documented, or according to special priority necessary under exceptional circumstances as directed by a supervisor.

344.3.1 GENERAL POLICY OF HANDWRITTEN REPORTS
Handwritten reports/forms should be legible and complete, with all pertinent boxes filled in or checked, as appropriate. If the report is not prepared legibly, the officer will be required to promptly correct the report. Employees should use block printing and complete reports in black ink, with the exception of CHP 555 & 556 Traffic Collision Reporting Forms, which may be completed in #2 pencil. Crime reports should not generally be handwritten. However, supervisors may require

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block printing or typing of reports if the situation requires it (e.g., the computerized report writing system is not working for an extended period of time).

344.4 REPORT CORRECTIONS

Supervisors shall review reports for content and accuracy. If a correction is necessary, the reviewing supervisor should promptly return the report to the author for correction, stating the reasons for rejection. The report should be resubmitted for approval as soon as practical. It shall be the responsibility of the originating officer to ensure that any report returned for correction is processed in a timely manner.

344.5 REPORT CHANGES OR ALTERATIONS

Reports that have been approved by a supervisor and submitted to the Records Section for filing and distribution should not be modified or altered except by way of a supplemental report. Reviewed reports that have not yet been submitted to the Records Section may be corrected or modified by the authoring officer only with the knowledge and authorization of the reviewing supervisor.

Approved reports that have been transmitted outside the department may only be unapproved under extraordinary circumstances, where the preparation of a supplemental report is not feasible, and with the approval of a command officer. An example of such a situation would be where the District Attorney determined that a party identified in the report qualified for confidentiality and that the original report must be retracted and the person's identity made confidential in order to protect the party.

344.6 CASE ASSIGNMENTS

Reports should be completed using the Alliance report writing system. An officer will receive an active case assignment in the Alliance system in order to document the following incidents:

- Felonies
- Misdemeanors (except 647(e) PC R & R)
- Cases involving death or serious bodily injury
- Train derailments/accidents
- Private Person (citizen's) arrests
- Detention of juveniles
- Warrant arrests/citations
- Outside traffic stops
- Suspicious person/circumstances where a person is detained and/or identified
- Any incident deemed appropriate by the officer or supervisor
- An ambulance responds to District property for a medical reason

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The following events may be cleared by a dispatch CADS entry without a written report:

- Infraction citation of an adult
- Traffic infraction (citation or R & R) where the violation occurred on BART property
- Infraction violation where the suspect is R & R'd
- 647(g) PC cases where the subject is taken to detox
- Sick persons where the illness is not attributable to the District
- 911 calls, hang-ups and call box alarms with no evidence of criminal activity, no one detained and there is no property damage or personal injury
- Reports of police radio problems (PRIP)
- Misplaced vehicles with no evidence of tampering
- Parking complaints with no property damage or personal injury
- Infraction violations where an unidentified suspect is gone on the officer's arrival
- Unsecured doors and gates to District facilities with no evidence of criminal activity
- Prisoner transports for warrants that are handled without incident
- Monthly emergency exit checks
- Miscellaneous service calls of a non-criminal nature that do not require follow-up, such as motorist/citizen assists and patron/fare disputes that do not result in the detention or identification of anyone by officers.

In order to document detentions of adults for infraction violations or on-property traffic stops where the suspect was R & R'd, and no case has been assigned to an officer, the officer should complete a Field Interview Card. The information from the card will be entered into the Citation module of the Alliance system by the assigned CSO, unless the reporting officer elects to enter the information himself/herself.

344.7 COMPUTERIZED REPORT USAGE AND COMPLETION GUIDELINES

344.7.1 COMPUTERIZED REPORT TYPES

The Alliance system provides the following types of reports:

CR-1 - This is the standard format for criminal and non-criminal reports. The following special police report templates within the CR-1 are formatted with additional input screens for information related to specific incidents:

- Domestic Violence
- Drug (Narcotic Influence Report)
- DUI

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- Missing Person
- Registrant (Sex Registrant Information)
- Traffic Collision

Supplemental - This report is used to document actions by officers who were not assigned the primary role in an incident. It should also be used to record the results of follow-up investigation and to document facts discovered after the primary report has been submitted.

Evidence Supplemental - This report is used to document evidence recovered during ongoing investigations, such as items recovered pursuant to a search warrant. It may also be used to document evidence items taken from the property clerk for court purposes, and then returned to evidence.

Beat Condition - This report is used to document conditions requiring repair or improvement, such as roadway or traffic hazards, placement of signage, etc...

Scanned Documents - This report is used to capture certain handwritten reports/forms in the Alliance system. Reporting officers should complete the Crimes/Location page, the Persons/ Vehicles page and the Management page only. Records personnel will scan the handwritten forms into Alliance in order to capture the other information contained on the forms.

Police Report Dispositions - In order to maintain accurate records of final dispositions of events and cases, it is imperative that the correct disposition is communicated between officers and dispatchers. When communicating via police radio or telephone with police dispatch, all police personnel will give the final disposition of their events and cases for data input. The final dispositions are:

- Arrest
- Able to care
- Assisted (non-criminal contacts)
- Cite
- Citizens arrest with cite
- 640B cites in San Mateo Co.
- Detox/MAP
- Field interview
- Handled between parties (minor injury traffic accident)
- Info only (used by dispatch for BOL type events)
- No merit
- Outside agency to handle
- Outside assist

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- Report (any written case report, excluding arrest)
- Secure (emergency exit checks)
- UTL/GOA
- Warning citation
- Cancel (used by dispatch when appropriate)

344.7.2 COMPLETING REPORTS IN ALLIANCE

(a) **Crimes & Locations page:**

1. In the "Summary" field, provide a very brief synopsis of the incident. Names, dates and other details are present in other locations on the Crime page, and do not need to be duplicated in the summary. The disposition of the case should be included in the summary. An example of a proper summary would be, "Suspect knocked victim to the ground and stole her laptop computer. Suspect located and positively identified. Victim sustained minor injuries. Suspect booked county jail."
2. In the "Report Type" field, a report is classified as an arrest if the suspect is booked or cited for a felony or misdemeanor violation. This includes warrant citations. A report is criminal if the suspect committed a violation of any criminal code, whether the suspect was located or not. A report is non-criminal if the incident was not a violation of the law, such as sick or injured persons. This includes suspicious persons and suspicious circumstances incidents.
3. In the "Case Status" field, a report should be closed when the officer has completed his/her investigation and immediate tasks for the case. A case should not be checked as active simply because another unit, such as detectives, will be doing follow-up investigation of the incident. Cases should be listed as active only if the investigating officer plans to perform follow-up investigation in the very near future (for example, obtaining victim/witness statements). Supervisors approving reports which require follow-up investigation by detectives will attach primary responsibility for the case to the detective bureau, which generates an active assignment for detectives.

(b) **Persons & Vehicles page:**

1. Each person listed in a report must be assigned a role. A person may only be assigned one role, and should be given the role most appropriate if more than one might apply. Persons may be assigned the following roles in an Alliance report:
   (a) **Arrestee:** A felony or misdemeanor booking, a misdemeanor citation (including vehicle codes), a warrant booking or citation, or a misdemeanor citizen's arrest.
   (b) **Suspect:** A person identified as being involved in criminal activity, including infraction citations and infraction citizen's arrest. In cases where the suspect's

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name is not known, select "Unknown Suspect" when adding the suspect to the case. Every crime should have at least one suspect attached to the report.

(c) **Detainee:** A person detained but subsequently determined not to be involved in criminal activity.

(d) **Suspect/Victim:** For use in cases where a person is both a suspect and a victim of a crime, for example, a mutual battery.

(e) **Injured/Sick Person:** The injured or sick party. 5150 W & I and 647(g) PC subjects should be assigned the sick person role.

(f) **Victim:** The victim of criminal activity.

(g) **Witness:** Any person who witnessed the incident and provided information to the reporting officer.

(h) **Involved Party:** Any other person somehow involved in an incident, who does not fit into any of the other roles.

(i) **Driver:** For traffic collisions, the person driving the vehicle. If the driver was arrested or issued a citation as a result of the collision, the person should be listed as an Arrestee or Suspect, depending on the nature of the violation.

2. The Modus Operandi (MO) field on the Person page should be completed for all parties in the report, and is mandatory for suspects and arrestees. This information is useful in crime analysis. Persons may be assigned the following MO's:

(a) **Employee:** Any person employed directly by BART

(b) **Facility Occupant:** Any person who is inside the paid area of a BART revenue facility. Employees, other workers, or trespassers are not included.

(c) **Passenger:** A person who is on board a transit vehicle for the purpose of travel, excluding the train operator and other employees

(d) **Trespasser:** A person in an area of the system not intended for public use

(e) **Worker:** A person who is not an employee of BART, but who is performing legitimate work on BART property, such as a contractor or permitted vendor

(f) **Other:** A person who is not a passenger, facility occupant, trespasser or an employee/worker

(g) **Not a BART Individual:** Used in cases having no connection to BART, such as outside traffic stops

3. All known information regarding each party should be recorded in the separate information tabs on the person page, providing as much detail as possible. This includes aliases, physical and clothing descriptions, scars, marks and tattoos, addresses, phone numbers, identification, charges, arrest disposition, if applicable,

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gang affiliation and victim relationship. If a person has no middle name, "NMN" should be placed in the box for the middle name. If the middle name is unknown, the box should be left blank.

4. When officers are documenting a juvenile detention, the "juvenile" box, next to the person's role should be checked. Checking this box will create a special juvenile tab which officers must complete to document both secure and non-secure detentions.

5. When applicable, the "Alert" tab should be used to document General Hazard, Felony Warrant, Misdemeanor Warrant, Weapon, Restraining Order, Parolee, Suicidal or Psychiatric alerts. The approving supervisor must review all new alerts.

(c) **Confidentiality:**

(a) If a case qualifies for confidentiality under 293 PC (victims of 220, 261, 261.5, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75 and 646.9 PC) check the "confidential" box on the screen for the victim. This will automatically exclude the victim's name from printed records. In addition, the reporting officer must also be sure not to use the victim's name in the narrative. In these cases, refer to the victim simply as "Victim," throughout the narrative. If a person is both a suspect and a victim of one of the crimes qualifying for confidentiality, two separate reports must be completed in order to protect the victim's identity.

(d) **Property & Evidence page:**

(a) All property that is stolen, recovered, stored, damaged, or seized as evidence should be documented thoroughly. Each item should be described in as much detail as possible, to include the make, model and serial number, if known. The item description should include a concise description of the item, where the item was found, and by whom. Pertinent information not included in the item description should be listed in the report narrative. The location field, indicating where the item was taken/stored, and by whom, should also be completed. The "item relationship" field should be completed for each item, indicating which party in the case was the owner, possessor, or finder, if known.

(b) The Alliance system automatically assigns evidence numbers, using the reporting officer's name and a chronological item number. This is the item number that should be recorded on the evidence envelope or container in the space reserved for the item number.

(c) A copy of the evidence page should be printed and attached to the first item of evidence in the case.

(e) **MO page:**

(a) The reporting officer should check all boxes that apply to the case. Canine usage is documented using the K9 field on the MO tab. There is also a tab that should be used to document the deployment of a TASER by an officer.

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(f) **Narrative page:**

(a) Before beginning the narrative portion of the report, the following information should be listed:

(a) Any cross-referenced cases

(b) Description of any injuries

(c) Outside Agency Case Number (San Francisco)

(d) Laboratory Number (San Francisco)

(e) List of on-scene personnel, if appropriate

(b) The narrative should provide a chronological account of what transpired during the incident, in as much detail as possible.

(c) The following items must be addressed in the narrative:

(a) Use of force

(b) Application of handcuffs and leg restraints (officers should note that the restraints were checked for proper fit and double locked)

(c) Drawing of firearm (when firearm is drawn in the presence of the public and/or is used to accomplish a detention or take a suspect into custody). This includes pistol, shotgun, patrol rifle and SIMS launcher, as well as the TASER.

(g) **Management page:**

1. Reporting officers should check the appropriate boxes to indicate whether the victim desires prosecution, and whether the reporting officer intends to conduct immediate follow-up investigation on the case. If the reporting officer is not going to conduct immediate follow-up, that box should be checked "no". Follow-up investigation that will be performed by detectives or other units in the department is not included in this field. Officers should also complete the Related Documents field, indicating all documents that are part of the case. If the document is not listed in the drop-down menu, officers should use the free text feature to describe the document that is related to the case (e.g., CORPUS printout, photocopy of credit cards, etc).

(h) **Supervisor Responsibility:**

1. Supervisors may either approve a report as it is written, or kick the report back to the author for correction. If a report is approved, a "Please Review" assignment is automatically generated for Records. Supervisors should use the "Create Assignment" button to send the case to other offices within the department for follow-up, or for information. A "Please Review" to Detectives should be made for all misdemeanor citations and/or arrests, all misdemeanor sex crimes, all employee related assaults and/or batteries, all felonies, and all coroner cases. Cases with possible links to terrorism should be sent to the Terrorism Task Force, Critical

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Asset Protection Team, and Homeland Security. Beat Condition reports should be assigned to the Equipment Clerk for followup.

2. If a report requires correction, the supervisor should kick the report back, listing the required changes in the kick-back notice. Supervisors have the ability to edit a report, but should refrain from doing so unless circumstances require it. In normal circumstances, reports should be returned to the author for correction. If a supervisor edits a report, the edit should be identified in the explanation box that is generated by the Alliance system. Supervisors may also un-approve a report that has been previously approved. This should only be done in exigent circumstances, and when the report has not yet been sent to any entity outside this department. If the report has already been sent to other entities outside the department (OR Project, Juvenile Hall, allied agencies, etc...) the report should stand as written. A supplemental police report should be prepared documenting the necessary changes/corrections to the original report. See section 344.5 for circumstances where an already approved and transmitted report may be unapproved. After un-approving a report, the report must also be kicked back to the author, in order to create an active assignment in the officer's queue. The kick-back notice should list the corrections that need to be made.

3. Field Training Officers are authorized to approve non in-custody reports which do not involve the use of force for their trainees, with the exception of 5150 W&I reports. All in-custody, use of force reports, and 5150 W&I reports prepared by trainee officers must be approved by a supervisor.

4. Supervisors should ensure that Consolidated Arrest Reports, Probable Cause Declarations, statement forms and other pertinent hand written forms relating to in-custody cases are faxed to the Detectives bureau, x7051. In addition, non-warrant arrests made in San Francisco must also be faxed to the OR Project, 415-431-3658 (felonies and misdemeanors) and SFPD Inspector's Bureau, fax 415-553-9876 (misdemeanors only).

(i) **Use of Force Reports:**

1. Reports involving the use of force (substantial physical force, personal body weapons, carotid control, chemical agent, impact weapon), the drawing/deployment of a firearm or SIMS/TASER, or a vehicle pursuit should be in accordance with Policy 300.

(j) **Specialized Report Templates:**

1. The following types of reports have special templates in the Alliance system. In order to complete these reports, the author selects the desired type of report and completes the pages as described above. Some of the templates have special requirements, as described below:

(k) **Beat Condition Reports:**

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1. Beat condition reports are used to document hazards or special situations that need corrective action by another department within the District, such as roadway hazards. The problem should be described in as much detail as possible, and a copy of the report should be routed to the Equipment Clerk for follow-up.

(l) **Traffic Collision Reports:**

1. Traffic collisions that do not qualify for Property Damage Only reports must be documented using the traffic collision template. The Crime selected should be TC Non-Injury, or TC Injury, as appropriate. In cases where an officer witnesses the collision and issues a citation to one of the drivers, the appropriate Vehicle Code section should also be listed in the Crime field. The parties and vehicles should be listed as described above. When completing the traffic collision field of the report, officers should complete the Alliance report fields as if they were completing a handwritten CHP-555 report. All information regarding the location of the collision, vehicle damage, primary collision factors, weather, and etc..., should be completed. The collision narrative should be written in the narrative portion of the Alliance report, using the standard format in the Collision Investigation Manual issued by the California Highway Patrol. The Factual Diagram should be completed by hand on page 4 of the CHP-555 form and attached as a related document on the Management page of Alliance.

(m) **DUI Reports:**

1. DUI arrests should be written using the DUI template, which includes fields pertinent to DUI cases. This includes results of field sobriety tests and intoxication evaluations. The BART Police Intoxication Evaluation/Arrest form should be completed to document the officer's preliminary evaluations of the detainee at the time of the investigation, and the form should be attached as a related document. DUI related forms issued by the Department of Motor Vehicles, such as the Age 21 and Older Officer's Statement, Under 21 Officer's Statement, Under 21 - Spanish Officer's Statement should be completed by hand and attached as related documents.

(n) **Domestic Violence Reports:**

1. Incidents of suspected domestic violence should be documented using the Domestic Violence template. The Domestic Violence Report/Supplemental form should be completed by hand and attached as a related document.

(o) **Scanned Documents:**

1. Scanned documents are hand written documents that are scanned into Alliance by the Records section. These reports essentially stand alone as complete reports. However, in order to capture certain information in the Alliance system, three pages of the Alliance report need to be completed and submitted for approval. The portions of the Alliance report form that must be completed for a scanned document are: the

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Crime/Location, Person/Vehicle and Management pages. The crime/code, location, summary and status should be completed. The parties to the case and any involved vehicles should be entered. The management fields should be completed, and the type of scanned document should be added to the related documents field. There is no requirement to complete the Property/Evidence, MO or Narrative portions of the report. However, the summary on the Crime page should include enough information for the reader to understand the basic type of incident documented on the hand written report.

2. The following types of cases may be input into Alliance as Scanned Documents:

   (a) CHP-180: Vehicle/Component Theft, Vehicle/Component Recovery, Embezzled Vehicle, Vehicle Release, Vehicle Tow, Stolen/Lost License Plate

   (b) CHP-03: Property Damage Only Report

344.8 HAND-WRITTEN REPORTS

This department uses a number of hand-written forms to document officers' activities. These documents should be completed and listed in the "Related Documents" field of the Management page, where appropriate. The forms should be turned into the Records section after being approved by a supervisor, where needed.

(a) **Field Interview Card:**

1. The field interview card is used to document contacts by officers in the field. When documenting contacts where a suspect is reprimanded for on-property traffic infractions, as well as infraction Penal Code violations, the field interview card will be used to capture the contact in the Citation module of Alliance. Officers should complete the portions of the card to fully identify the suspect, the violation and any identifiers such as scars, marks, tattoos, piercings, clothin, and licnense plate(s) etc... A brief summary of the offense, as well as the identity of the involved officer. These contacts are entered in the Citation module using the designation "RR" before the event number, to designate the case as a reprimand/release (e.g., RR0905-1234). Entering this information in the Citation module allows the suspect and vehicle to be searched for prior contacts using the Person search feature in Alliance.

(b) **Domestic Violence Report/Supplemental:**

1. This form is used to document pertinent details of domestic violence incidents. This includes details of the relationships between the suspect and victim, prior domestic violence history, restraining order status, suspect and victim demeanor, medical treatment received, victim assistance provided and diagrams of injuries. This form should be attached as a related document in domestic violence cases.

(c) **Report of Non-Release Misdemeanor Arrest:**

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1. This form may be completed in order to document the circumstances whereby a suspect arrested for a misdemeanor violation was not cited and released. This form is only required if the receiving jail facility requests it be completed. Most facilities incorporate this non-release information on their unique booking forms, or have their own non-release forms that must be completed at the time of booking. If completed, this form should be attached as a related document. In any event, the circumstances surrounding the non-release should be explained in the report narrative by the arresting officer.

(d) **Suspect Statement:**

1. This form is used to document suspect statements. All boxes at the top of the form should be completed. The statement form includes the Miranda Admonition and Waiver. The Miranda rights should be read to the suspect prior to beginning any questioning, and the suspect's responses (yes/no) should be circled. When completing the waiver portion, the suspect's verbatim responses should be included on the lines following each waiver question, and the suspect should sign the form and note the date and time. If the suspect invokes his rights to counsel or to remain silent, this should be indicated on the form, which should be booked into evidence.
2. Generally speaking, the officer taking the statement should interview the suspect in order to obtain sufficient details regarding the incident to write the suspect's version of events on the statement form, using the first-person from the suspect's point of view. The statement should use the suspect's words and phraseology as much as possible. The completed statement should be shown and read to the suspect for any corrections necessary. The suspect should then sign at the end of the statement, and initial next to any corrections. The BART Police Report page 2 form may be used as additional pages if the suspect statement will not fit on the Suspect Statement form. If the suspect refuses to sign the form after giving a statement, the officer should write "refused" where the signature would normally be and book the form into evidence.
3. When completed and signed, the reporting officer should photocopy the statement and attach the copy as a related document to the report. The original suspect statement should be placed into evidence.
4. A summary of the suspect's statement should be included in the narrative portion of the crime report.

(e) **Police Report Page 2:**

1. This form may be used to document victim and witness statements and as continuation pages for suspect statements. Victim and witness statements should be taken in the same manner as suspect statements, with the exception of Miranda warnings and waivers. The completed forms should be listed as related documents on the crime report. The statements should be summarized in the narrative portion of

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the crime report. Victim and witness statements are not booked into evidence. They should be turned in to records for inclusion in the case file.

(f) **Private Person (Citizen's) Arrest Report:**

1. This form is used to document private person arrests. All information pertaining to the arrestee, the complainant and the crime should be completed. The pink copy of the form should be given to the person making the arrest. The form should be listed as a related document on the crime report. See Policy 364 for further details regarding private person arrests.

(g) **Certificate of Release:**

1. This form is used to document incidents where a subject has been detained for investigation of a crime, then released per the requirements of 849(b) PC. All such releases should be approved by a supervisor. The pink copy of the certificate should be given to the person released. The white and yellow copies should be forwarded to Records and should be listed as a related document on the police report.

(h) **Statement Pursuant to 821 & 822 PC:**

1. This form is used to document situations where a suspect arrested on a warrant waives his right to be booked in the county of arrest, and is transported to the county which issued the warrant for booking. The arrestee should sign the form, which is listed as a related document on the police report.

(i) **Confidentiality Notification:**

1. This form is used to document the victim's desires regarding confidentiality in cases qualifying for confidentiality under 293 PC. Qualifying crimes are: 220, 261, 261.5, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 422.7, 422.75, and 646.9 PC. The law requires victims of the above offenses be informed of their right to have their name kept confidential. The victim's information should be completed and their desire to request or decline confidentiality should be checked. The form should be listed in the report as a related document.

(j) **Application for Emergency Protective Order:**

1. This form is used to obtain an emergency protective order. All portions of the form should be completed once a judicial officer has granted the protective order. The proof of service should be completed when the restrained party is notified of the order. The order should be entered into CLETS by the communications center and the form should be listed on the crime report as a related document. The CLETS entry information should be included in the narrative portion of the crime report.

(k) **Verbal Notice of Peace Officer (DL-310):**

1. This form is used to document verbal notice by an officer of the suspension of a person's driver license. The suspension information should be inserted and the

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license should be confiscated by the officer, if the subject is in possession of the license. The pink copy of the DL-310 form should be given to the driver at the scene. The license should be attached to the white and yellow copies of the DL-310 and forwarded to th Traffic Officer so the license can be returned to DMV. The DL-310 form should be listed as a related document in the police report.

(l) **Notice to Appear:**

1. The notice to appear (citation) form is used to document an infraction or misdemeanor violation where the suspect is to appear in court to answer the charges. All pertinent boxes should be completed as accurately as possible. In the case of on-viewed infraction violations (except off property traffic stops), the citation requires no accompanying police report. The citation stands alone and is forwarded to records. The citing officer should complete the reverse of the citation, making sufficient notes so that the incident can be recalled accurately in court at a later date.

2. In the case of private person (citizen's) arrests for infractions, off-property traffic stops, and misdemeanor violations, a police report is required in addition to the citation itself. Juveniles may be issued notices to appear for infraction violations only. A police report is required whenever a juvenile is issued a citation, or detained for a crime. The suspect should be given the yellow copy of the citation form. Citations should be listed as related documents when a police report is completed.

(m) **Notice to Appear - Continuation Form:**

1. This form is used to document additional charges that will not fit in the violations box of the standard citation. More than one continuation form may be used if necessary. The suspect should be given the yellow copy of the citation form. Continuation forms should be listed as related documents when a police report is completed.

(n) **Uniform Juvenile Citation:**

1. This form is used to provide juvenile suspects notice to appear on felony and misdemeanor violations, where the juvenile is not booked into a juvenile detention facility. The form should be completed as thoroughly as possible. The parent/guardian accepting custody of the juvenile should sign the citation form, as well as the juvenile arrestee. The parent/guardian should be given the pink copy of the juvenile citation form. The citation should be listed as a related document on the police report.

(o) **Notice of Correction & Proof of Service (Citation Correction Form):**

1. This form is used to correct a Notice to Appear that was issued to a suspect. The form should be completed to indicate the required change and the affected court. The pink proof of service portion of the form should be completed and mailed to the suspect at their mailing address. The original form should be forwarded to Records for transmission to the affected court. The form should be listed as a related document on the crime report.

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(p) **Booking Sheets/Cards:**

1. County booking sheets or cards and juvenile intake forms are used to document a suspect being booked into an adult or juvenile detention facility. Each county has unique requirements for their booking paperwork, and this department will abide by each county's policies regarding the completion of booking paperwork. A copy of the booking forms should be listed as a related document on the police report.

(q) **Juvenile Intake Forms:**

1. Each county has unique requirements for documenting juvenile arrests and contacts. This department will abide by each county's policies regarding the completion of booking/contact paperwork.
2. Alameda County requires that a Juvenile Intake Disposition Form be completed when booking a juvenile into Juvenile Hall. The completed form must be turned in to the facility, along with a copy of the completed police report, at the time the juvenile is booked into Juvenile Hall.
3. Contra Costa County requires the completion of their juvenile admission form, if the officer is citing the juvenile for a misdemeanor or felony. If the juvenile is being booked into Juvenile Hall, a probable cause declaration must be completed in the Aries system at time of booking. These forms are in addition to the reports normally completed by the officer. The forms provide information related specifically to juvenile offenders and provides space for a statement of probable cause. The department's probable cause declaration form should also be completed.
4. San Francisco County requires completion of an Admission Form, in addition to the reports normally completed by the officer. This form provides information related specifically to juvenile offenders booked into the Juvenile Justice Center. For juveniles dropped off at the CARC Center, a Juvenile Detention Disposition Report should be completed. The department's probable cause declaration should also be completed.
5. San Mateo County requires completion of a Juvenile Contact Report when booking a juvenile into Juvenile Hall. For juvenile offenders 14 years of age or older, who are taken into custody for a felony violation, the county requires completion of their special Promise to Appear (Form #JV-365), rather than the department's Uniform Juvenile Citation. The department's probable cause declaration should also be completed.

(r) **Probable Cause Declarations:**

1. This form is used to establish probable cause for warrantless arrests. The form should be completed for any in-custody arrest (with the exception of warrant only arrests), and misdemeanor citations. They should also be completed for any private

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person (citizen's) arrest citation case. Officers should use the computerized template when completing this form, but the form may be completed by hand if necessary.

2. In Alameda County the Consolidated Records Information Management System (CRIMS) should be utilized to send an electronic PC Declaration. CRIMS can be found following the URL from internet explorer https://crims.acgovapp/ Or log into CRIMS through the CAD/RMS short cut. For CRIMS log in problems contact the CRIMS help desk anytime at (510)272-3744. **Names of victims, witnesses and reporting parties should not be included in the Probable Cause Declaration. If necessary, refer to the person by role, rather than by name.**

(s) **Vehicle Release:**

1. This form is used to provide a vehicle owner a release so their stolen/embezzled vehicle may be retrieved from a towing company. It may be used to release a vehicle that was reported stolen to our department and recovered by another agency, a vehicle reported stolen to another agency and recovered by this department, or a stolen vehicle that was both reported to and recovered by this department. The form should be completed as appropriate with our case number, the outside agency case number, the vehicle information and the releasing officer's information. The vehicle owner should sign the form and the yellow copy of the form should be given to the owner/agent. The original form should be forwarded to records.

(t) **Missing Person Reporting Form:**

1. This form is used to document reports of missing persons. This department is required by law to accept all reports of missing persons, regardless of the ultimate investigative jurisdiction of the case. All available information should be included on the form to document the report as accurately as possible. The communications center is required by law to enter the information into the MUPS system within 4 hours. This form should be listed as a related document on the report.

(u) **Dental/Skeletal X-Ray/Photograph Release Form:**

1. In the case of missing juveniles not located within 30 days, this form should be completed, authorizing doctors and dentists with records pertaining to the juvenile to release them to this department in order to assist the investigation. The form may be completed prior to 30 days, and officers should make an effort to have the parent/guardian sign the form at the time the initial report is made, so the signed form is available if necessary. This form should be listed as a related document on the report.

(v) **11550 H & S Narcotics Influence Report:**

1. This form is used to document the objective symptoms of a suspect arrested for 11550 H & S. The completed form should be attached to the report as a related document.

(w) **Vehicle Report (CHP-180):**

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1. This form is intended to accomplish multiple tasks related to vehicles and license plates. As a result, not all boxes will be applicable to each report. However, all boxes that apply to the incident in question should be completed by the reporting officer, using as much detail as possible. It is important to obtain signatures from garage principals, in the case of towed vehicles, and reporting parties, in the case of stolen/ embezzled vehicles and plates.
2. When towing a vehicle, it is important to document existing damage on the vehicle diagrams on the face of the form. Officers should shade any areas of existing damage, and describe significant damage in the remarks section at the bottom of the face page.
3. Stolen/Embezzled and Recovery narratives should be placed in the narrative box on the reverse of the report form, not in the remarks section on the face page. The narrative should include the SVS entry information, indicating the date and time of the entry and the badge number of the employee who made the entry.
4. Completed and approved tow forms should be faxed to Administration, at extension 7089, prior to the end of the officer's shift. The form should be listed as a related document on the report.

(x) **Application for Emergency Psychiatric Detention (5150 W & I):**

1. This form along with a CR-1 report is used to document all incidents where a subject is detained for emergency psychiatric evaluation. All boxes should be completed with as much detail as possible. The reporting officer should document the detainment advisement required by 5157 W & I, which is printed on the form. If the advisement was not completed, a brief explanation must be included in the space provided.
2. All 5150 W & I reports which include a criminal hold, including all warrants, will be treated as an "in custody" and classified in the Alliance report writing system as an "arrest," with the subject being assigned the role of an "arrestee." The report, including all supplements, shall be written, submitted and approved by a supervisor prior to the reporting officer(s) going off duty. This shall also apply to arrestees who are transported for medical treatment prior to being booked into a jail facility. These reports cannot be approved by Field Training Officers and must be approved by a supervisor.
3. When an arrestee is transported from a medical or mental health facility and booked into a jail, the transporting officer shall complete a supplemental report and send an email to all Detectives and the Detective Sergeant advising them of the booking. The email should include the arrestee's name and case number and should be sent as soon as practicable after the transport has been completed.
4. Psychiatric self-committals will also be written, submitted and approved by a supervisor prior to the reporting officer(s) going off duty. A self-committal will continue

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to be classified in Alliance as a "sick person" with the subject being assigned the role of a "sick person."

5. The two narrative sections should be completed in enough detail to document the subject's condition and actions, and explain why the reporting officer believed the subject was a danger to him/herself, a danger to others, or was gravely disabled due to a mental condition or inebriation.

6. In the event that criminal charges will be filed against the subject, the officer should complete the Certification of Criminal Charges portion of the form, indicating who should be notified prior to the subject being released from mental health custody. In this case, a CR-1 report must also be completed, in order to document the criminal offense.

7. Normally one of the green copies of the form should be given to the transporting ambulance and/or the mental health facility. If the transporting ambulance or admitting mental health facility requests the white copy instead, the reporting officer should ensure that the BART case number is legibly written on the remaining green copies for proper filing, as it will not be recorded from the face page. This form should be listed as a related document on the report.

(y) **Property Damage Only Report (CHP-03):**

1. This scanned document is a two-part form used to record traffic collisions which qualify for the PDO report (two or fewer vehicles involved, no injuries, and no intended prosecution). The form should be completed using the standard format found in the CHP Collision Investigation Manual (CIM). All applicable boxes should be completed. The sketch should be done using standard figures as found in the CIM. The narrative should be hand-written on the reverse of the form, using the format located in the CIM.

2. The original report should be forwarded to Records. The reporting officer may give each party to the collision a copy of the form. The copy contains the upper portion of the completed report, listing the parties, any witnesses and the sketch of the collision. This form should be listed as a related document.

(z) **Driving Under the Influence Arrest Investigation Report (CHP 202):**

1. This handwritten form serves to document the investigation of suspected DUI cases. Each applicable box should be completed in as much detail as possible. This form should be a related document, listed on the Alliance DUI electronic report.

2. The face page of the CHP 202 documents the suspect's information, vehicle details, and witness/passenger/victim information. There is a Miranda admonition printed on the form. The suspect's acknowledgment and waiver or invocation of Miranda rights should be recorded on the form. The suspect should sign the form to document his/her choices.

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3. The Misdemeanor Incarceration portion of the form should be completed if the suspect is booked. All situations that apply should be checked, to document the reasons for the suspect being booked for a misdemeanor violation, pursuant to 853.6 PC.

4. The reverse of the form documents the investigation interview, objective symptoms of intoxication and field sobriety test location. There is also a section to document the results of a Preliminary Alcohol Screening test, if applicable. The results of any chemical tests (Breath/Blood) should also be recorded on the form. The final item on the reverse of the form documents the Trombetta Advisement, and the suspect's election regarding additional test samples.

(aa) **Intoxication Evaluation/Arrest:**

1. This form is used to document the results of Field Sobriety Tests (FST's) given to suspects in DUI cases. The form provides boxes to identify the suspect and related vehicle, as well as sections for standard FST's, with diagrams which can be completed to record the suspect's performance on each test. All portions of the form should be completed in enough detail to accurately document the suspect's performance during the FST's. This form supplements the CHP 202 and is a related document in Alliance electronic DUI reports.

(ab) **Age 21 & Older Officer's Statement (DMV 367), Under 21 Officer's Statement (DMV 367M), Under 21 Officer's Statement - Spanish (DMV 367MSpanish):**

1. These forms are used to document the DUI arrest and suspension/revocation of a suspect's license by the arresting officer. This form does not replace the Intoxication Evaluation/Arrest form, but is instead sent to the Department of Motor Vehicles to document the arrest and confiscation of the suspect's driver license. The Over 21 version (gray) of the form is to be used for all suspects 21 years and older. The suspect is provided the pink copy of the form, which provides information regarding the suspension of their license and administrative review procedures conducted by DMV. The Spanish version (red) of the form is printed in English on the face of the document, in order for the officer to document the arrest and confiscation of the license. The pink copy of the form, provided to Spanish speaking suspects, explains the hearing issues and DMV formalities in Spanish on the reverse.

2. The Under 21 (green) version of the form is to be used with suspects under the age of 21, and is similar to the other forms, with the exception of the lower blood alcohol level allowed. Again, the pink copy of the form is provided to the suspect. This form should be listed as a related document on the report.

(ac) **Pursuit Report (CHP187A):**

1. The pursuit report should be prepared by the responsible supervisor as soon as possible following a pursuit (see also Policy #314). This form should be completed

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with as much information as is known about the suspects, vehicles involved, and the results of the pursuit. Detailed directions for completion of the form are located on the reverse side of the form. This form should be listed as a related document on the report.

(ad) **Citizen Property Receipt (Form #1448):**

1. This form is used to provide a receipt for property taken or located by members of this department. The item taken into custody should be described as fully as possible and the storage location should be noted. The original of the form should be forwarded to the Property/Evidence bureau. The citizen should be given the yellow copy of the form for their records.
2. The Property Label (Form #0470) with wire attachments, is used in conjunction with the Property Receipt, and should be used to identify large or bulky items, such as bicycles, that can not be packaged in standard departmental evidence envelopes/ bags. The hard copy of the form should be attached to the item with the wire. The top copy of the form should be forwarded to the Property/Evidence bureau for their records.
3. Both forms should be listed as related documents on the report.

(ae) **Evidence Envelope (Form #1220):**

1. The manila evidence envelope is the standard container for booking collected evidence items. All portions of the envelope should be completed as appropriate. Officers should check the appropriate box to classify the item inside as either evidence, safekeeping or found property. Officers should also check the box indicating whether the item inside is narcotics, currency, fingerprints, or other. The reporting officer should then complete the boxes for Victim, Case Number, Suspect, Item Number, Location, and Offense. The item should be described as clearly as possible, along with the identity of the recovering officer and the date and time of recovery. The chain of custody portion of the envelope should be completed if the item is turned over to another officer/CSO for any reason. If the envelope contains narcotics, the boxes at the bottom of the envelope should be checked to indicate what drug the substance should be analyzed for. The glue flap should be sealed and evidence tape should be placed over the flap. The sealing officer should write the case number, date and his/her badge number over the tape.
2. If the envelope contains currency, the amount of currency and/or coin should be noted in the blocks on the reverse of the envelope. The officer counting the money should place his/her name and badge number, as well as the date and time in the appropriate blocks.
3. If the envelope contains narcotics or currency, a witness signature is also required, in the witness block.

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4. If the evidence item is too large to fit into the evidence envelope, the pre-printed evidence bag should be used. The bag should be completed in the same way as the evidence envelope.

(af) **Ticket Evidence Envelope (Form #0720):**

1. This white evidence envelope is intended *only* to contain BART tickets taken as evidence. It is completed in the same way as the large evidence envelope.

(ag) **Forensic Medical Report: Non-Acute (>72 hours) Child/Adolescent Sexual Abuse Examination (OCJP 925):**

1. This form must be completed when documenting reported incidents of sexual abuse of children. It is meant to be completed in conjunction with a physician or other medical professional during a medical examination searching for evidence of sexual abuse. The original of the form should be retained as evidence by this department. Copies should be provided to Child Protective Services and the Medical Facility conducting the examination. This form should be listed as a related document on the report.

(ah) **Report of Suspected Dependent Adult/Elder Abuse (SOC 341):**

1. This form is used to document reports of possible dependent adult/elder abuse received by this department, as required by 15630 and 15658(a)(1) W & I. A "Dependent Adult" is anyone aged 18-64, residing in this state, who has physical or mental limitations that restrict his/her ability to carry out normal activities or to protect his/her rights. An "Elder" is anyone 65 years of age or older, who resides in this state.

2. Officers of this department are mandated reporters pursuant to 15630(a) W & I. As such, any instance of known or suspected abuse (physical abuse, sexual abuse, financial abuse, abduction, neglect (including self-neglect), isolation, and abandonment involving an elder or a dependent adult must be documented using this form. The original report must be completed and submitted to the Investigations bureau within two working days, if the instance of abuse took place in BART jurisdiction. The original form should be placed in the case file. The responsible county Adult Protective Services office should be notified as soon as possible, and should be provided a copy of the report form. If the instance of abuse took place in another jurisdiction, the law enforcement agency with jurisdiction and the county Adult Protective Services agency must be notified within two working days of receiving the report, and both agencies should be provided a copy of the form. This form should be listed as a related document on the report.

3. Failure of a mandated reporter to report abuse of a dependent adult/elder is a misdemeanor offense.

(ai) **Supervisors' Use of Force Report (SUFR):**

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1. This form is used by supervisors in cases where there has been a use of force by an officer. The uses of force covered by this report include the use of physical force, use of a less-lethal weapons (chemical agent, impact weapon, TASER, SIMS or defensive tactics) use or deployment of a firearm and vehicle pursuits. The supervisor approving the police report should complete the appropriate boxes and indicate whether the use of force was justifiable, unjustifiable or unintentional. The original SUFR report shall be attached to a copy of the police report and forwarded to the Chief of Police, via the chain of command. A copy of the SUFR report along with the police report will be forwarded to the Internal Affairs Section for logging. The chief of police will forward the SUFR form to the Use or Force Review Committee chairperson.

344.9 SPECIAL CIRCUMSTANCES AND APPLICATIONS

(a) **Multiple Incidents/Multiple Victim Reports:**

1. A multiple incident/multiple victim event is one where a suspect commits separate acts against the person or property of others, resulting in multiple victims of the same/similar type of crime, for example, a suspect burglarizes several automobiles at the same station. In order to document this type of event, a master case will be assigned to the first victim. The reporting officer will complete all portions of the CR-1 crime report, listing evidence and property for that vehicle alone. The narrative of this report will describe the entire investigation completed by the officer. Each subsequent victim will be assigned a separate case number. The related case numbers should be listed prior to the narrative of the master case report narrative. The reporting officer will complete a separate CR-1 report for each victim, documenting the identity of that victim and the loss and damage to that victim's vehicle. The narrative section of subsequent reports will note that the case is cross-referenced to the master report. The narrative for the master case should be imported into the narratives for each associated report.

(b) **Multiple Victim Reports:**

1. A multiple victim incident is caused by a suspect's singular act that results in injury or property loss to more than one person, such as a suspect committing an armed robbery of a group of people. Multiple victim reports should be documented in one case, listing all victims and involved parties in the same report.

(c) **Hate Motivated Crimes:**

1. Hate motivated crimes are any criminal act or attempt to cause physical injury, emotional suffering or property damage where there is reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's actual or perceived race, ethnicity, religion, gender, sexual orientation or physical or mental disability. See Policy 338 for further details regarding Hate Crimes.

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2. The reporting officer should notify a supervisor as soon as possible if he/she believes an incident is a hate crime. The supervisor will notify the on-duty watch commander. The watch commander will determine the need for additional notifications.

(d) **11361.5 H & S:**

1. 11361.5 H & S requires the destruction of police records pertaining to sections 11357(b), (c), (d), (e) and 11360(b) H & S, after specified periods of time. In order to comply with the requirements of 11361.5 H & S, the following procedures will apply:

   (a) If the suspect is arrested or cited for 11357(b), (c), (d), (e) or 11360(b) H & S and no other offense is involved, follow standard reporting procedures.

   (b) If the suspect is arrested or cited for the above offenses and while detained, separate violations are discovered, the reporting officer should:

      1. Obtain a case number and prepare a report outlining the facts of the original H & S violation. The narrative of the report should indicate that, subsequent to the detention, additional criminal violations were discovered, which will be documented in a second report that will be prepared.

      2. Obtain a second case number and prepare a separate crime report indicating that as a result of a H & S contact, additional violations were discovered. The H & S violation should be noted as the probable cause for the detention/arrest, with that case number referenced in the narrative of the second report. The narrative for the second report should deal solely with the additional offenses uncovered.

   (c) If the suspect is arrested or cited, or is a suspect in a misdemeanor of felony case other than the above listed H & S sections, and incident to arrest, a violation of one of the above H & S sections is discovered, the officer should do the following:

      1. Obtain a case number and prepare a report outlining the facts of the original violations. The narrative of the report should indicate that, incident to arrest, contraband was located. The contraband will be documented on a separate case.

      2. Obtain a second case number. This report should document the H & S violation that was discovered incident to arrest.

2. In the event the suspect is to be booked for the above listed H & S violations in addition to other Penal, Vehicle or other code violations, the booking sheet should bear the case number of the case that *does not* include the 11357(b), (c), (d), (e) or 11360(b) H & S violations.

(e) **Confidential Cases:**

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1. A Confidential Case is an investigation that may involve a BART employee, BART-affiliated contractor or person otherwise associated with BART, if disclosure of the person's identity or affiliation, or other facts could compromise the investigation.

2. When police personnel receive information regarding employee criminal activity, the investigating officer should discreetly gather sufficient facts to make an oral report to a supervisor. The supervisor will determine the appropriate response. *In-progress crimes should be handled by officers as they normally would, with an immediate police response to stabilize the situation and investigate the crime at hand.* A supervisor will coordinate the response and preliminary investigation to maintain confidentiality, if at all possible. The supervisor may consider the use of a telephone report or a delayed response if the appearance of uniformed police personnel at the scene might be detrimental to the successful investigation of the crime.

3. If the initial investigation indicates a more thorough, confidential investigation is warranted, these circumstances should be documented as a Confidential Case and the following procedures should be followed:

    (a) The reporting officer should obtain a case number from the Communications Section and request that the case be classified as "Confidential - referred to the Special Problems Unit (SPU)", or "-Internal Affairs."

    (b) The supervisor should notify either the SPU supervisor, zone lieutenant/ watch commander, or Internal Affairs sergeant, as applicable.

    (c) The supervisor should approve the completed police report, and create an Alliance assignment of primary responsibility for the SPU or Internal Affairs sergeant, as appropriate. No copies of the report should be printed.

(f) **Telephone Reports:**

(a) Telephone reports may be taken in certain circumstances. Personal follow-ups on telephone reports should be conducted whenever the case appears to warrant it. Telephone reports may be taken in cases that meet any of the following criteria and they should be completed using the appropriate report form as outlined in this policy:

    (a) The nearest officer is not available within a reasonable time.

    (b) The reporting party/victim is unable or unwilling to wait or has already left the scene.

    (c) The call does not require immediate police action.

(g) **Reports Prepared by Community Service Officers:**

1. Community Service Officers (CSOs) are authorized to prepare police reports if the following criteria are met, with supervisory approval:

    (a) The suspect has left the scene and cannot be located.

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(b) The victim has left the scene or does not want to wait for a police officer.

(c) There is no potential for immediate investigative follow-up which could lead to the identification and/or apprehension of the suspect.

(h) **Report Reviews:**

(a) A Report Review form should be used when a police supervisor or manager believes that a documented assessment of a police report is appropriate. As supervisors are responsible for the daily review of police reports generated in their zones, this will normally occur when a police supervisor finds a report to be either exceptional, or deficient. However, any police supervisor or manager may generate a report review. A report review may be challenged through the chain of command. The final decision concerning challenged report reviews will be made by the report writer's Bureau Deputy Chief. The following procedures apply to the preparation and filing of report reviews:

(a) Preparation:

(a) The supervisor/manager preparing the review should document the facts in the report that make it exceptional or deficient in as much detail as possible. If the report is deficient, the deficiencies should be identified clearly, with required corrective action specifically listed. The review should be attached to a printed copy of the report so that the review comments can be matched to the written document.

(b) Normally, reviews involving report deficiencies should have a due date assigned by the supervisor/manager who initiated the review. If the identified corrections must be made prior to the report being transmitted outside the department, the reviewing supervisor should mark the "immediate" box on the Report Review form. The reporting officer shall then be responsible for making the necessary corrections on his/her next work day. Other deficiencies may have longer due dates assigned by the reviewing supervisor/manager.

(b) Routing of Report Reviews:

(a) When a review is generated, it is the responsibility of the supervisor/manager preparing the review to route it to the reporting officer via the chain of command. If the reporting officer is assigned to the Field Training Officer program, the report review should be sent to the trainee via the field training chain of command. The supervisor of the reporting officer is responsible for making sure all necessary follow-up is completed and noted deficiencies are corrected.

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(b) The supervisor/manager preparing the review is responsible for directing copies of the review to any others that would be concerned with the information (e.g., Investigations, Records, etc...).

(c) Filing of Report Reviews:

(a) Report reviews should be filed in the report writer's Employee Development Record (EDR) file and may be mentioned in the writer's performance evaluation. Employees should view and initial report review forms that are placed in their EDR file.

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News Media Relations

346.1 PURPOSE AND SCOPE

This policy provides guidelines for media releases and media access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities.

346.2 RESPONSIBILITIES

Media and Public Affairs (M&PA) should handle any police case with the media that impacts system operation, such as any emergency or incident that cause train delays or system closures. That does not preclude authorized department representatives from dealing with the media and/or M&PA on information that is law-enforcement sensitive and/or could compromise an ongoing-police investigation.

District policy requires that M&PA be the clearinghouse for all information that is given to the news media. This will be strictly adhered to by the department and requires a timely effort by Command Officers and Sergeants to advise M&PA, the Chief and both Commanders of any police dealings with reporters.

Only police managers may prepare a department News Release form. This form is located on the G:\drive under New Police Forms/News Release. Before a news release is e-mailed, faxed, or otherwise distributed to news providers, it must be reviewed and approved by M&PA, even during non-business hours. Contact information for M&PA approvers is available in the Communication Center.

If reasonable attempts to reach an M&PA employee, and a public-safety concern demands a speedy distribution of a department news release, the Command Officer, Sergeant, or supervisor may send it to media sources, but he/she will also e-mail a copy of the department news release to M&PA, the Chief and the Deputy Chiefs.

The aforementioned procedure does not preclude department managers from granting or authorizing interviews to reporters, especially for an ongoing case where a public-safety concern exists. As soon as practicable following such interviews, an e-mail or voice message will be sent to M&PA, the Chief and the Deputy Chiefs. The message must include: who was interviewed; by whom and the news agency; and a synopsis of what was disclosed to the reporter(s).

Compliance with this policy will ensure that M&PA, the Chief and the Deputy Chiefs are apprised of any communication that the department has with news reporters, so that M&PA and the department are on the same page as to what has been disclosed to the media and what information should not be divulged.

346.2.1 MEDIA REQUEST

Any media request for information or access to a law-enforcement situation shall be referred to the designated department-media representative, or if unavailable, to the first available supervisor. Prior to releasing any information to the media, employees shall consider the following:

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- 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.
- Under no circumstance should any member of this department make any comment(s) to the media regarding any law-enforcement incident not involving this department without prior approval of the Chief of Police.

346.3 MEDIA ACCESS

Authorized members of the media shall be provided access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities subject to the following conditions (Penal Code § 409.5(d)):

(a) The media representative shall produce valid press credentials that shall be prominently displayed at all times while in areas otherwise closed to the public.

(b) Media representatives may be prevented from interfering with emergency operations and criminal investigations.

1. Reasonable effort should be made to provide a safe staging area for the media that is near the incident and that will not interfere with emergency or criminal investigation operations. All information released to the media should be coordinated through the department Media and Public Affairs Manager or other designated spokesperson.
2. Whenever the presence of media or other aircraft pose a threat to public or officer safety or significantly hampers incident operations, the field supervisor should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Watch Commander. The TFR request should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate control tower. If the control tower is not known, the Federal Aviation Administration should be contacted (14 CFR 91.137).

(c) No member of this department who is under investigation shall be subjected to media visits or interviews without the consent of the involved employee (Government Code § 3303(e)).

(d) Media interviews with individuals who are in custody should not be permitted without the approval of the Chief of Police and the express consent of the person in custody.

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 Media and Public Affairs Manager.

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346.3.1 PROVIDING ADVANCE INFORMATION

To protect the safety and rights of officers and other persons, advance information about planned actions by law enforcement personnel, such as movement of persons in custody or the execution of an arrest or search warrant, should not be disclosed to the news media, nor should media representatives be invited to be present at such actions except with the prior approval of the Chief of Police.

Any exceptions to the above should only be considered for the furtherance of legitimate law enforcement purposes. Prior to approving any exception the Chief of Police will consider, at minimum, whether the release of information or presence of the media would unreasonably endanger any individual, prejudice the rights of any person or is otherwise prohibited by law.

346.4 SCOPE OF INFORMATION SUBJECT TO RELEASE

The department will maintain a daily information log of significant law enforcement activities that shall be made available, upon request, to media representatives through the Administrative Services bureau. This log will generally contain the following information:

(a) The date, time, location, case number, type of crime, extent of injury or loss, city of residency and names of individuals (except confidential informants) involved in crimes occurring within this jurisdiction unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation

(b) The date, time, location, case number, name, birth date and charges for each person arrested by this department unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation

(c) The time and location of other significant law enforcement activities or requests for service with a brief summary of the incident subject to the restrictions of this policy and applicable law

At no time shall identifying information pertaining to a juvenile arrestee, victim or witness be publicly released without prior approval of a competent court.

Information concerning incidents involving certain sex crimes and other offenses set forth in Government Code § 6254(f) shall be restricted in accordance with applicable statutory provisions.

Identifying information concerning deceased individuals shall not be released to the media until notification of next of kin or otherwise cleared through the Coroner's Office.

Any requests for copies of related reports or additional information not contained in this log shall be referred to a records bureau clerk, or if unavailable, to the records bureau supervisor. Such requests will generally be processed in accordance with the provisions of the Public Records Act (Government Code § 6250, et seq.)

346.4.1 RESTRICTED INFORMATION

It shall be the responsibility of the authorized employee dealing with media requests to ensure that restricted information is not inappropriately released to the media by this department. When

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

(a) Confidential peace officer personnel information (See Policy Manual § 1026)

1. The identities of officers involved in shootings or other major incidents may only be released to the media pursuant to consent of the involved officer or upon a formal request filed and processed in accordance with the Public Records Act.

(b) Copies of traffic collision reports (except to the involved parties and their authorized representatives) (Vehicle Code § 20012)

(c) Criminal history information

(d) Information that would tend to endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation

(e) Information pertaining to pending litigation involving this department

(f) Information obtained in confidence

(g) Any information that is otherwise privileged or restricted under state or federal law. (Government Code § 6254(k)).

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Court Appearance And Subpoenas

348.1 PURPOSE AND SCOPE

This procedure has been established to provide for the acceptance of subpoenas and to ensure that employees appear when subpoenaed, or are available to appear in court when requested and present a professional appearance.

348.1.1 DEFINITIONS

On-Call - When an employee has appeared in court, or is at the time on-duty, and has been told by a member of the court that he/she is free to leave the court or return to duty, subject to being available by phone or pager if called back.

Standby - When an employee receives a subpoena of a type which allows him or her to not appear in court, but remain available by phone or pager so that he or she may be directed to appear in court within a reasonable amount of time.

Mandatory Appearance - Subpoenas marked as mandatory appearance require an employee's physical appearance in the specified court. Failure to timely appear in the specified court, either intentionally or by negligence, may result in disciplinary action.

348.2 COURT SUBPOENAS

Employees who receive subpoenas related to their employment with this department are subject to the provisions of this policy. Employees should be aware that their compliance is mandatory on all cases for which they have been properly subpoenaed, or properly notified. This policy applies to civil and criminal subpoenas. Employees are expected to cooperate with the prosecution to ensure the successful conclusion of a case.

348.2.1 SERVICE OF SUBPOENA

Service of a subpoena requiring the appearance of any department employee in connection with a matter arising out of the employee's course and scope of official duties may be accomplished by personal service on the employee or by delivery of two copies of the subpoena on the employee's supervisor or other authorized departmental agent (Government Code § 68097.1 and Penal Code § 1328(c)). Subpoena service is also acceptable by courier or court liaison from the court to this department.

The return of service form must be signed by the server, as well as by the employee being served and returned to the subpoena clerk by the next business day after service. Completed declaration forms are to be returned a minimum of one week before the court hearing if they have been received from the court in a timely manner.

Subpoenas should be returned to Administrative Services with the top two (white and pink)copies of the return of service form along with at least one copy of the subpoena within one business day of service. It is important that the subpoena be received by Administrative Services before an employee attend court so that, the return of service can be mailed back to the District Attorney's office or other requesting agency.

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Employees should be given only one copy of the police report. It is the responsibility of the employee to keep that copy until the case has been completed. If a replacement copy is needed employees will request this through Administrative Services only. They are not to print a copy from Alliance.

All court appearance forms must be returned regardless of whether court was attended or not. If court was canceled or the defendant plead guilty indicate this information on the court appearance form and return it to the subpoena clerk. Court appearance forms are to be returned on the first workday after the court appearance. When turning in court appearance forms, a copy of the subpoena for the case should be attached. Any overtime shall be entered into the Oracle payroll system by the supervisor who receives and signs the overtime slip.

If an employee receives a subpoena through the mail, or the District Attorney notifies the employee that he/she is required to appear, the subpoena clerk should receive a copy of the subpoena in order to log it in.

If an employee is notified that the court date has been changed and no new subpoena has been issued the employee is responsible to notify the subpoena clerk of the change.

Subpoena cancellation forms are to be returned to the subpoena clerk within one business day after service.

Sergeants are responsible for ensuring that subpoenas and court-appearance documents get processed and returned to Administrative Services.

348.2.2 VALID SUBPOENAS

No subpoena shall be accepted for an employee of this department unless it has been properly served and verified to have originated from a recognized legal authority.

348.2.3 ACCEPTANCE OF SUBPOENA

(a) Only the employee named in a subpoena, his/her immediate supervisor or the department subpoena clerk shall be authorized to accept service of a subpoena. (Penal Code § 1328(c)). Any authorized employee accepting a subpoena shall immediately provide a copy of the subpoena to the department subpoena clerk. The subpoena clerk shall maintain a chronological log of all department subpoenas and provide a copy of the subpoena to each involved employee.

(b) Any supervisor or other authorized individual accepting a subpoena on behalf of another employee shall immediately check available schedules to determine the availability of the named employee for the date listed on the subpoena.

(c) Once a subpoena has been received by a supervisor or other authorized individual, a copy of the subpoena shall be promptly provided to the subpoena clerk as well as a copy to the individually named employee.

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348.2.4 REFUSAL OF SUBPOENA

Except where previous arrangements with the issuing court exist, training and regularly scheduled days off are not valid reasons for refusing a subpoena or missing court. If, due to illness or injury, the named employee is unable to appear in court as directed by a previously served subpoena, the employee shall, at least one hour before the appointed date and time, inform the subpoena clerk or the Watch Commander of his/her absence. It shall then be the responsibility of the subpoena clerk to notify the issuing authority of the employee's unavailability to appear.

If the immediate supervisor or other authorized individual knows that they will be unable to deliver a copy of the subpoena to the named employee within sufficient time for the named employee to comply with the subpoena, the supervisor or other authorized individual may refuse to accept service (Penal Code § 1328(d)).

If a subpoena is presented for service to an immediate supervisor or other authorized individual less than five working days prior to the date listed for an appearance and the supervisor or other authorized individual is not reasonably certain that the service can be completed, they may refuse to accept service (Penal Code § 1328(e)).

If, after initially accepting service of a subpoena, a supervisor or other authorized individual determines that they will be unable to deliver a copy of the subpoena to the individually named employee within sufficient time for the named employee to comply with the subpoena, the supervisor or the subpoena clerk shall notify the server or the attorney named on the subpoena of such not less than 48 hours prior to the date listed for the appearance (Penal Code § 1328(f)).

348.2.5 COURT STANDBY

To facilitate court standby agreements with the courts, employees are required to provide and maintain current address and phone number information with the department. Employees are required to notify the department's Personnel and Training CSO and Dispatch supervisors, via email, to update the department's CAD/RMS. They shall also utilize WebBart, employee self service / personal information, within 72 hours of any change in residence address or home phone number to provide accurate and reasonably reliable means or methods for contact.

If an employee on standby changes his/her location during the day, the employee shall notify the subpoena clerk of how to be reached by telephone. Employees are required to remain on standby each day the case is trailing as requested by the Deputy District Attorney. In a criminal case, the Deputy District Attorney handling the case is the only person authorized to excuse an employee from standby status.

348.2.6 OFF-DUTY RELATED SUBPOENAS

Employees receiving valid subpoenas for actions taken off-duty not related to their employment with the department shall comply with the requirements of the subpoena. Employees receiving these subpoenas are not compensated for their appearance and arrangements for time off shall be coordinated through their immediate supervisor. This includes employees who receive subpoenas for action taken while working for a prior employer. Release time may be granted for employees on duty.

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348.2.7 FAILURE TO APPEAR
Any employee who fails to comply with the terms of any valid and properly served subpoena may be subject to discipline as well as court imposed civil and/or criminal sanctions.

348.3 CIVIL SUBPOENAS

The department will compensate employees who appear in their official capacity on civil matters arising out of the employee's official duties as directed by the current Agreement. In such situations, the department will also reimburse any employee for reasonable and necessary travel expenses.

The department will receive reimbursement for the employee's compensation through the civil attorney of record who subpoenaed the employee.

348.3.1 PROCEDURE
To ensure that the employee is able to appear when required, that the employee is compensated for such appearance, and to protect the department's right to reimbursement, employees shall follow the established procedures for the receipt of a civil subpoena.

348.3.2 CIVIL SUBPOENA ACCEPTANCE
Subpoenas shall not be accepted in a civil action in which the employee or department is not a party without properly posted fees pursuant to Government Code § 68097.6.

348.3.3 PARTY MUST DEPOSIT FUNDS
The party in the civil action that seeks to subpoena an officer must deposit the statutory fee of $275 (Government Code § 68097.2) for each appearance before such subpoena will be accepted. Parties seeking to have the officer make multiple appearances must make an additional deposit in advance.

348.4 OVERTIME APPEARANCES

When an employee appeared on his/her off-duty time, he/she will be compensated in accordance with the current employee Agreement.

348.5 COURTROOM PROTOCOL

Employees must be punctual when appearing in court and shall be prepared to proceed immediately with the case for which they are subpoenaed.

348.5.1 PREPARATION FOR TESTIMONY
Before the date of testifying, the subpoenaed employee shall be given a copy of relevant reports attached to the served subpoena and become familiar with their content in order to be prepared for court. Upon completion of the trial all copies of the report will be returned to the subpoena clerk with the Court Appearance Form.

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348.5.2 COURTROOM ATTIRE

Employees shall dress in uniform or business attire. Suitable business attire for men would consist of a coat, tie, and dress pants. Suitable business attire for female employees would consist of a dress jacket, dress blouse, and skirt or slacks. Plainclothes officer may appear in their duty clothing if testifying while on-duty.

348.6 COURTHOUSE DECORUM

Employees shall observe all rules of the court in which they are appearing, refrain from smoking or chewing gum in the courtroom, and shall remain alert to changes in the assigned courtroom where their matter is to be heard.

348.7 TESTIFYING AGAINST THE INTEREST OF THE PEOPLE OF THE STATE

Any employee who is subpoenaed to testify, who has agreed to testify, or who anticipates testifying or providing information on behalf of or at the request of any party other than the People of the State of California, the District, any county, any city, or any of their officers and employees in which any of those entities are parties, will notify their immediate supervisor without delay. The supervisor will then notify the Chief of Police or the acting Chief of Police via the Chain of Command. The employee will also, without delay, notify the District Attorney's Office in criminal cases, the District's Legal Department, County Counsel or City Attorney, as may be indicated by the case.

This includes, but is not limited to the following situations:

(a) Providing testimony or information for the defense in any criminal trial or proceeding;

(b) Providing testimony or information for the plaintiff in a civil proceeding against the District, any county, city, or their officers and employees; or

(c) Providing testimony or information on behalf of or at the request of any party other than the District, any county, city, or any county or city official in any administrative proceeding, including but not limited to a personnel and/or disciplinary matter

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Outside Agency Assistance

352.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to officers in the request of or answering the request for assistance involving another law enforcement agency.

It is the policy of this department to provide assistance whenever possible, consistent with the applicable laws of arrest and detention policies of this department, when another law enforcement agency requests assistance. This department may also request an outside agency to provide assistance.

352.1.1 ASSISTING OUTSIDE AGENCIES

Generally, calls for assistance from other agencies are routed to the watch commander for approval. When an authorized employee of an outside agency requests the assistance of this department including taking a person into custody, assisting at a crime scene, or a search, available officers shall respond and assist. If an officer receives a request in the field for assistance, that officer shall notify a supervisor.

Arrestees may be temporarily detained by our agency until arrangements for transportation are made by the outside agency. Only in exceptional circumstances will this department provide transportation of arrestees to other county facilities.

When such assistance is rendered, a case number for an "outside assist" report will be issued to report action taken by this department.

352.1.2 REQUESTING ASSISTANCE FROM OUTSIDE AGENCIES

Under normal circumstances, if assistance is needed from another agency, the employee requesting assistance shall first notify a supervisor of his/her intentions.

However, if exigent circumstances exist, the employee may make any reasonable request for assistance from another agency in order to protect life and property, and stabilize the crime scene. The employee will notify a supervisor as soon as practicable.

Anytime another agency assists this department, the requesting officer will document the incident in his/her report. In addition, the officer will request copies of any reports from the assisting agency related to the incident.

352.1.3 ON-VIEW INCIDENTS

Whenever a BART police officer on-views an offense in another jurisdiction, he/she should take immediate prudent action required to protect life and property, stabilize crime scenes, locate witnesses, and apprehend suspects. As soon as practicable after a crime scene has been stabilized, the officer will relinquish the crime scene and investigative responsibility to the law-enforcement agency that has primary jurisdiction.

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352.1.4 REQUEST FOR CANINE ASSISTANCE FROM OTHER AGENCIES

The policy governing requests for BART police canine teams from other agencies is documented in Policy 318 - CANINE PROGRAM, subsection 3.1 - REQUEST FOR ASSISTANCE FROM OTHER AGENCIES.

352.1.5 MUTUAL AID/COOPERATIVE POLICE AGREEMENTS

Nothing in this policy is meant to circumvent any cooperative policing agreements or mutual aid agreements between the BART Police Department and any allied agency, city or county. Any agreement between this department and an outside agency can be located in the Records Section.

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Megan's Law

356.1 PURPOSE AND SCOPE

This policy establishes guidelines by which the Bay Area Rapid Transit Police Department will address issues associated with certain offenders who are residing in the jurisdiction and how the Department will disseminate information and respond to public inquiries for information about registered sex, arson and drug offenders.

356.2 POLICY

It is the policy of the Bay Area Rapid Transit Police Department to identify and monitor registered offenders living within this jurisdiction and to take reasonable steps to address the risks those persons may pose.

356.3 REGISTRATION

The Criminal Investigations Section Supervisor shall establish a process to reasonably accommodate registration of certain offenders. The process should rebut any allegation on the part of the offender that the registration process was too confusing, burdensome or difficult for compliance. If it is reasonable to do so, an investigator assigned to related investigations should conduct the registration in order to best evaluate any threat the person may pose to the community. Employees assigned to register offenders should receive appropriate training regarding the registration process.

Upon conclusion of the registration process, the investigator shall ensure that the registration information is provided to the California Department of Justice (DOJ) in accordance with applicable law (Health and Safety Code § 11594; Penal Code § 457.1; Penal Code § 290 et seq).

The refusal of a registrant to provide any of the required information or complete the process should initiate a criminal investigation for failure to register.

356.3.1 CONTENTS OF REGISTRATION

The information collected from the registering offenders shall include a signed statement as required by the California DOJ, fingerprints and a photograph and any other information required by applicable law (Health and Safety Code § 11594; Penal Code § 457.1; Penal Code § 290 et seq.).

356.4 MONITORING OF REGISTERED OFFENDERS

The Criminal Investigations Section 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.

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(c) Contact with a registrant's parole or probation officer.

Any discrepancies should be reported to the California DOJ.

The Criminal Investigations Section Supervisor should also establish a procedure to routinely disseminate information regarding registered offenders to Bay Area Rapid Transit Police Department personnel, including timely updates regarding new or relocated registrants.

356.5 DISSEMINATION OF PUBLIC INFORMATION

Employees will not unilaterally make a public notification advising the community of a particular registrant's presence in the community. Employees who identify a significant risk or other public safety issue associated with a registrant should promptly advise their supervisor. The supervisor should evaluate the request and forward the information to the Chief of Police if warranted. A determination will be made by the Chief of Police, with the assistance of legal counsel as necessary, whether such a public alert should be made.

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

The Records Supervisor may release local registered offender information to residents only in accordance with applicable law (Penal Code § 290.45; Penal Code § 290.46; Penal Code § 457.1; Health and Safety Code § 11594), and in compliance with a California Public Records Act (Government Code § 6250-6276.48) request.

356.5.1 LIMITED RELEASE WITHIN COLLEGE CAMPUS COMMUNITY

California law allows the following additional information regarding a registered sex offender on campus, whose information is not available to the public via the Internet website, to be released to a campus community (Penal Code § 290.01(d)):

(a) The offender's full name

(b) The offender's known aliases

(c) The offender's sex

(d) The offender's race

(e) The offender's physical description

(f) The offender's photograph

(g) The offender's date of birth

(h) Crimes resulting in the registration of the offender under Penal Code § 290

(i) The date of last registration

For purposes of this section, campus community shall be defined as those persons present at or regularly frequenting any place constituting campus property, satellite facilities, laboratories, public areas contiguous to the campus and other areas set forth in Penal Code § 290.01(d).

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356.5.2 RELEASE NOTIFICATIONS

Registrant information that is released should include notification that:

(a) The offender registry includes only those persons who have been required by law to register and who are in compliance with the offender registration laws.

(b) The information is provided as a public service and may not be current or accurate.

(c) Persons should not rely solely on the offender registry as a safeguard against offenses in their communities.

(d) The crime for which a person is convicted may not accurately reflect the level of risk.

(e) Anyone who uses information contained in the registry to harass registrants or commit any crime may be subject to criminal prosecution.

(f) The purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders (Penal Code 290.45).

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Notification

358.1 PURPOSE AND SCOPE

Incidents that are of significant nature and that fall into listed criteria require notification to command police personnel and other members of this department. It is critical that staff members are informed of certain incidents in order to initiate call-out of specific personnel with technical or investigative expertise, initiate further notifications within and outside the District and properly address inquiries from members of the media.

358.2 MINIMUM CRITERIA FOR NOTIFICATION

Incidents, involving this department, of media significance and incidents requiring immediate investigative or technical expertise require notifications in accordance with this policy. The following list of incident types is provided as a guide for notification and is not intended to be all-inclusive:

- Homicides or attempted homicides
- Rape
- Kidnapping
- Traffic accidents with fatalities
- Arson with major damage
- Officer-involved shooting - on or off duty (See Policy Manual § 310.53 for special notifications)
- Hostage taking/barricaded suspect
- Any assault with a deadly weapon or shooting of any BART employee, patron, or other person on District property
- Incident with injury to the victim or a particularly outrageous or vicious attack upon the victim
- Significant injury or death to employee - on or off duty
- Death of a prominent BART official when suspicious circumstances exist
- Civil disturbance
- Aircraft crash that impacts BART operations
- Arrest of department employee or BART official
- In-custody and/or law enforcement related deaths
- Serious injury or death of any person as the result of a motor-vehicle accident or police vehicle pursuit
- Unattended death of any person anywhere within the BART system

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358.3 SERGEANT/OFFICER-IN-CHARGE RESPONSIBILITY

The sergeant or officer-in-charge shall notify the on-duty Watch Commander and Operations Bureau Deputy Chief as soon as possible after the occurrence of any incident of media significance or incident requiring immediate investigative expertise on BART property. The Watch Commander or command officer shall be given a complete briefing on the incident. If the sergeant or officer-in-charge is unable to make notification, he/she shall direct that the notification be made by Dispatch.

358.3.1 WATCH COMMANDER RESPONSIBILITY

The Watch Commander shall make reasonable attempts to obtain as much information on the incident as possible before notification. He/she shall attempt to make the notifications as soon as practicable. In the event no command officer is on duty, the sergeant-in-charge or "C" Platoon sergeant will make necessary notifications. Notification should be made by calling the home phone number or department cell phone.

The Watch Commander is responsible for directing the notification of the following persons as appropriate:

- The Chief of Police
- The Operations Bureau Deputy Chief
- Professional Standards and Training Deputy Chief
- The Support Services Deputy Chief
- The Criminal Investigations Section
- Other command personnel as appropriate
- The Operations Control Center (OCC) Manager as appropriate
- Department of Media and Public Affairs at the direction of the Chief

358.3.2 STAFF NOTIFICATION

In the event an incident occurs described in Policy Manual § 358.2, the Chief of Police shall be notified along with the affected Bureau Deputy Chief and the Detective Lieutenant if that section is affected.

358.3.3 DETECTIVE NOTIFICATION

If it appears the investigation or prosecution of the incident or related incidents could benefit from call out of a member of the Criminal Investigative Section, a detective shall be called to respond. In the event a detective is not on-duty, the watch commander/command officer will direct the notification of the on-call detective from the current on-call listing. The on-call detective will be directed to respond. On any case where a detective responds to render assistance, the originally assigned patrol officer is responsible for conducting a thorough and professional investigation, and the timely completion of all required reports.

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358.3.4 CASES INVOLVING BART POLICE EMPLOYEES AND/OR DISTRICT EMPLOYEES
Notifications shall be made for the following cases involving BART police employees and/or District employees:

- The death of, or a serious injury to a BART police employee, whether on or off-duty
- Any incident involving a BART police employee which is likely to attract public attention
- Any case where an employee of the District is arrested and the department is in any way involved in the incident, arrest, or investigation

The command officer will be given a complete briefing on the incident and will determine the need for the notification of other personnel, and District management.

358.3.5 CLOSE-PROXIMITY CASES
Whenever incidents of media significance occur near or in close proximity to a BART facility, and the department is notified, or is in any way involved in the incident, arrest, or investigation, then notification should proceed according to this policy.

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Death Investigation

360.1 PURPOSE AND SCOPE

The investigations of cases involving death include those ranging from natural cause to homicide. Some causes of death may not be readily apparent and some cases differ substantially from what they appeared to be initially. The thoroughness of death investigations cannot be emphasized enough.

360.2 INVESTIGATION CONSIDERATIONS

Death investigation cases require certain actions be taken. Paramedics shall be called in all suspected death cases unless the death is obvious (decapitated, decomposed, etc.). Officers are not authorized to pronounce death. A supervisor shall be notified in all death investigations. Detectives should be called out for all death investigations. The detective Sergeant should be notified.

360.2.1 CORONER REQUEST

Government Code § 27491 and Health & Safety Code § 102850 direct the Coroner to inquire into and determine the circumstances, manner and cause of certain deaths. The Coroner shall be called in any of the following cases:

(a) Unattended deaths (No physician in attendance or during the continued absence of the attending physician. Also, includes all deaths outside hospitals and nursing care facilities.).

(b) Deaths where the deceased has not been attended by either a physician or a registered nurse, who is a member of a hospice care interdisciplinary team, as defined by subdivision (e) of Section 1746 of the Health and Safety Code in the 20 days prior to death.

(c) Physician unable to state the cause of death. Unwillingness does not apply. Includes all sudden, unexpected and unusual deaths and fetal deaths when the underlying cause is unknown.

(d) Known or suspected homicide.

(e) Known or suspected suicide.

(f) Involving any criminal action or suspicion of a criminal act. Includes child and dependent adult negligence and abuse.

(g) Related to or following known or suspected self-induced or criminal abortion.

(h) Associated with a known or alleged rape or crime against nature.

(i) Following an accident or injury (primary or contributory). Deaths known or suspected as resulting (in whole or in part) from or related to accident or injury, either old or recent.

(j) Drowning, fire, hanging, gunshot, stabbing, cutting, starvation, exposure, alcoholism, drug addiction, strangulation or aspiration.

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(k) Accidental poisoning (food, chemical, drug, therapeutic agents).

(l) Occupational diseases or occupational hazards.

(m) Known or suspected contagious disease and constituting a public hazard.

(n) All deaths in operating rooms and all deaths where a patient has not fully recovered from an anesthetic, whether in surgery, recovery room or elsewhere.

(o) In prison or while under sentence. Includes all in-custody and police involved deaths.

(p) All deaths of unidentified persons.

(q) All deaths of state hospital patients.

(r) Suspected Sudden Infant Death Syndrome (SIDS) deaths.

(s) All deaths where the patient is comatose throughout the period of the physician's attendance. Includes patients admitted to hospitals unresponsive and expire without regaining consciousness.

The body shall not be disturbed or moved from the position or place of death without permission of the coroner.

360.2.2 SEARCHING DEAD BODIES

The Coroner or Deputy Coroner is generally the only person permitted to search a body known to be dead from any of the circumstances set forth in Government Code § 27491. The only exception is that an officer is permitted to search the body of a person killed in a traffic collision for the limited purpose of locating an anatomical donor card (Government Code § 27491.3). If such a donor card is located, the Coroner or a designee shall be promptly notified. Should exigent circumstances indicate to an officer that any search of a known dead body is warranted prior to the arrival of the Coroner or a designee; the investigating officer shall first obtain verbal consent from the Coroner or a designee (Government Code § 27491.2).

Whenever possible, a witness, preferably a relative to the deceased or a member of the household, should be requested to remain at the scene with the officer pending the arrival of the Coroner or a designee. The name and address of this person shall be included in the narrative of the death report. Whenever personal effects are removed from the body of the deceased by the Coroner or a designee, a receipt shall be obtained. This receipt shall be attached to the death report.

360.2.3 DEATH NOTIFICATION

When practical, and if not handled by the Coroner's Office, notification to the next-of-kin of the deceased person shall be made, in person, by the officer assigned to the incident. If the next-of-kin lives in another jurisdiction, a law enforcement official from that jurisdiction shall be requested to make the personal notification. If the relatives live outside the county where the death occurred, the Coroner may be requested to make the notification. The Coroner needs to know if notification has been made. Assigned detectives may need to talk to the next-of-kin.

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360.2.4 UNIDENTIFIED DEAD BODIES
If the identity of a dead body cannot be established after the Coroner arrives, the Coroner's office will issue a #John Doe" or "Jane Doe# number for the report.

360.2.5 DEATH INVESTIGATION REPORTING
All incidents involving a death shall be documented on the appropriate form.

360.2.6 SUSPECTED HOMICIDE
If the initially assigned officer suspects that the death involves a homicide or other suspicious circumstances, the Criminal Investigations Bureau shall be notified to determine the possible need for a detective to respond to the scene for further immediate investigation.

360.2.7 EMPLOYMENT RELATED DEATHS OR INJURIES
Any member of this agency who responds to and determines that a death, serious illness, or serious injury has occurred as a result of an accident at or in connection with the victim's employment shall request that BART's System Safety Department is notified. The System Safety Department will ensure that the nearest office of Cal-OSHA is notified by telephone or teletype with all pertinent information (8 CCR 342(b)).

360.2.8 DEATH OR INJURY ON THE RIGHT-OF-WAY
Department personnel shall follow the BART Emergency Plan police procedure checklist for all deaths or injuries which occur on the BART right-of-way

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Identity Theft

362.1 PURPOSE AND SCOPE

Identity theft is a growing trend that frequently involves related crimes in multiple jurisdictions. This policy is intended to provide guidelines for the reporting and investigation of such crimes.

362.2 REPORTING

(a) The crime of identity theft (Penal Code § 530.6) should be reported to the law enforcement agency where the victim resides. Therefore, victims of identity theft (as the District has no permanent residents) should be advised that they should report this crime to the law enforcement agency having jurisdiction where they live.

(b) A departmental supervisor/manager may approve the taking of a courtesy identity theft report. If a courtesy report is taken, the following shall apply:

1. The report 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).
2. The report should cross-reference all other 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.
3. The reporting officer should inform the victim of identity theft of his/her right to obtain court ordered access to the Department of Justice identity theft database pursuant to Penal Code § 530.7.
4. A copy of any courtesy reports should be forwarded to the victim's residence agency by Records Bureau personnel.

(c) 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). If a report of this nature is taken, the following shall apply:

1. Following supervisory review and departmental processing, the initial report should be forwarded to the Detective Bureau for follow up investigation.
2. The assigned Detective should coordinate the case and prosecution with any other involved agencies as circumstances dictate.

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Private Persons Arrests

364.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the handling of private person's arrests made pursuant to Penal Code § 837.

364.2 ADVISING PRIVATE PERSONS OF THE ARREST PROCESS

Penal Code § 836(b) expressly mandates that all officers shall advise victims of domestic violence of the right to make a private person's arrest, including advice on how to safely execute such an arrest. In all other situations, officers should use sound discretion in determining whether or not to advise an individual of the arrest process.

(a) When advising any individual regarding the right to make a private person's arrest, officers should refrain from encouraging or dissuading any individual from making such an arrest and should instead limit advice to the legal requirements for such an arrest as listed below.

(b) Private individuals should be discouraged from using force to effect a private person's arrest, and absent immediate threat to their own safety or the safety of others, private individuals should be encouraged to refer matters to law enforcement officials for further investigation or arrest.

364.3 ARRESTS BY PRIVATE PERSONS

Penal Code § 837 provides that a private person may arrest another:

(a) For a public offense committed or attempted in his or her presence

(b) When the person arrested has committed a felony, although not in his or her presence

(c) When a felony has been in fact committed, and he or she has reasonable cause for believing the person arrested has committed it

Unlike peace officers, private persons may not make an arrest on suspicion that a felony has been committed - the felony must in fact have taken place.

364.4 OFFICER RESPONSIBILITIES

Any officer presented with a private person wishing to make an arrest must determine whether or not there is reasonable cause to believe that such an arrest would be lawful (Penal Code § 847).

(a) Should any officer determine that there is no reasonable cause to believe that a private person's arrest is lawful, the officer should take no action to further detain or restrain the individual beyond that which reasonably appears necessary to investigate the matter, determine the lawfulness of the arrest and protect the public safety.

    1. Any officer who determines that a private person's arrest appears to be unlawful should promptly release the arrested individual pursuant to Penal Code § 849(b)(1). The officer must include the basis of such a determination in a related report.

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2. Absent reasonable cause to support a private person's arrest or other lawful grounds to support an independent arrest by the officer, the officer should advise the parties that no arrest will be made and that the circumstances will be documented in a related report.

(b) Whenever an officer determines that there is reasonable cause to believe that a private person's arrest is lawful, the officer may exercise any of the following options:

1. Take the individual into physical custody for booking
2. Release the individual pursuant to a Notice to Appear
3. Release the individual pursuant to Penal Code § 849

(c) The person being arrested shall be advised that he/she is under arrest. This advisement may be done by the private person or the officer. If performed by the officer, the officer should explain to the private person and the subject that the private person is making the arrest. In either case, the subject should also be told of the offense(s) that he/she is being arrested for.

364.4.1 WHEN A PRIVATE PERSON'S ARREST IS NOT REQUIRED

A private person's arrest is not required when an arrest is made under the following circumstances:

(a) The offense is a felony or wobbler

(b) The suspect is a juvenile

(c) The arrest is for DUI with special circumstances (see 40300.5 V.C.)

(d) Carrying a loaded firearm

(e) Carrying a concealed firearm in an airport

(f) Domestic violence

(g) Violation of a domestic violence protective order

(h) Assault on school property

(i) Assault on a firefighter/EMT

364.4.2 REQUIRED BOOKING

Adult suspects who are arrested for assault or battery on a District employee shall be booked [853.6(g) P.C.]. A command-level officer must approve any exceptions to this policy.

364.5 REPORTING REQUIREMENTS

In all circumstances in which a private person is claiming to have made an arrest, the individual must complete and sign a department Private Person's Arrest form under penalty of perjury. In misdemeanor cases, the private person making the arrest shall also be asked to provide a written statement.

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Private Persons Arrests

In addition to the Private Person's Arrest form (and any other related documents such as citations, booking forms, etc.), officers shall complete a narrative report regarding the circumstances and disposition of the incident.

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Anti-Reproductive Rights Crimes Reporting

366.1 PURPOSE AND SCOPE

This policy shall establish a procedure for the mandated reporting of Anti-Reproductive Rights Crimes (ARRC) to the Attorney General pursuant to the Reproductive Rights Law Enforcement Act (Penal Code § 13775 et seq.).

366.2 DEFINITIONS

Penal Code § 423.2 provides that the following acts shall be considered Anti-Reproductive Rights Crimes (ARRC) when committed by any person, except a parent or guardian acting towards his or her minor child or ward:

(a) By force, threat of force, or physical obstruction that is a crime of violence, intentionally injures, intimidates, interferes with, or attempts to injure, intimidate, or interfere with any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider, or assistant

(b) By non-violent physical obstruction, intentionally injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with, any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider or assistant

(c) Intentionally damages or destroys the property of a person, entity, or facility, or attempts to do so, because the person, entity, or facility is a reproductive health services client, provider, assistant, or facility

366.3 REPORTING REQUIREMENTS TO THE ATTORNEY GENERAL

(a) Upon the receipt of the report of an ARRC, it shall be the responsibility of the Police Administrative Specialist to 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 Support Services Bureau Deputy Chief.

(c) By the tenth day of each month, it shall be the responsibility of the Support Services Bureau Deputy Chief to ensure that a Summary Worksheet (BCIA 8370) is submitted to the Department of Justice Criminal Justice Statistics Center.

    1. In the event that no ARRC(s) were reported during the previous month, a Summary Worksheet shall be submitted to Department of Justice with an indication that no such crimes were reported.

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2. Any ARRC(s) reported in the Summary Worksheet shall be accompanied by a copy of the related Data Collection Worksheet(s).

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Limited English Proficiency Services

368.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with limited English proficiency (LEP) (42 USC § 2000d).

368.1.1 DEFINITIONS

Definitions related to this policy include:

Authorized interpreter - A person who has been screened and authorized by the Department to act as an interpreter and/or translator for others.

Interpret or interpretation - The act of listening to a communication in one language (source language) and orally converting it to another language (target language), while retaining the same meaning.

Limited English proficient (LEP) - Any individual whose primary language is not English and who has a limited ability to read, write, speak or understand English. These individuals may be competent in certain types of communication (e.g., speaking or understanding) but still be LEP for other purposes (e.g., reading or writing). Similarly, LEP designations are context-specific; an individual may possess sufficient English language skills to function in one setting but these skills may be insufficient in other situations.

Qualified bilingual member - A member of the Bay Area Rapid Transit Police Department, designated by the Department, who has the ability to communicate fluently, directly and accurately in both English and another language. Bilingual members may be fluent enough to communicate in a non-English language but may not be sufficiently fluent to interpret or translate from one language into another.

Translate or translation - The replacement of written text from one language (source language) into an equivalent written text (target language).

368.2 POLICY

It is the policy of the Bay Area Rapid Transit Police Department to reasonably ensure that LEP individuals have meaningful access to law enforcement services, programs and activities, while not imposing undue burdens on its members.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon national origin or any other protected interest or right.

368.3 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 Bureau Commander 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 Bay Area Rapid Transit 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 Watch Commander and Communications 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.

368.4 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.

368.5 TYPES OF LEP ASSISTANCE AVAILABLE

Bay Area Rapid Transit Police Department members should never refuse service to an LEP individual who is requesting assistance, nor should they require an LEP individual to furnish an interpreter as a condition for receiving assistance. The Department will make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services.

The Department will utilize all reasonably available tools, such as language identification cards, when attempting to determine an LEP individual's primary language.

LEP individuals may choose to accept department-provided LEP services at no cost or they may choose to provide their own.

Department-provided LEP services may include, but are not limited to, the assistance methods described in this policy.

368.6 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.

368.7 AUDIO RECORDINGS

The following materials will be made available to employees to assist in providing access and service to LEP individuals:

(a) A list of departmental bilingual employees, languages spoken and contact and shift information

(b) A list of department-certified interpretation services, bilingual interpreters, languages spoken and contact and availability information

(c) The telephone number and access code of telephonic interpretation services

(d) Language identification cards

(e) Translated *Miranda* warning cards and other frequently used documents

(f) Audio recordings/warnings that are developed in non-English languages

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368.8 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.

When a qualified bilingual member from this department is not available, personnel from other District departments, who have been identified by the Department as having the requisite skills and competence, may be requested.

368.9 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.

368.9.1 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 District departments.
- Individuals employed exclusively to perform interpretation services.

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- Contracted in-person interpreters, such as state or federal court interpreters, among others.
- Interpreters from other agencies who have been qualified as interpreters by this department, and with whom the Department has a resource-sharing or other arrangement that they will interpret according to department guidelines.

368.9.2 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.

368.10 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.

368.11 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE

The Bay Area Rapid Transit Police Department will take reasonable steps and will work with the Human Resources Department to develop in-house language capacity by hiring or appointing qualified members proficient in languages representative of the community being served.

368.11.1 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

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is known and a qualified bilingual member is available in the Communications Center, the call shall immediately be handled by the qualified bilingual member.

If a qualified bilingual member is not available or the call-taker is unable to identify the caller's language, the call-taker will contact the contracted telephone interpretation service and establish a three-way call between the call-taker, the LEP individual and the interpreter.

Dispatchers will make every reasonable effort to dispatch a qualified bilingual member to the assignment, if available and appropriate.

While 9-1-1 calls shall receive top priority, reasonable efforts should also be made to accommodate LEP individuals seeking routine access to services and information by utilizing the resources listed in this policy.

368.12 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.

368.13 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

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Any *Miranda* warnings shall be provided to suspects in their primary language by an authorized interpreter or, if the suspect is literate, by providing a translated *Miranda* warning card.

The use of an LEP individual's bilingual friends, family members, children, neighbors or bystanders may be used only when a qualified bilingual member or authorized interpreter is unavailable and there is an immediate need to interview an LEP individual.

368.14 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.

368.15 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.

368.16 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.

368.17 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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368.18 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.

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.

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Communications with Persons with Disabilities

370.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with disabilities, including those who are deaf or hard of hearing, have impaired speech or vision, or are blind.

370.1.1 DEFINITIONS

Definitions related to this policy include:

Auxiliary aids - These are used to communicate with people who are deaf, hard of hearing or have impaired speech. They include, but are not limited to, the use of gestures or visual aids to supplement oral communication; use of a notepad and pen or pencil to exchange written notes; use of a computer or typewriter; use of an assistive listening system or device to amplify sound; use of a teletypewriter (TTY), videophones (video relay service or VRS); or use of a qualified interpreter.

Deaf or hard of hearing - An individual who has or is regarded as having substantially limited hearing with or without assistance.

Qualified interpreter - A person who is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include oral interpreters, translators, sign language interpreters and intermediary interpreters.

370.2 POLICY

It is the policy of the Bay Area Rapid Transit Police Department to reasonably ensure that people with disabilities, including victims, witnesses, suspects and arrestees have equal access to law enforcement services, programs and activities. Members must make efforts to communicate effectively with individuals with disabilities.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon disabilities.

370.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR

The Chief of Police shall delegate certain responsibilities to an ADA Coordinator (28 CFR 35.107). The ADA Coordinator shall be appointed by, and directly responsible, to the Patrol Bureau Commander or the authorized designee.

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

(a) Working with the District ADA coordinator regarding the Bay Area Rapid Transit Police Department's efforts to ensure equal access to services, programs and activities.

(b) Developing reports, new procedures, or recommending modifications to this policy.

(c) Acting as a liaison with local disability advocacy groups or other disability groups regarding access to department services, programs and activities.

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(d) Ensuring that a list of qualified interpreter services is maintained and available to each Watch Commander and Communications Supervisor. The list should include information regarding the following:

1. Contact information
2. Availability

(e) Developing procedures that will enable members to access auxiliary aids or services, including qualified interpreters, and ensure the procedures are available to all members.

(f) Ensuring signage is posted in appropriate areas, indicating that auxiliary aids are available free of charge to people with disabilities.

(g) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs and activities.

370.4 FACTORS TO CONSIDER

Because the nature of any law enforcement contact may vary substantially from one situation to the next, members of this department should consider all information reasonably available to them when determining how to communicate with an individual with a disability. Members should carefully balance all known factors in an effort to reasonably ensure people who are disabled have equal access to services, programs and activities. These factors may include, but are not limited to:

(a) Members should not always assume that effective communication is being achieved. The fact that an individual appears to be nodding in agreement does not always mean he/she completely understands the message. When there is any doubt, members should ask the individual to communicate back or otherwise demonstrate their understanding.

(b) The nature of the disability (e.g., deafness or blindness vs. hard of hearing or low vision).

(c) The nature of the law enforcement contact (e.g., emergency vs. non-emergency, custodial vs. consensual contact).

(d) The availability of auxiliary aids. The fact that a particular aid is not available does not eliminate the obligation to reasonably ensure access. However, in an emergency, availability may factor into the type of aid used.

370.5 INITIAL AND IMMEDIATE CONSIDERATIONS

Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, members should remain alert to the possibility of communication problems.

Members should exercise special care in the use of all gestures, and verbal and written communication to minimize initial confusion and misunderstanding when dealing with any individual with known or suspected disabilities.

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In a non-emergency situation, when a member knows or suspects an individual requires assistance to effectively communicate, the member shall identify the individual's choice of auxiliary aid or service.

The individual's preferred communication method must be honored unless another effective method of communication exists under the circumstances (28 CFR 35.160).

Factors to consider when determining whether an alternative method is effective include:

(a) The methods of communication usually used by the individual.

(b) The nature, length and complexity of the communication involved.

(c) The context of the communication.

In emergency situations involving an imminent threat to the safety or welfare of any person, members may use whatever auxiliary aids and services that reasonably appear effective under the circumstances. This may include, for example, exchanging written notes or using the services of a person who knows sign language but is not a qualified interpreter, even if the person who is deaf or hard of hearing would prefer a qualified sign language interpreter or another appropriate auxiliary aid or service. Once the emergency has ended, the continued method of communication should be reconsidered. The member should inquire as to the individual's preference and give primary consideration to that preference.

If an individual who is deaf, hard of hearing or has impaired speech must be handcuffed while in the custody of the Bay Area Rapid Transit Police Department, consideration should be given, safety permitting, to placing the handcuffs in the front of the body to facilitate communication using sign language or writing.

370.6 TYPES OF ASSISTANCE AVAILABLE

Bay Area Rapid Transit Police Department members shall never refuse to assist an individual with disabilities who is requesting assistance. The Department will not charge anyone to receive auxiliary aids, nor shall they require anyone to furnish their own auxiliary aid or service as a condition for receiving assistance. The Department will make every reasonable effort to provide equal access and timely assistance to individuals who are disabled through a variety of services.

A person who is disabled may choose to accept department-provided auxiliary aids or services or they may choose to provide their own.

Department-provided auxiliary aids or services may include, but are not limited to, the assistance methods described in this policy.

370.7 AUDIO RECORDINGS AND ENLARGED PRINT

The Department may develop audio recordings to assist people who are blind or have a visual impairment with accessing important information. If such a recording is not available, members may read aloud from the appropriate form, for example a personnel complaint form, or provide forms with enlarged print.

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370.8 QUALIFIED INTERPRETERS

A qualified interpreter may be needed in lengthy or complex transactions (e.g., interviewing a victim, witness, suspect or arrestee), if the individual to be interviewed normally relies on sign language or speechreading (lip-reading) to understand what others are saying. The qualified interpreter should not be a person with an interest in the case or investigation involving the disabled individual. A person providing interpretation services may be required to establish the accuracy and trustworthiness of the interpretation in a court proceeding.

Qualified interpreters should be:

(a) Available within a reasonable amount of time but in no event longer than one hour if requested.

(b) Experienced in providing interpretation services related to law enforcement matters.

(c) Familiar with the use of VRS and/or video remote interpreting services.

(d) Certified in either American Sign Language (ASL) or Signed English (SE).

(e) Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.

(f) Knowledgeable of the ethical issues involved when providing interpreter services.

Members should use department-approved procedures to request a qualified interpreter at the earliest reasonable opportunity, and generally not more than 15 minutes after a request for an interpreter has been made or it is reasonably apparent that an interpreter is needed. No individual who is disabled shall be required to provide his/her own interpreter (28 CFR 35.160).

370.9 TTY AND RELAY SERVICES

In situations where an individual without a disability would have access to a telephone (e.g., booking or attorney contacts), members must also provide those who are deaf, hard of hearing or have impaired speech the opportunity to place calls using an available TTY (also known as a telecommunications device for deaf people, or TDD). Members shall provide additional time, as needed, for effective communication due to the slower nature of TTY and TDD communications.

The Department will accept all TTY or TDD calls placed by those who are deaf or hard of hearing and received via a telecommunications relay service (28 CFR 35.162).

Note that relay services translate verbatim, so the conversation must be conducted as if speaking directly to the caller.

370.10 COMMUNITY VOLUNTEERS

Interpreter services may be available from community volunteers who have demonstrated competence in communication services, such as ASL or SE, and have been approved by the Department to provide interpreter services.

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Where qualified interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the individual with the disability and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

370.11 FAMILY AND FRIENDS

While family or friends may offer to assist with interpretation, members should carefully consider the circumstances before relying on such individuals. The nature of the contact and relationship between the individual with the disability and the person offering services must be carefully considered (e.g., victim/suspect).

Children shall not be relied upon except in emergency or critical situations when there is no qualified interpreter reasonably available.

Adults may be relied upon when (28 CFR 35.160):

(a) There is an emergency or critical situation and there is no qualified interpreter reasonably available.

(b) The person with the disability requests that the adult interpret or facilitate communication and the adult agrees to provide such assistance, and reliance on that adult for such assistance is reasonable under the circumstances.

370.12 REPORTING

Whenever any member of this department is required to complete a report or other documentation, and communication assistance has been provided, such services should be noted in the related report. Members should document the type of communication services utilized and whether the individual elected to use services provided by the Department or some other identified source. If the individual's express preference is not honored, the member must document why another method of communication was used.

All written communications exchanged in a criminal case shall be attached to the report or placed into evidence.

370.13 FIELD ENFORCEMENT

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve individuals with disabilities. The scope and nature of these activities and contacts will inevitably vary.

The Department recognizes that it would be virtually impossible to provide immediate access to complete communication services to every member of this department. Members and/or supervisors must assess each situation and consider the length, complexity and importance of the

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communication, as well as the individual's preferred method of communication, when determining the type of resources to use and whether a qualified interpreter is needed.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to verbally request consent to search if the officer is unable to effectively communicate with an individual who is deaf or hard of hearing and requires communications assistance.

If available, officers should obtain the assistance of a qualified interpreter before placing an individual with a disability under arrest. Individuals who are arrested and are assisted by service animals should be permitted to make arrangements for the care of such animals prior to transport.

370.13.1 FIELD RESOURCES

Examples of methods that may be sufficient for transactions, such as checking a license or giving directions to a location or for urgent situations such as responding to a violent crime in progress, may, depending on the circumstances, include such simple things as:

(a) Hand gestures or visual aids with an individual who is deaf, hard of hearing or has impaired speech.

(b) Exchange of written notes or communications.

(c) Verbal communication with an individual who can speechread by facing the individual and speaking slowly and clearly.

(d) Use of computer, word processing, personal communication device or similar device to exchange texts or notes.

(e) Slowly and clearly speaking or reading simple terms to individuals who have a visual or mental impairment.

Members should be aware that these techniques may not provide effective communication as required by law and this policy depending on the circumstances.

370.14 CUSTODIAL INTERROGATIONS

In an effort to ensure that the rights of individuals who are deaf, hard of hearing or have speech impairment are protected during a custodial interrogation, this department will provide interpreter services before beginning an interrogation, unless exigent circumstances exist or the individual has made a clear indication that he/she understands the process and desires to proceed without an interpreter. The use of a video remote interpreting service should be considered, where appropriate, if a live interpreter is not available. *Miranda* warnings shall be provided to suspects who are deaf or hard of hearing by a qualified interpreter or by providing a written *Miranda* warning card.

In order to ensure that communications during custodial investigations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

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370.15 ARREST AND BOOKINGS

If an individual with speech or hearing disabilities is arrested, the arresting officer shall use department-approved procedures to provide a qualified interpreter at the place of arrest or booking as soon as reasonably practicable, unless the individual indicates that he/she prefers a different auxiliary aid or service or the officer reasonably determines another effective method of communication exists under the circumstances.

When gathering information during the booking process, members should remain alert to the impediments that often exist when communicating with those who are deaf, hard of hearing, who have impaired speech or vision, are blind, or have other disabilities. In the interest of the arrestee's health and welfare, the safety and security of the facility and to protect individual rights, it is important that accurate medical screening and booking information be obtained. If necessary, members should seek the assistance of a qualified interpreter whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by the individual.

Individuals who require and possess personally owned communication aids (e.g., hearing aids, cochlear processors) should be permitted to retain them while in custody.

370.16 COMPLAINTS

The Department shall ensure that individuals with disabilities who wish to file a complaint regarding members of this department are able to do so. The Department may provide a qualified interpreter or forms in enlarged print, as appropriate. Complaints will be referred to the department ADA Coordinator.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Qualified interpreters used during the investigation of a complaint should not be members of this Department.

370.17 COMMUNITY OUTREACH

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

370.18 TRAINING

To ensure that all members who may have contact with individuals who are disabled are properly trained, the Department will provide periodic training that should include:

(a) Awareness and understanding of this policy and related procedures, related forms and available resources.

(b) Procedures for accessing qualified interpreters and other available resources.

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(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.

370.18.1 CALL-TAKER TRAINING

Emergency call-takers shall be trained in the use of TTY equipment protocols for communicating with individuals who are deaf, hard of hearing or who have speech impairments. Such training and information should include:

(a) The requirements of the ADA and Section 504 of the Rehabilitation Act for telephone emergency service providers.

(b) ASL syntax and accepted abbreviations.

(c) Practical instruction on identifying and processing TTY or TDD calls, including the importance of recognizing silent TTY or TDD calls, using proper syntax, abbreviations and protocol when responding to TTY or TDD calls.

(d) Hands-on experience in TTY and TDD communications, including identification of TTY or TDD tones.

Training should be mandatory for all the Communications Center members who may have contact with individuals from the public who are deaf, hard of hearing or have impaired speech. Refresher training should occur every six months.

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Mandatory School Employee Reporting

372.1 PURPOSE AND SCOPE

The purpose of this policy is to describe the requirements and procedures to follow when a public or private school employee (teacher and non-teacher) has been arrested under certain circumstances.

372.2 MANDATORY SCHOOL EMPLOYEE ARREST REPORTING

In the event a school employee is arrested for any controlled substance offense enumerated in Health & Safety Code § 11590, 11364, in so far as that section relates to paragraph (12) of subdivision (d) of Health and Safety Code § 11054, or for any of the offenses enumerated in Penal Code § 290 or in subdivision 1 of Penal Code § 291 or Education Code § 44010, the Chief of Police or his/her designee is required to immediately report the arrest as follows:

372.2.1 ARREST OF PUBLIC SCHOOL TEACHER

Upon arrest for one of the above bureaus, the Chief of Police or his/her designee is mandated to immediately notify by telephone the Superintendent of the school district employing the teacher and to immediately give written notice of the arrest to the Commission on Teacher Credentialing and to the Superintendent of schools in the county where the person is employed.

372.2.2 ARREST OF PUBLIC SCHOOL NON-TEACHER EMPLOYEE

Upon arrest for one of the above bureaus, the Chief of Police or his/her designee is mandated to immediately notify by telephone the Superintendent of the school district employing the non-teacher and to immediately give written notice of the arrest to the governing board of the school district employing the person.

372.2.3 ARREST OF PRIVATE SCHOOL TEACHER

Upon arrest for one of the above sections, the Chief of Police or his/her designee is mandated to immediately notify by telephone the private school authority employing the teacher and to immediately give written notice of the arrest to the private school authority employing the teacher.

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Biological Samples

374.1 PURPOSE AND SCOPE

This policy provides guidelines for the collection of biological samples from those individuals required to provide samples upon conviction or arrest for certain offenses. This policy does not apply to biological samples collected at a crime scene or taken from a person in conjunction with a criminal investigation. Nor does it apply to biological samples from those required to register, for example, sex offenders.

374.2 POLICY

The Bay Area Rapid Transit Police Department will assist in the expeditious collection of required biological samples from offenders in accordance with the laws of this state and with as little reliance on force as practicable.

374.3 PERSONS SUBJECT TO DNA COLLECTION

Those who must submit a biological sample include (Penal Code § 296):

(a) A person, including a juvenile, upon conviction or other adjudication of any felony offense.

(b) A person, including a juvenile, upon conviction or other adjudication of any offense if the person has a prior felony on record.

(c) An adult arrested or charged with any felony.

374.4 PROCEDURE

When an individual is required to provide a biological sample, a trained employee shall obtain the sample in accordance with this policy.

374.4.1 COLLECTION

The following steps should be taken to collect a sample:

(a) Verify that the individual is required to provide a sample pursuant to Penal Code § 296; Penal Code § 296.1.

(b) Verify that a biological sample has not been previously collected from the offender by querying the individual's criminal history record for a DNA collection flag or, during regular business hours, calling the California Department of Justice (DOJ) designated DNA laboratory. There is no need to obtain a biological sample if one has been previously obtained.

(c) Use a DNA buccal swab collection kit provided by the California DOJ to perform the collection and take steps to avoid cross contamination.

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374.5 USE OF FORCE TO OBTAIN SAMPLES

If a person refuses to cooperate with the sample collection process, officers should attempt to identify the reason for refusal and seek voluntary compliance without resorting to using force. Force will not be used in the collection of samples except as authorized by court order and only with the approval of a supervisor. Methods to consider when seeking voluntary compliance include contacting:

(a) The person's parole or probation officer when applicable.

(b) The prosecuting attorney to seek additional charges against the person for failure to comply or to otherwise bring the refusal before a judge.

(c) The judge at the person's next court appearance.

(d) The person's attorney.

(e) A chaplain.

(f) Another custody facility with additional resources, where an arrestee can be transferred to better facilitate sample collection.

(g) A supervisor who may be able to authorize custodial disciplinary actions to compel compliance, if any are available.

The supervisor shall review and approve any plan to use force and be present to document the process.

374.5.1 VIDEO RECORDING

A video recording should be made anytime force is used to obtain a biological sample. The recording should document all staff participating in the process, in addition to the methods and all force used during the collection. The recording should be part of the investigation file, if any, or otherwise retained in accordance with the department's records retention schedule (15 CCR § 1059).

374.5.2 CELL EXTRACTIONS

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

374.6 LEGAL MANDATES AND RELEVANT LAWS

California law provides for the following:

374.6.1 DOCUMENTATION RELATED TO FORCE

Supervisors shall prepare prior written authorization for the use of any force (15 CCR § 1059). The written authorization shall include information that the subject was asked to provide the requisite specimen, sample or impression and refused, as well as the related court order authorizing the force.

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374.6.2 BLOOD SAMPLES

A blood sample should only be obtained under this policy when:

(a) The California DOJ requests a blood sample and the subject consents, or

(b) A court orders a blood sample following a refusal.

The withdrawal of blood may only be performed in a medically approved manner by health care providers trained and qualified to draw blood. A California DOJ collection kit shall be used for this purpose (Penal Code § 298(a); Penal Code § 298(b)(2)).

374.6.3 LITIGATION

The Chief of Police or authorized designee should notify the California DOJ's DNA Legal Unit in the event this department is named in a lawsuit involving the DNA Data Bank sample collection, sample use or any aspect of the state's DNA Data Bank Program.

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Chaplain Program

376.1 PURPOSE AND SCOPE

The department Chaplain Program is established for the purposes of:

(a) Providing spiritual and emotional support to all members of the department, and their families;

(b) Providing spiritual and emotional support to victims of crimes/tragedies;

(c) Supporting the department's Trauma Response Team (refer to BART P.D. Policy Manual Policy 377); and

(d) Enhancing the department's 24-hour service to the BART District and the communities we serve.

376.2 POLICY

It is the policy of this department that the Chaplain Program shall be a non-denominational, ecumenical ministry provided by volunteer clergy without financial compensation.

376.3 GOALS

Members of the Chaplain Program shall fulfill the program's purpose in the following manner:

(a) By serving as a resource for department personnel when dealing with the public in such incidents as accidental deaths, suicides, suicidal subjects, serious accidents, drug and alcohol abuse, and other such situations that may arise.

(b) By providing an additional link between the community, other chaplain programs and the Department.

(c) By providing counseling, spiritual guidance and insight for department personnel and their families.

(d) By being alert to the spiritual and emotional needs of department personnel and their families.

(e) By familiarizing themselves with the role of law enforcement in the community.

376.4 REQUIREMENTS

Candidates for the Chaplain Program shall meet the following requirements:

(a) Must be above reproach, temperate, prudent, respectable, hospitable, able to teach, not be addicted to alcohol or other drugs, not contentious, and free from excessive debt. Must manage their household, family, and personal affairs well. Must have a good reputation with those outside the church.

(b) Must be ecclesiastically certified and/or endorsed, ordained, licensed, or commissioned by a recognized religious body.

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(c) Must successfully complete an appropriate level background investigation.

(d) Must have at least one year of successful ministry experience within a recognized church or religious denomination.

(e) Membership in good standing with the International Conference of Police Chaplains (ICPC) is a prerequisite. Candidates have the opportunity to fulfill this requirement within two years. Individuals who fail to become full members of ICPC or allow their membership to lapse without renewal for more than (90) ninety days shall be subject to dismissal as a volunteer police chaplain by the Chief of Police.

(f) Volunteer police chaplains are required to pay all costs associated with membership in and certification by the ICPC.

(g) Possess a valid California Drivers License.

(h) Possess current individual medical and auto insurance coverage.

(i) The non-sworn volunteer chaplain shall have a basic knowledge of the duties of law enforcement officers, be aware of new procedures, and be willing to attend training sessions and programs conducted by the BART Police Department.

376.5 SELECTION PROCESS

Chaplain candidates are encouraged to participate in the ride-along program before and during the selection process. Chaplain candidates shall successfully complete the following process prior to becoming a BART Police Chaplain:

(a) Complete written application.

(b) Provide a written letter of recommendation from their church elders, board, or council.

(c) Interview with the Chief of Police and Chaplain Coordinator.

(d) Successfully complete an appropriate level background investigation.

(e) Complete a 16 hour BART Police Chaplain Academy and a six-month probationary period.

376.6 DUTIES AND RESPONSIBILITIES

The duties of a volunteer chaplain include, but are not limited to, the following:

(a) Assist in making notification to families of department members who have been seriously injured or killed.

(b) After notification, respond to the hospital or home of the department member.

(c) Visit sick or injured law enforcement personnel in the hospital or home.

(d) Attend and participate, when requested, in funerals of active or retired members of the department.

(e) Assist sworn personnel in the diffusion of a conflict or incident when requested.

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(f) Respond to natural and accidental deaths, suicides and attempted suicides, family disturbances and any other incident that in the judgment of the Watch Commander or Supervisor aids in accomplishing the department's mission.

(g) Be on call and if possible, on duty during major demonstrations or any public function that requires the presence of a large number of department personnel.

(h) Counsel officers and other personnel with personal problems when requested.

(i) Attend department and academy graduations, ceremonies and social events and offer invocations and benedictions, as requested.

(j) Be responsible for the organization and development of spiritual organizations in the department.

(k) Respond to all major disasters such as earthquakes, bombings and similar critical incidents.

(l) Provide liaison with other religious leaders of the community.

(m) Assist public safety personnel and the community in any other function of the clergy profession as requested.

(n) Participate in in-service training classes.

(o) Willingness to provide training to enhance effectiveness.

(p) Facilitate requests for representatives or ministers of other denominations promptly.

(q) Make referrals in cases where specialized attention is needed, or in those cases that are beyond the volunteer chaplain's ability to assist.

(r) Periodically attend lineups throughout the department.

(s) Attend major demonstrations involving large numbers of law enforcement officers.

(t) May be called to assist with cases involving a lost or missing child, child abuse, sexual assaults, or hostage situations

Volunteer chaplains may not accept gratuities offered for their services while functioning as a chaplain for the Police Department.

376.7 CONFIDENTIALITY

It should be noted that members and employees of the BART Police Department who request pastoral counseling sessions with a volunteer chaplain are entitled to privileged communication (Evidence Code Section 1034), that shall not be reported to a Deputy Chief/supervisor or have any bearing on job status. Pastoral confidentiality (Pastor/Penitent Confidentiality), shall be strictly maintained except in the following circumstances:

(a) A volunteer chaplain who, as a consequence of obtaining any information from a member or employee, believes that the member /employee is an immediate danger to him/herself or others shall notify the Chaplain Coordinator, who shall in turn notify the on-duty Operations

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Bureau Deputy Chief. If the Chaplain Coordinator can not be reached within five minutes of the initial call, the volunteer chaplain shall notify the on-duty Watch Commander directly.

(b) A volunteer chaplain must report child, elder or dependent abuse discovered while acting as a marriage , family, or child counselor, and when acting as a religious practitioner, who diagnoses, examines, or treats children, elders, or dependent adults.

376.8 COMMAND STRUCTURE

(a) Under the general direction of the Chief of Police or his/her designee, volunteer chaplains shall report to the Chaplain Coordinator and/or Watch Commander.

(b) The Chief of Police shall make all appointments in the Chaplain Program and will designate a lieutenant to be the Chaplain Coordinator (CC). The Chief may select a sergeant as a Chaplain Adviser (CA) to advise and support the CC with the management of the Chaplain Program.

(c) The CC shall serve as the liaison between the Chaplain Program and the Chief of Police. He/she will arrange for regular quarterly meetings, act as chairperson of all chaplain meetings, prepare monthly schedules, maintain records on all activities of the Chaplain Program, coordinate activities that may concern the members of the Chaplain Program, arrange for training classes for voluntary chaplains, and ensure that police zone facilities have chaplain referral forms available.

(d) The CC will provide the Chief of Police with an annual program report detailing the unit's activities.

(e) BART P.D. Policy 376-Chaplain Program will be updated bi-annually to keep with the best industry practices.

376.9 OPERATIONAL GUIDELINES

(a) Volunteer chaplains will be scheduled to be on-call for a period of seven days at a time during each month, beginning on Monday and ending on the following Sunday. The duty chaplain shall be available to the Communications Section at all times, either by pager, or telephone. If the chaplain is on vacation or out of town, he/she shall coordinate with the Chaplain Coordinator to ensure a chaplain is designated to act on his/her behalf. If the Communications Section fails to contact the duty chaplain as listed on the schedule , the Communications Section shall notify the on-duty Watch Commander.

(b) Generally, each volunteer chaplain will serve with the Department a minimum of eight hours per month. Volunteer chaplains will notify the CC by departmental email of their activities.

(c) A Chaplain Activity Report must be completed after each chaplain involved incident. The report entry shall include the date, time called, location of call, the nature of the call, whether follow-up is needed, and total time involved. Chaplain Activity Reports shall be kept in the CC's office. A Chaplain Activity Report shall be completed by the duty chaplains at the end

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of his/her tour of duty. All contacts with department personnel shall remain confidential and members/employees shall not be identified by name in the Chaplain Activity Reports.

(d) Volunteer chaplains shall be permitted to ride with officers during any shift and observe Department operations, provided the Watch Commander has been notified and has given approval.

(e) Volunteer chaplains shall not be evaluators of employees and shall not be required to report on an employee's performance or conduct.

(f) In responding to incidents, a volunteer chaplain shall never function as an officer.

(g) When responding to in-progress calls for service, volunteer chaplains may be required to stand-by in a secure area until the situation has been deemed safe.

(h) Volunteer chaplains shall serve only within the jurisdiction of the Department unless otherwise authorized by the Chief of Police or his designee.

(i) Each volunteer chaplain shall have access to current personnel rosters, addresses, telephone numbers, duty assignments and other information that may assist in their duties. Such Information will be considered confidential and each voluntary chaplain will exercise appropriate security measures to prevent distribution of the information.

376.9.1 UNIFORMS AND BADGES

A daily uniform, consisting of casual business attire (polo shirt, docker pants and windbreaker jacket) and necessary safety equipment will be provided for the chaplains. Chaplains will also be provided with a Class A uniform for formal and special occasions. Any uniforms and equipment issued to a chaplain shall remain the property of the BART Police Department and shall be surrendered to the Chief of Police or his Representative upon resignation or dismissal from the program.

(a) All volunteer chaplains, when on duty, shall be properly identified by wearing his/her chaplain identification card and/or distinctive uniform.

(b) Each non-sworn volunteer chaplain shall be issued an official BART Police Chaplain picture identification card as well as a District employee card. The identification cards remain the property of the BART Police Department and upon resignation or dismissal from the program, shall be surrendered to the Chief of Police or his representative.

(c) While wearing a Class A uniform, a police chaplain badge shall be worn for the duration of the formal or special occasion only. Upon completion of the formal or special occasion the badge shall be returned to the chaplain coordinator.

376.9.2 DISMISSAL AS A VOLUNTEER POLICE CHAPLAIN

Reasons for dismissal from the BART Police Chaplain Program include, but are not limited to:

(a) Violation of BART Police Policies.

(b) Failure or refusal to respond when called.

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(c) Excessive tardiness/absences as determined by the CC;

(d) Breach of confidentiality.

(e) Failure to satisfactorily perform duties.

(f) Failure or refusal to participate in approved chaplain continuing education.

(g) Failure to maintain ecclesiastical endorsement from the chaplain's judicatory;

(h) Inhibition to perform clerical tasks (defrocking).

(i) Chief of Police determines the voluntary chaplain's services are no longer required and/or dismissal of the voluntary chaplain is in the best interest of the Department.

In the event one or more or the above violations occurs, the chaplain may be subject to counseling with the Chaplain Coordinator and Chaplain Adviser. It should be noted that any volunteer chaplain may be dismissed as a volunteer police chaplain by the Chief of Police without cause at any time. Volunteer police chaplains, as volunteers, do not retain "property rights" to the position of volunteer police chaplain and are not subject to Civil Service due process procedures.

376.9.3 BART RIDING PRIVILEGES FOR VOLUNTEER CHAPLAINS

Volunteer chaplains will be provided with free riding privileges aboard BART as long as they are serving the department in an official capacity. Upon resigning from or being removed from the Chaplain Program riding privileges will be terminated.

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Trauma Response Team

377.1 PURPOSE AND SCOPE

Traumatic events precipitate feelings of anger, guilt, and disillusionment. These feelings are natural and should be expected as part of the psychological and physiological phenomena that occur during a traumatic event. Unfortunately these natural reactions are seldom understood or acknowledged and can, if not immediately addressed, lead to Post Traumatic Stress Disorder which could result in mental and physical health problems for the individual and his or her family, destructive behavior, and poor performance.

In an effort to minimize their effects, the BART Police Department has developed a Trauma Response Team comprised of personnel who are trained to perform psychological debriefing to those who are involved in a traumatic event.

377.1.1 PSYCHOLOGICAL CONSIDERATIONS FOR STRESSFUL SITUATIONS

Studies have shown that psychological trauma may occur when an officer has caused or witnessed the death or serious injury of another human being or has been directly involved in other traumatic situations. This procedure has been developed to assist our police personnel who may find themselves experiencing such a situation.

Therefore, the officers of this department who are subjected to severely stressful situations such as, but not limited to the following events should be afforded a debriefing to diagnose, assist, and prevent the symptoms of Post Traumatic Stress Disorder:

a. Involvement in the death or serious injury of a human being

b. Involvement in a situation when an officer is seriously injured but is physically able to receive counseling

c. Involvement in any other extremely stressful situations i.e., (taken hostage, partner killed or seriously injured, prolonged assignment to mass death situation)

377.1.2 PSYCHOLOGICAL CONSULTATION EMPLOYEE INITIATED

Psychological counseling is available to any member of the department for problems arising from both work and non-work related situations based on decisions from the Trauma Response Team (TRT) Lieutenant or the Watch Commander.

When an employee desires to obtain psychological counseling for a work related problem, he/she shall contact the TRT Lieutenant or Watch Commander. The Watch Commander will assist the employee in processing the required workers compensation forms, when appropriate.

An employee who wishes to seek assistance on his or her own may obtain confidential counseling through the BART Police Department-Employee Assistance Program (EAP) by contacting Claremont EAP at (800) 788-8829. Claremont EAP can be reached 24 hours a day 7 days a week and is available to all employees and their families. All referrals will be kept confidential as permitted by law.

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377.1.3 GUIDELINES FOR TRAUMA RESPONSE TEAM

The Trauma Response Team will act in accordance with the following guidelines:

Confidentiality: The BART Police Department recognizes as "privileged communication" the dialog during a debriefing between members of the Trauma Response Team, acting under the direction of a licensed psychologist, and those employees affected by the traumatic event. However, "privileged communication" will not be recognized when information shared would lead a reasonable person to believe that a criminal act has occurred. This is in accordance with department Policy 201 General Duty Regulations and Conduct. Therefore, the Trauma Response Team will verbally notify the employee of this exception prior to any debriefing.

a. **Purpose**: The purpose of the Trauma Response Team is threefold:

1. To diagnose the symptoms of Post Traumatic Stress Disorder.

2. To provide comfort and support by meeting the involved employees' immediate needs.

3. To facilitate the understanding and expression of feelings and/or perceptional distortions experience during a traumatic event.

b. **Scope of Responsibility**: The Trauma Response Team should provide immediate and ongoing assistance under the following conditions:

1. When an employee perceives that he/she has been involved in a traumatic event, on or off-duty, and the employee requests the services of the Trauma Response Team.

2. When a supervisor recognizes that an employee has been involved in a traumatic event, on or off duty, that may have the result of severe emotional shock. Members of the Trauma Response Team will be aware of the differences in rank and the impact that difference may have on the debriefing process. Discretion will be used when considering debriefing a member of a different classification.

c. **Team Composition and Structure** : The Trauma Response Team is comprised of a TRT Lieutenant, a Team Coordinator and Debriefers,(which may include Sergeants, Officers, and Dispatchers). These team members will be in good standing with the department, have significant experience in police related traumatic incidents and have specialized ongoing training in assisting fellow officers and their families in dealing with the immediate adverse psychological reactions to traumatic situations. Department personnel can be removed from the team at any time based on the Chief of Police's discretion.

d. **Activation**: Under the conditions defined herein, under Scope of Responsibility, the on-duty Watch Commander should activate the Trauma Response Team in the following manner:

1. The Trauma Response Team Coordinator will maintain a roster of qualified personnel who are subject to call in the event of a traumatic incident. The roster will be maintained in the G-drive in the TRT file. The Watch Commander will notify the team coordinator and provide a synopsis of the event including the number of involved personnel. Once directed by the psychologist to proceed the Team Coordinator will determine the size of the deployment and make the appropriate

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notifications. A deployment will include a team supervisor and an appropriate cadre of team members based on the number of involved employees.

2. The Team Coordinator or Watch Commander will contact the psychologist and provide the psychologist with the description of the event.

3. Once activated, Trauma Response Team members will contact the incident or scene supervisor prior to contacting the personnel involved in the traumatic event. They will identify themselves to the affected employee(s) as members of the Trauma Response Team and explain the purpose of a debriefing which is to diagnose the symptoms of Post Traumatic Stress Disorder. The employee(s) may decline to participate in the debriefing. The employee(s) will be referred to the BART Police Department EAP at (800) 788-8829. In the event the employee refused a debriefing by the Trauma Response Team, the department may choose to mandate an evaluation by a licensed psychologist prior to the employee returning to regular duty.

4. The Watch Commander will activate the on-call chaplain. If necessary based on the need additional chaplains may be requested to respond. Trauma Response Team Members will coordinate with the police chaplain(s) and advise them of all the details concerning the event. The BART Police Department recognizes as "privileged communication" the dialog during a debriefing between police chaplains and those employees affected by the traumatic event. However, based on department Policy 376 Chaplain Program "privileged communication" will not be recognized when:

(a) A police chaplain who, as a consequence of obtaining any information from a member or employee, believes that the member /employee is an immediate danger to him/herself or others.

(b) Child, elder or dependent abuse is discovered while acting as a marriage, family, or child counselor and when acting as a religious practitioner, who diagnoses, examines, or treats children, elders, or dependent adults.

5. The BART Police Department places a high priority on the mental and emotional health of all of its employees. The effects of Post Traumatic Stress Disorder need to be addressed in a timely manner. The department will place a priority on the debriefing, allowing it to take place prior to criminal interviews, unless determined otherwise by the Chief of Police.

6. A Trauma Response Team member who is directly involved in a traumatic event as a subject or witness officer shall be excluded from performing the duties of a Trauma Response Team Member during a call- out.

377.1.4 COMMAND RESPONSIBILITY

The TRT Lieutenant will act as liaison between the Team, Command Staff and the Chief of Police.

The Trauma Response Team Coordinator, one of the TRT Sergeants, will be responsible for the following:

a. Supervision and administrative duties of the Trauma Response Team

b. In the absence of the TRT Lieutenant, acting as the liaison between the staff and the Team

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c. Keeping the TRT Lieutenant apprised of any call outs or utilization of Trauma Response Team members

d. Keeping the Watch Commander updated on the activities of the Team

e. Arranging training for team members

377.1.5 TEAM SUPERVISOR

When activated, a Trauma Response Team Sergeant or designated member assumes the responsibility for all Trauma Response Team functions. These responsibilities will include, but are not limited to:

a. Contact the department psychologist and advise him/her of the circumstances of the incident

b. Liaison with all other involved investigative personnel as required

c. Assess the need for additional team members

d. Activation of other resources and liaison with the involved officer's family

e. Advise the Team Coordinator of the circumstances of the activation, employees involved, Trauma Response Team members being used, and status of the debriefed personnel

f. When unable to contact the Team Coordinator, contact the TRT Lieutenant and advise him/her of the circumstances of the activation, employees involved, team members being used and status of the debriefed personnel

g. Update the Watch Commander of the activities of the Trauma Response Team

h. Insure that the Trauma Response Team Activity Form is submitted to the Administrative Lieutenant after the conclusion of the debriefing

377.1.6 TRAINING

All Trauma Response Team members shall attend the basic training course. New members of the team will attend this course as soon as possible after being assigned to the team.

Any team member who has not attended the entire basic training course may not participate as a primary debriefer.

All Trauma Response Team members shall attend quarterly training. These training sessions range from four to eight hours and are presented by a licensed psychologist or designee. Absence from training must be approved by a Trauma Support Team supervisor.

377.1.7 OUTSIDE AGENCY REQUESTS FOR TRAUMA SUPPORT

The TRT Lieutenant will be immediately notified regarding any outside agency requests for the Trauma Response Team. The TRT Lieutenant will consider the following factors when deciding if the Trauma Response Team will assist the requesting agency:

- Type of incident
- Number of individuals needed to be debriefed

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- The number of Trauma Response Team members required

The TRT Lieutenant will receive approval from a Deputy Chief before activating team members for an outside agency request.

377.1.8 TRAUMA RESPONSE TEAM ACTIVITY FORM

The Department provides a Trauma Response Team Activity Form, which is to be submitted to the TRT Lieutenant after the conclusion of the debriefing. The response form will be maintained by the TRT Lieutenant. The activity form will document:

- The debriefers' activities
- Personnel debriefed
- A synopsis of the traumatic incident
- Logistical considerations such as overtime used and any incidental purchases

Within seven (7) working days after a debriefing, a completed "Trauma Response Team Activity Form" will be forwarded to:

- The Chief of Police;
- Deputy Chiefs

A quarterly Trauma Response Team Report describing the Team's activities will be completed by the TRT Lieutenant and forwarded via the chain of command to the Chief of Police for his/her review.

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Child and Dependent Adult Safety

380.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that children and dependent adults are not left without appropriate care in the event their caregiver or guardian is arrested or otherwise prevented from providing care due to actions taken by members of this department (Penal Code § 833.2(a)).

This policy does not address the actions to be taken during the course of a child abuse or dependent adult investigation. These are covered in the Child Abuse Policy and the Elder Abuse Policy.

380.2 POLICY

It is the policy of this department to mitigate, to the extent reasonably possible, the stressful experience individuals may have when their parent or caregiver is arrested. The Bay Area Rapid Transit Police Department will endeavor to create a strong, cooperative relationship with local, state and community-based social services to ensure an effective, collaborative response that addresses the needs of those affected.

380.3 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation, officers should make reasonable attempts to determine if the arrestee is responsible for children or dependent adults. In some cases this may be obvious, such as when children or dependent adults are present. However, officers should inquire if the arrestee has caregiver responsibilities for any children or dependent adults who are without appropriate supervision. The following steps should be taken (Penal Code § 13517.7(b)(1)):

(a) Inquire about and confirm the location of any children or dependent adults.

(b) Look for evidence of children and dependent adults. Officers should be mindful that some arrestees may conceal the fact that they have a dependent for fear the individual may be taken from them.

(c) Consider inquiring of witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a child or dependent adult.

Whenever reasonably possible, officers should take reasonable steps to accomplish the arrest of a parent, guardian or caregiver out of the presence of his/her child or dependent adult. Removing children or dependent adults from the scene in advance of the arrest will generally ensure the best outcome for the individual.

Whenever it is safe to do so, officers should allow the parent or caregiver to assure children or dependent adults that they will be provided care. If this is not safe or if the demeanor of the parent or caregiver suggests this conversation would be non-productive, the officer at the scene should explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

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380.3.1 AFTER AN ARREST

Whenever an arrest is made, the officer should take all reasonable steps to ensure the safety of the arrestee's disclosed or discovered children or dependent adults.

Officers should allow the arrestee reasonable time to arrange for care of children and dependent adults. Temporary placement with family or friends may be appropriate. However, any decision should give priority to a care solution that is in the best interest of the child or dependent adult. In such cases the following guidelines should be followed:

(a) Allow the person reasonable time to arrange for the care of children and dependent adults with a responsible party, as appropriate.

    1. Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), officers should respect the parent or caregiver's judgment regarding arrangements for care. It is generally best if the child or dependent adult remains with relatives or family friends that he/she knows and trusts because familiarity with surroundings and consideration for comfort, emotional state and safety are important.

    2. Except when a court order exists limiting contact, the officer should attempt to locate and place children or dependent adults with the non-arrested parent, guardian or caregiver.

(b) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.

(c) Notify Child Protective Services or the Division of Aging and Adult Services, if appropriate.

(d) Notify the field supervisor or Watch Commander of the disposition of children or dependent adults.

If children or dependent adults are at school or another known location outside the household at the time of arrest, the arresting officer should attempt to contact the school or other known location and inform the principal or appropriate responsible adult of the caregiver's arrest and of the arrangements being made for the care of the arrestee's dependent. The result of such actions should be documented in the associated report.

380.3.2 DURING THE BOOKING PROCESS

During the booking process the arrestee shall be allowed to make additional telephone calls to relatives or other responsible individuals as is reasonably necessary to arrange for the care of any child or dependent adult. These telephone calls should be given as soon as practicable and are in addition to any other telephone calls allowed by law (Penal Code § 851.5(c)).

If an arrestee is unable to resolve the care of any child or dependent adult through this process, a supervisor should be contacted to determine the appropriate steps to arrange for care. These steps may include additional telephone calls or contacting a local, county or state services agency.

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380.3.3 REPORTING

(a) For all arrests where children are present or living in the household, the reporting employee will document the following information:

1. Name
2. Sex
3. Age
4. How, where and with whom or which agency the child was placed

(b) For all arrests where dependent adults are present or living in the household, the reporting employee will document the following information:

1. Name
2. Sex
3. Age
4. Whether he/she reasonably appears able to care for him/herself
5. Disposition or placement information if he/she is unable to care for him/herself

380.3.4 SUPPORT AND COUNSELING REFERRAL

If, in the judgment of the handling officers, the child or dependent adult would benefit from additional assistance, such as counseling services, contact with a victim advocate or a crisis telephone number, the appropriate referral information may be provided.

380.4 DEPENDENT WELFARE SERVICES

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any child or dependent adult, the handling officer should consider contacting the appropriate welfare service or other department-approved social service to determine whether protective custody is appropriate (Welfare and Institutions Code § 305).

Only when other reasonable options are exhausted should a child or dependent adult be transported to the police's facility, transported in a marked patrol car or taken into formal protective custody.

Under no circumstances should a child or dependent adult be left unattended or without appropriate care.

380.5 TRAINING

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

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Service Animals

382.1 PURPOSE AND SCOPE

Service animals play an important role in helping to overcome the limitations often faced by people with disabilities. The Bay Area Rapid Transit Police Department recognizes this need and is committed to making reasonable modifications to its policies, practices, and procedures in accordance with Title II of the Americans with Disabilities Act of 1990 (ADA) to permit the use of service animals that are individually trained to assist a person with a disability.

382.2 SERVICE ANIMALS

The ADA defines a service animal as any dog or miniature horse that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. The work or tasks performed by a service animal must be directly related to the owner's disability (28 CFR 35.104).

California expands the definition of a service animal to include other animals that are individually trained to provide assistance to an individual with a disability (Healthy and Safety Code § 113903).

382.2.1 USE OF SERVICE ANIMALS

Some service animals may be readily identifiable. However, many do not have a distinctive symbol, harness or collar. Service animals are not pets and may be trained by an individual or organization to assist people with disabilities.

The following examples are some of the ways service animals may be used to provide assistance:

- Guiding people who are blind or have low vision.
- Alerting people who are deaf or hard of hearing.
- Retrieving or picking up items, opening doors or flipping switches for people who have limited use of their hands, arms or legs.
- Pulling wheelchairs.
- Providing physical support and assisting with stability and balance.
- Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities or psychiatric disabilities, such as reminding a person with depression to take medication.
- Alerting a person with anxiety to the onset of panic attacks, providing tactile stimulation to calm a person with post-traumatic stress disorder, assisting people with schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.

382.3 MEMBER RESPONSIBILITIES

Service animals that are assisting individuals with disabilities are permitted in all public facilities and areas where the general public is allowed. Department members are expected to treat

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individuals with service animals with the same courtesy and respect that the Bay Area Rapid Transit Police Department affords to all members of the public.

If an animal exhibits vicious behavior, poses a direct threat to the health of others or unreasonably disrupts or interferes with normal business operations, an officer may direct the owner to remove the animal from the premises. Barking alone is not a threat nor does a direct threat exist if the person takes prompt, effective action to control the animal. Each incident must be considered individually and past incidents alone are not cause for excluding a service animal. Removal of a service animal may not be used as a reason to refuse service to an individual with disabilities. Members of this department are expected to provide all services as are reasonably available to an individual with the disability.

If it is apparent or if an officer is aware the animal is a service animal, the owner should not be asked any questions as to the status of the animal. If it is unclear whether an animal meets the definition of a service animal, the officer should ask the individual only the following questions:

- Is the animal required because of a disability?
- What task or service has the service animal been trained to perform?

If the individual explains that the animal is required because of a disability and has been trained to work or perform at least one task, the animal meets the definition of a service animal and no further questions as to the animal's status should be asked. The person should not be questioned about his/her disabilities nor should the person be asked to provide any license, certification or identification card for the service animal.

Service animals are not pets. Department members should not interfere with the important work performed by a service animal by talking to, petting or otherwise initiating contact with a service animal.

When handling calls of a complaint regarding a service animal, members of this department should remain neutral and should be prepared to explain the ADA requirements concerning service animals to the concerned parties. Businesses are required to allow service animals to accompany their owner into all areas that other customers or members of the public are allowed.

Absent a violation of law independent of the ADA, officers should take no enforcement action beyond keeping the peace. Individuals who believe they have been discriminated against as a result of a disability should be referred to the Civil Rights Division of the U.S. Department of Justice.

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Off-Duty Law Enforcement Actions

386.1 PURPOSE AND SCOPE

The decision to become involved in a law enforcement action when off-duty can place an officer as well as others at great risk and must be done with careful consideration. This policy is intended to provide guidelines for officers of the Bay Area Rapid Transit Police Department with respect to taking law enforcement action while off-duty.

386.2 POLICY

Initiating law enforcement action while off-duty is generally discouraged. Officers should not attempt to initiate enforcement action when witnessing minor crimes, such as suspected intoxicated drivers, reckless driving or minor property crimes. Such incidents should be promptly reported to the appropriate law enforcement agency.

Officers are not expected to place themselves in unreasonable peril. However, any sworn member of this department who becomes aware of an incident or circumstance that he/she reasonably believes poses an imminent threat of serious bodily injury or death, or significant property damage may take reasonable action to minimize the threat.

When public safety or the prevention of major property damage requires immediate action, officers should first consider reporting and monitoring the activity and only take direct action as a last resort.

386.3 FIREARMS

Officers of this department may carry firearms while off-duty in accordance with federal regulations and department policy. All firearms and ammunition must meet guidelines as described in the department Firearms Policy. When carrying firearms while off-duty officers shall also carry their department-issued badge and identification.

Officers should refrain from carrying firearms when the consumption of alcohol is likely or when the need to carry a firearm is outweighed by safety considerations. Firearms shall not be carried by any officers who has consumed an amount of an alcoholic beverage or taken any drugs that would tend to adversely affect the officer's senses or judgment.

386.4 DECISION TO INTERVENE

There is no legal requirement for off-duty officers to take law enforcement action. However, should officers decide to intervene, they must evaluate whether the action is necessary or desirable, and should take into consideration the following:

(a) The tactical disadvantage of being alone and the fact there may be multiple or hidden suspects.

(b) The inability to communicate with responding units.

(c) The lack of equipment, such as handcuffs, OC or baton.

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(d) The lack of cover.

(e) The potential for increased risk to bystanders if the off-duty officer were to intervene.

(f) Unfamiliarity with the surroundings.

(g) The potential for the off-duty officer to be misidentified by other peace officers or members of the public.

Officers should consider waiting for on-duty uniformed officers to arrive, and gather as much accurate intelligence as possible instead of immediately intervening.

386.4.1 INTERVENTION PROCEDURE

If involvement is reasonably necessary the officer should attempt to call or have someone else call 9-1-1 to request immediate assistance. The dispatcher should be informed that an off-duty officer is on-scene and should be provided a description of the officer if possible.

Whenever practicable, the officer should loudly and repeatedly identify him/herself as an Bay Area Rapid Transit Police Department officer until acknowledged. Official identification should also be displayed.

386.4.2 INCIDENTS OF PERSONAL INTEREST

Officers should refrain from handling incidents of personal interest, (e.g., family or neighbor disputes) and should remain neutral. In such circumstances officers should call the responsible agency to handle the matter.

386.4.3 CIVILIAN RESPONSIBILITIES

Civilian personnel should not become involved in any law enforcement actions while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and practicable.

386.4.4 OTHER CONSIDERATIONS

When encountering a non-uniformed officer in public, uniformed officers should wait for acknowledgement by the non-uniformed officer in case he/she needs to maintain an undercover capability.

386.5 REPORTING

Any off-duty officer who engages in any law enforcement activity, regardless of jurisdiction, shall notify the Watch Commander as soon as practicable. The Watch Commander shall determine whether a report should be filed by the employee.

Officers should cooperate fully with the agency having jurisdiction in providing statements or reports as requested or as appropriate.

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Chapter 4 - Patrol Operations

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Operations Function

400.1 PURPOSE AND SCOPE

The purpose of this policy is to define the functions of the Operations Bureau of the department to ensure intra-department cooperation and information sharing.

400.1.1 FUNCTION

Officers will patrol in clearly marked vehicles, patrol assigned jurisdictional areas of the District, respond to calls for assistance, act as a deterrent to crime, enforce state and local laws and respond to emergencies 24 hours per day seven days per week. When assigned to patrol stations and trains, officers will be a highly visible presence.

Patrol will generally provide the following services within the limits of available resources:

(a) Patrol that is directed at the prevention of criminal acts, traffic violations and collisions, the maintenance of public order, and the discovery of hazardous situations or conditions

(b) Crime-prevention activities such as inspections of District facilities, community presentations, etc.

(c) Calls for service, both routine and emergency in nature

(d) Investigation of both criminal and non-criminal acts

(e) The apprehension of criminal offenders

(f) Community-Oriented Policing and Problem Solving activities such as patron assists and individual citizen contacts of a positive nature

(g) The sharing of information between the patrol bureau and the support services bureau of the department, as well as other outside governmental agencies

(h) The application of resources to specific problems or situations within the District, which may be improved or resolved by Community-Oriented Policing and Problem Solving strategies

(i) Traffic direction and control

400.1.2 TERRORISM

It is the goal of the Bay Area Rapid Transit Police Department to make every reasonable effort to investigate and appropriately gather and report any intelligence that may relate incidents of significant security concerns. It is important that information be communicated between federal, state and local agencies. These incidents may or may not be related terrorism. Officers should advise a supervisor as soon as practicable of any activity believed to be of a significant security concern to the District. Such incidents should be thoroughly investigated and documented with a written report. Field interviews (FI) or contacts which may raise significant security concerns should also be reported. The supervisor should notify the watch commander of all the pertinent details and will ensure that all terrorism related reports and FIs are forwarded to the Criminal Investigations Section Supervisor in a timely fashion.

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The watch commander is responsible for notifying the Transportation Security Operations Center (TSOC) at 1-866 615-5150 (e-mail TSOC.ST@dhs.gov) and the patrol bureau commander. Refer to policy #471 for further details about notification to TSOC.

400.2 PATROL INFORMATION SHARING PROCEDURES

The following guidelines are intended to develop and maintain intra-department cooperation and information flow between the various bureaus of the department.

400.2.1 CRIME ANALYSIS UNIT

The Support Services Bureau/Crime-Analysis Section will be the central unit for information exchange. Criminal information and intelligence reports can be submitted to this section for distribution within the department through daily and special bulletins.

400.2.2 CRIME REPORTS

A crime report may be completed by any patrol officer who receives criminal information. The report will be processed and forwarded to the appropriate bureau for retention or follow-up investigation.

400.2.3 PATROL BRIEFINGS

Patrol supervisors, the detective sergeant, and special unit sergeants are encouraged to share information as much as possible. All supervisors and/or officers will be provided an opportunity to share information at the daily patrol briefings as time permits.

400.2.4 INFORMATION CLIPBOARDS

Several information clipboards will be maintained in the briefing room and will be available for review by officers from all bureaus within the department. These will include, but not be limited to, the patrol-check clipboard, the wanted-persons clipboard, and the written-directives clipboard.

400.2.5 BULLETIN BOARDS

A bulletin board will be kept in the briefing room for display of suspect information, intelligence reports and photographs. New special orders will be made available to patrol supervisors and will be discussed at briefings and shift meetings. A copy of new special orders will be placed on the briefing-room information clipboard.

400.3 CROWDS, EVENTS AND GATHERINGS

Officers may encounter gatherings of people, including but not limited to, civil demonstrations, civic, social and business events, public displays, parades and sporting events. Officers should monitor such events as time permits in an effort to keep the peace and protect the safety and rights of those present. A patrol supervisor should be notified when it becomes reasonably foreseeable that such an event may require increased monitoring, contact or intervention.

Officers responding to an event or gathering that warrants law enforcement involvement should carefully balance the speech and association rights of those present with applicable public safety concerns before taking enforcement action. Officers are encouraged to contact organizers or

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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.

400.3.1 CAMPUS LIAISON

The <<<college/university>>> has designated a liaison between our department and students exercising rights guaranteed by the First Amendment to the United States Constitution, a similar provision of the California Constitution or both (Education Code § 66303). The designated department staff member will work with this liaison regarding relevant issues, scheduled events, training and crowd control.

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Police Radio Procedure

401.1 PURPOSE AND SCOPE

To establish a procedure for assigning BART police personnel with radio call signs to be utilized in conjunction with the computer-aided dispatch system (CADS) and provide a uniform procedure for communicating on the police radio system.

401.2 DEFINITION

Police Radio Call Sign - A combination of letters and numbers assigned to BART police personnel to be used as identifiers when communicating via the police radio system.

Police Radio System - Provides system wide two-way radio communication between the police dispatch center, mobile, and portable units.

Police Radio Codes - Includes the 10-00 series, segments of the 11-00 series, and certain numeric codes as modified to reflect the needs of the BART Police Department.

401.3 PATROL ASSIGNMENTS

Radio call signs will be assigned and used in their entirety:

(a) The first character of the beat officer call sign will be a number based on the following numeric code:

1. 1 = Automobile Patrol
2. 2 = Train Patrol

(b) The second character of the beat/officer call sign will be a letter which identifies the shift:

1. A - A Platoon
2. B - B Platoon
3. C - C Platoon

(c) The third and fourth characters of the beat/officer call sign will identify the zone and beat in which the officer is working.

1. Vehicle beats - May be numbered from 1 thru 9 dependent upon the number of patrol areas the system is divided into.
2. Train beats - The third character of the train beat call sign will identify the sector (1. 2, 3 or 4) which encompasses the majority of the assigned patrol area. The fourth character will designate the specific area of patrol in accordance with the current train beat structure.

If an officer is not assigned to a beat, the officer's badge number will be used as a call sign, and the daily assignment log will reflect the current assignment.

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- **Examples:**
  - 1B21 Mobile unit, B Platoon, Zone 2, Beat 21
  - 2A12 Train unit, A Platoon, Zone 1, Beat 12
  - 3A38 Fixed post, A Platoon, Zone 3, two-digit officer identifier

401.3.1 OTHER PERSONNEL

(a) The call sign for **Community Service Officers (CSO)** will be as follows:

1. The first character of the CSO call sign will be the letter "T".
2. The remaining character(s) will identify the individual CSO zone assignment and seniority within the zone.
   (a) **Example:**
      1. T40 - CSO working in Zone 4. **Revenue Protection Unit** - call signs:
      2. R10 - Guard, A Line
      3. R10X - Second Guard, A Line
      4. R20 - Guard, R & C Lines
      5. R20X - Second Guard, R & C Lines
      6. R30 - Guard, M Line
      7. M Line R40X - Third Guard, M Line
      8. M Line R50 and R50X

(b) Police management personnel will be assigned call signs as follows:

1. **Chief of Police -** will utilize the call sign "C1".
2. **Deputy Chief will use the letter "C" followed by their one digit badge number.** -
3. **Lieutenants** - will use the letter "L" followed by their two digit badge numbers.
4. **Sergeants** - will use the letter "S" followed by their two digit badge numbers.
5. **Officer-in-Charge** - any member below the rank of sergeant who is temporarily assigned to carry out the duties of his/her immediate supervisor shall utilize his/her badge number as a call sign.

(c) Professional Standards, Support Services and Detective Personnel:

1. **Detective Section** - will utilize a "D" series, the letter "D" being the first character with the remaining character(s) being numerics identifying the individual officer.
2. **Internal Affairs & Special Problems Unit** - will utilize the badge numbers of the assigned individual officers as listed on the Daily Assignment Log.

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401.3.2 RADIO TRANSMISSIONS

The police radio system shall be used pursuant to rules 700 through 704 as stated in Part 1, Section 7 of the BART Operations Rules and Procedures Manual.

Police personnel shall use appropriate police radio codes when transmitting radio messages. Dialogue shall not be used in place of established radio code(s). Radio codes shall be stated in their entirety; no radio codes shall be abbreviated.

Radio messages shall be given in a brief format. Lengthy messages shall be relayed via telephone.

At the beginning of each shift, mobile patrol units shall broadcast their vehicle number and beat. At the beginning of each shift, train patrol units shall broadcast their beat. Changes in assigned equipment which occur during a shift shall be relayed in the same manner.

Units shall obtain clearance to broadcast by transmitting their call sign, then wait to be acknowledged by a dispatcher. Dispatchers who wish to transmit messages to field units shall transmit the unit's call sign, wait to be acknowledged by the unit, then proceed with the message.

Radio channels shall be utilized as follows:

- Channel 2 shall be used as the primary channel by mobile and portable units.

401.4 EMERGENCY CODE WORD "MCKINLEY"

"McKinley" Code Word: An emergency word that is used by District employees that indicates that the caller has a serious problem, needs immediate police assistance, and is unable to communicate freely. The caller may use the word in a variety of ways:

- "McKinley is calling from 12th St. Station".
- "Hello, is this Dispatcher McKinley?, this is...."
- "The McKinley machine at 12th St. Station needs....."

"McKinley" Response: Respond expeditiously to the scene without delay, obeying all traffic laws and regulations. This includes interrupting non emergency report taking, code 7's, and any other non emergency detail. This is not a Code 3 response unless the responding officer is told by competent authority.

401.4.1 PROCEDURE

Communications Center: It shall be the responsibility of the dispatcher to notify the nearest officer that a "McKinley" code was received. Give as much information as possible to the officer responding. Notify the sergeant assigned to the beat also. Inform Central Supervisor of the information. Keep in mind that the caller may not be able to give any other information except "McKinley", and the location. This is deemed sufficient information for an emergency response.

Officer Responding to Call: Immediately upon being notified of a "McKinley" call, respond without delay to the scene. In the event an officer is taking a report, or is on a non emergency detail, the officer shall inform the person that an emergency is in progress, and notify the dispatcher to send another unit to complete the assignment. Again, this is not a Code 3 response (red lights

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and siren). All personnel should keep in mind that the code word "McKinley" signifies that the caller is unable to communicate freely, therefore information may be extremely limited. However, "McKinley" means IMMEDIATE RESPONSE.

401.5 POLICE RADIO IMPROVEMENT PROGRAM (PRIP)

Whenever an employee encounters a problem in radio communications, the employee shall contact BART Police Communications by phone and have the dispatcher complete the Radio Trouble Report. The employee shall provide all the information requested by the dispatcher as accurately as possible.

The dispatcher shall immediately notify the Communications at 1-510-464-7210 and complete the Radio Trouble Report. The original copy of the form shall be tracked via CADS/Alliance The second and third copies of the form will be sent by inter-office mail to the Communication Foreman.

The Radio Trouble Report Form shall be completed in the following manner:

(a) The officer gives his/her location, station, portable number, and/or vehicle number to dispatch.

(b) The officer then advises if dispatch is able to transmit or receive any message (s) from that aforementioned location.

(c) Communications is notified (x7210).

(d) A work order number is given to the officer by Communications.

(e) The work order number is given to dispatch, is entered into CADS/Alliance as an event number, and is closed.

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Racial- or Bias-Based Profiling

402.1 PURPOSE AND SCOPE

This policy provides guidance to department members and establishes appropriate controls to ensure that employees of the Bay Area Rapid Transit Police Department do not engage in racial- or bias-based profiling or violate any related laws while serving the community.

402.1.1 DEFINITION

Definitions related to this policy include:

Racial- or bias-based profiling - An inappropriate reliance on factors such as race, ethnicity, national origin, religion, sex, sexual orientation, economic status, age, cultural group, disability or affiliation with any other similar identifiable group as a factor in deciding whether to take law enforcement action or to provide service.

402.2 POLICY

The Bay Area Rapid Transit Police Department is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served. It is the policy of this department to provide law enforcement services and to enforce the law equally, fairly and without discrimination toward any individual or group.

Race, ethnicity or nationality, religion, sex, sexual orientation, economic status, age, cultural group, disability or affiliation with any other similar identifiable group shall not be used as the basis for providing differing levels of law enforcement service or the enforcement of the law.

402.3 RACIAL- OR BIAS-BASED PROFILING PROHIBITED

Racial- or bias-based profiling is strictly prohibited. However, nothing in this policy is intended to prohibit an officer from considering factors such as race or ethnicity in combination with other legitimate factors to establish reasonable suspicion or probable cause (e.g., suspect description is limited to a specific race or group).

402.4 MEMBER RESPONSIBILITY

Every member of this department shall perform his/her duties in a fair and objective manner and is responsible for promptly reporting any known instances of racial- or bias-based profiling to a supervisor.

402.4.1 REASON FOR DETENTION

Officers detaining a person shall be prepared to articulate sufficient reasonable suspicion to justify a detention, independent of the individual's membership in a protected class.

To the extent that written documentation would otherwise be completed (e.g., arrest report, Field Interview (FI) card), the involved officer should include those facts giving rise to the officer's reasonable suspicion or probable cause for the detention, as applicable.

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Nothing in this policy shall require any officer to document a contact that would not otherwise require reporting.

402.4.2 REPORTING TRAFFIC STOPS
Each time an officer makes a traffic stop, the officer shall report any information required in the Traffic Function and Responsibility Policy.

402.5 SUPERVISOR RESPONSIBILITY

Supervisors shall monitor those individuals under their command for any behavior that may conflict with the purpose of this policy and shall handle any alleged or observed violation of this policy in accordance with the Personnel Complaints Policy.

(a) Supervisors should discuss any issues with the involved officer and his/her supervisor in a timely manner.

(b) Supervisors should periodically review MAV recordings, 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 that capture a potential instance of racial- or bias-based profiling 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 ensure that no retaliatory action is taken against any member of this department who discloses information concerning racial- or bias-based profiling.

402.6 ADMINISTRATION

Each year, the Patrol Bureau Commander shall review the efforts of the Department to prevent racial- or bias-based profiling and submit an overview, including public concerns and complaints, to the Chief of Police.

This report should not contain any identifying information regarding any specific complaint, citizen or officers. It should be reviewed by the Chief of Police to identify any changes in training or operations that should be made to improve service.

Supervisors shall review the annual report and discuss the results with those they are assigned to supervise.

402.7 TRAINING

Training on racial- or bias-based profiling and review of this policy should be conducted as directed by the Personnel and Training Section.

(a) All sworn members of this department will be scheduled to attend Peace Officer Standards and Training (POST)-approved training on the subject of racial- or bias-based profiling.

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(b) Pending participation in such POST-approved training and at all times, all members of this department are encouraged to familiarize themselves with and consider racial and cultural differences among members of this community.

(c) Each sworn member of this department who received initial racial- or bias-based profiling training will thereafter be required to complete an approved refresher course every five years, or sooner if deemed necessary, in order to keep current with changing racial and cultural trends (Penal Code § 13519.4(i)).

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Briefing Training

404.1 PURPOSE AND SCOPE

Briefing training is generally conducted at the beginning of the employees assigned shift. Briefing provides an opportunity for important exchange between employees and supervisors. A supervisor generally will conduct briefing; however employees may conduct briefing for training purposes with supervisor approval. Shift briefing and Roll Call shall include regular training relevant to high risk/low frequency events focusing on topics such as the following: active shooter, officer involved shooting, suicide bomber, train derailment or fire, nuclear/biological/chemical/radiological attacks, etc. Also, upon request or when the situation dictates, personnel from other divisions, i.e. Detectives, Special Problems, etc, will provide training during briefing.

Briefing should accomplish, at a minimum, the following basic tasks:

(a) Briefing employees 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 employees of changes in schedules and assignments

(c) Notifying employees of new bulletins and orders or changes to bulletins and orders

(d) Reviewing recent incidents for training purposes

(e) Providing training on a variety of subjects

404.2 PREPARATION OF MATERIALS

The supervisor conducting briefing is responsible for preparation of the materials necessary for a constructive briefing. Supervisors may delegate this responsibility to a subordinate employee in his or her absence or for training purposes.

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Crime And Disaster Scene Integrity

406.1 PURPOSE AND SCOPE

The protection and integrity of a crime scene is of the utmost importance for the successful apprehension of criminals and successful prosecution. The integrity of a disaster scene is equally as critical for the protection of life and property and investigation by proper authorities.

406.2 CRIME SCENE RESPONSIBILITY

The first officer at the scene of a crime or major incident is generally responsible for taking reasonable efforts to preserve the scene. Officers shall also consider officer safety and public safety, including reasonable efforts to render medical aid to any obviously injured parties. Once an officer has assumed or been assigned to maintain the integrity of the crime/disaster scene, the officer shall continue to do so until he/she is relieved by a supervisor.

406.2.1 FIRST RESPONDER CONSIDERATIONS

The following list generally describes the functions which the first responder should reasonably attempt to take at a crime or disaster scene. This list is not intended to be all-inclusive, is not necessarily in order and may be altered according to the demands of each situation, the availability of resources, capacity of personnel and totality of each circumstance:

(a) Ensure no suspects are still in the area.

(b) Broadcast emergency information, including all requests for additional assistance.

(c) Provide first aid to injured parties if it can be done safely.

(d) Evacuate the location as required.

(e) Secure the inner and outer perimeter if needed.

(f) Protect items of apparent evidentiary value.

(g) Identify potential witnesses.

(h) Start a chronological log noting critical times and personnel allowed access.

406.2.2 EXECUTION OF HEALTH ORDERS

Any sworn member of this department is authorized to enforce all orders of the local health officer that have been issued for the purpose of preventing the spread of any contagious, infectious or communicable disease (Health and Safety Code § 120155).

406.3 SEARCHES AT CRIME OR DISASTER SCENES

Officers arriving at crime or disaster scenes are often faced with the immediate need to search for and render aid to victims and determine if suspects are present and continue to pose a threat. Once officers are satisfied that no additional suspects are present and/or there are no injured persons to be treated, those exigent circumstances will likely no longer exist. Officers should thereafter secure the scene and conduct no further search until proper authority for the search is obtained.

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406.3.1 CONSENT

Officers should seek consent to search from authorized individuals where possible. However, in the case of serious crimes or major investigations, it may be prudent to obtain a search warrant. Consent may be sought even in cases where a search warrant has been granted.

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Crisis Response Unit

408.1 PURPOSE AND SCOPE

The Crisis Response Unit (CRU) is comprised of two specialized teams: the Hostage Negotiation Team (HNT) and the Special Weapons and Tactics Team (SWAT). The unit has been established to provide specialized support in handling critical field operations where intense negotiations and/or special tactical deployment methods beyond the capacity of field officers appear to be necessary. This policy is written to comply with the guidelines established in the Attorney General's Commission on Special Weapons and Tactics Report (September 2002) and the POST 2005 SWAT Operational Guidelines and Standardized Training Recommendations (Penal Code § 13514.1).

408.1.1 OPERATIONAL AND ADMINISTRATIVE POLICY

The Policy Manual sections pertaining to the Crisis Response Unit are divided into Administrative and Operational Policy and Procedures. Since situations that necessitate the need for such a police response vary greatly from incident to incident and such events often demand on-the-scene evaluation, the Operational Policy outlined in this manual section serves as a guideline to department personnel allowing for appropriate on scene decision making as required. The Administrative Procedures, however, are more restrictive and few exceptions should be taken.

408.1.2 SWAT TEAM DEFINED

The SWAT team is a designated unit of law enforcement officers that is specifically trained and equipped to work as a coordinated team to resolve critical incidents that are so hazardous, complex, or unusual that they may exceed the capabilities of first responders or investigative units including, but not limited to, hostage taking, barricaded suspects, snipers, terrorist acts and other high-risk incidents. As a matter of department policy, the SWAT unit may also be used to serve high-risk warrants, both search and arrest, where public and officer safety issues warrant the use of such a unit.

408.2 POLICY

It shall be the policy of this department to maintain a SWAT team and to provide the equipment, manpower, and training necessary to maintain a SWAT team. The SWAT team should develop sufficient resources to perform three basic operational functions:

(a) Command and Control

(b) Containment

(c) Entry/Apprehension/Rescue

It is understood it is difficult to categorize specific capabilities for critical incidents. Training needs may vary based on the experience level of the team personnel, team administrators and potential incident commanders. Nothing in this policy shall prohibit individual teams from responding to a situation that exceeds their training levels due to the exigency of the circumstances. The preservation of innocent human life is paramount.

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408.2.1 POLICY CONSIDERATIONS

A needs assessment should be conducted to determine the type and extent of SWAT missions and operations appropriate to this department. The assessment should consider the team's capabilities and limitations and should be reviewed annually by the SWAT Commander or his/her designee.

408.2.2 ORGANIZATIONAL PROCEDURES

This department shall develop a separate written set of organizational procedures which should address, at minimum, the following:

(a) Locally identified specific missions the team is capable of performing.

(b) Team organization and function.

(c) Personnel selection and retention criteria.

(d) Training and required competencies.

(e) Procedures for activation and deployment.

(f) Command and control issues, including a clearly defined command structure.

(g) Multi-agency response.

(h) Out-of-jurisdiction response.

(i) Specialized functions and supporting resources.

408.2.3 OPERATIONAL PROCEDURES

This department shall develop a separate written set of operational procedures in accordance with the determination of their level of capability, using sound risk reduction practices. The operational procedures should be patterned after the National Tactical Officers Association Suggested SWAT Best Practices. Because such procedures are specific to CRU members and will outline tactical and officer safety issues, they are not included within this policy. The operational procedures should include, at minimum, the following:

(a) Designated personnel responsible for developing an operational or tactical plan prior to, and/or during SWAT operations (time permitting).

    1. All SWAT team members should have an understanding of operational planning.

    2. SWAT team training should consider planning for both spontaneous and planned events.

    3. SWAT teams should incorporate medical emergency contingency planning as part of the SWAT operational plan.

(b) Plans for mission briefings conducted prior to an operation, unless circumstances require immediate deployment.

    1. When possible, briefings should include the specialized units and supporting resources.

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(c) Protocols for a sustained operation should be developed which may include relief, rotation of personnel and augmentation of resources.

(d) A generic checklist to be worked through prior to initiating a tactical action as a means of conducting a threat assessment to determine the appropriate response and resources necessary, including the use of SWAT.

(e) The appropriate role for a trained negotiator.

(f) A standard method of determining whether or not a warrant should be regarded as high-risk.

(g) A method for deciding how best to serve a high-risk warrant with all reasonably foreseeable alternatives being reviewed in accordance with risk/benefit criteria prior to selecting the method of response.

(h) Post incident scene management including:

1. Documentation of the incident.
2. Transition to investigations and/or other units.
3. Debriefing after every deployment of the SWAT team.
    (a) After-action team debriefing provides evaluation and analysis of critical incidents and affords the opportunity for individual and team assessments, helps to identify training needs, and reinforces sound risk management practices.
    (b) Such debriefing should not be conducted until involved officers have had the opportunity to individually complete necessary reports or provide formal statements.
    (c) In order to maintain candor and a meaningful exchange, debriefing will generally not be recorded.
    (d) When appropriate, debriefing should include specialized units and resources.

(i) Sound risk management analysis.

(j) Standardization of equipment deployed.

408.3 TRAINING NEEDS ASSESSMENT

The SWAT/CRU Commander shall conduct an annual SWAT Training needs assessment to ensure that training is conducted within team capabilities, department policy and the training guidelines as established by POST (11 C.C.R. § 1084).

408.3.1 INITIAL TRAINING

SWAT team operators and SWAT supervisors/team leaders should not be deployed until successful completion of the POST-certified Basic SWAT Course or its equivalent. Basic SWAT and refresher training is listed as mandatory in the Departments Training Plan. This plan can be located within the G/drive within the Training Unit folder.

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Other listed training within the Training Plan for SWAT members are:

Mandatory training for coordinator - SWAT team commander school.

Mandatory training for supervisors - SWAT team leader school.

Essential training for coordinator - Terrorism course, high risk warrant service

Essential training for supervisor - High risk warrant service

Essential training for officers - Advanced SWAT, sniper training, terrorism course, explosive recognition course, high risk warrant service, hostage rescue, vehicle assaults.

Desirable training for coordinator and supervisor members - Advanced SWAT, sniper training course, explosive recognition course, advanced firearms or tactical course, dignitary protection, mission planning/leadership

To avoid unnecessary or redundant training, previous training completed by members may be considered equivalent when the hours and content (topics) meet or exceed department requirements or POST standardized training recommendations.

408.3.2 UPDATED TRAINING

Appropriate team training for the specialized SWAT functions and other supporting resources should be completed prior to full deployment of the team.

SWAT team operators and SWAT supervisors/team leaders should complete update or refresher training as certified by POST, or its equivalent, every 24 months.

408.3.3 SUPERVISION AND MANAGEMENT TRAINING

Command and executive personnel are encouraged to attend training for managing the SWAT function at the organizational level to ensure personnel who provide active oversight at the scene of SWAT operations understand the purpose and capabilities of the teams.

Command personnel who may assume incident command responsibilities should attend SWAT or Critical Incident Commander course or its equivalent. SWAT command personnel should attend a POST-certified SWAT commander or tactical commander course, or its equivalent.

408.3.4 SWAT ONGOING TRAINING

Training shall be coordinated by the CRU Commander. The CRU Commander may conduct monthly training exercises that include a review and critique of personnel and their performance in the exercise in addition to specialized training. Training shall consist of the following:

(a) Each SWAT member shall perform a physical fitness test twice each year. A minimum qualifying score must be attained by each team member.

(b) Any SWAT team member failing to attain the minimum physical fitness qualification score will be notified of the requirement to retest and attain a qualifying score. Within 30 days of the previous physical fitness test date, the member required to qualify shall report to a team

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supervisor and complete the entire physical fitness test. Failure to qualify after a second attempt may result in dismissal from the team.

(c) Those members who are on vacation, ill, or are on light duty status with a doctor's note of approval on the test date, shall be responsible for reporting to a team supervisor and taking the test within 30 days of their return to regular duty. Any member, who fails to arrange for and perform the physical fitness test within the 30-day period, shall be considered as having failed to attain a qualifying score for that test period.

(d) Quarterly, each SWAT team member shall perform the mandatory SWAT handgun qualification course. The qualification course shall consist of the SWAT Basic Drill for the handgun. Failure to qualify will require that officer to seek remedial training from a team range master approved by the CRU Commander. Team members who fail to qualify must retest within 30 days. Failure to qualify within 30 days with or without remedial training may result in dismissal from the team.

(e) Each SWAT team member shall complete the quarterly SWAT qualification course for any specialty weapon issued to, or used by, the team member during SWAT operations. Failure to qualify will require the team member to seek remedial training from the Rangemaster who has been approved by the CRU commander. Team members who fail to qualify on their specialty weapon may not utilize the specialty weapon on SWAT operations until qualified. Team members who fail to qualify must retest within 30 days. Failure to qualify with specialty weapons within 30 days may result in the team member being removed from the team or permanently disqualified from use of that particular specialty weapon.

408.3.5 TRAINING SAFETY
Use of a designated safety officer should be considered for all tactical training.

408.3.6 SCENARIO BASED TRAINING
SWAT teams should participate in scenario-based training that simulates the tactical operational environment. Such training is an established method of improving performance during an actual deployment.

408.3.7 TRAINING DOCUMENTATION
Individual and team training shall be documented and records maintained by the Personnel and Training Section. Such documentation shall be maintained in each member's individual training file. A separate agency SWAT training file shall be maintained with documentation and records of all team training.

408.4 UNIFORMS, EQUIPMENT, AND FIREARMS

408.4.1 UNIFORMS
SWAT teams from this agency should wear uniforms that clearly identify team members as law enforcement officers. It is recognized that certain tactical conditions may require covert movement. Attire may be selected appropriate to the specific mission.

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408.4.2 EQUIPMENT
SWAT teams from this agency should be adequately equipped to meet the specific mission(s) identified by the agency.

408.4.3 FIREARMS
Weapons and equipment used by SWAT, the specialized units, and the supporting resources should be agency-issued or approved, including any modifications, additions, or attachments.

408.5 MANAGEMENT/SUPERVISION OF CRISIS RESPONSE UNIT

The Commander of the CRU shall be selected by the Chief of Police upon recommendation of staff.

408.5.1 PRIMARY UNIT MANAGER
Under the direction of the Chief of Police, through the Operations Bureau Deputy Chief, the Crisis Response Unit shall be managed by a lieutenant.

408.5.2 TEAM SUPERVISORS
The Negotiation Team and each Special Weapons and Tactics Team may be supervised by a sergeant or lieutenant.

The team supervisors shall be selected by the Chief of Police upon specific recommendation by staff and the CRU Commander.

The following represent the supervisor responsibilities for the Crisis Response Unit.

(a) The Negotiation Team supervisor's primary responsibility is to supervise the operations of the Negotiation Team which will include deployment, training, first line participation, and other duties as directed by the CRU Commander.

(b) The Special Weapons and Tactics Team supervisor's primary responsibility is to supervise the operations of the SWAT Team, which will include deployment, training, first line participation, and other duties as directed by the CRU Commander.

408.6 CRISIS NEGOTIATION TEAM ADMINISTRATIVE PROCEDURES

The Hostage and Crisis Negotiation Team has been established to provide skilled verbal communicators who may be utilized to attempt to de-escalate and effect surrender in critical situations where suspects have taken hostages, barricaded themselves, or have suicidal tendencies.

The following procedures serve as directives for the administrative operation of the Hostage and Crisis Negotiation Team.

408.6.1 SELECTION OF PERSONNEL
Interested sworn personnel, who are off probation, shall submit a change of assignment request to their appropriate Bureau Deputy Chief. A copy will be forwarded to the CRU Commander and the Hostage and Crisis Negotiation Team supervisor. Qualified applicants will then be invited to an oral interview. The oral board will consist of the CRU Commander or his/her designate, the

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Hostage and Crisis Negotiation Team supervisor, and a third person to be selected by the two and approved by the BPOA as required by their agreement. Interested personnel shall be evaluated by the following criteria:

(a) Recognized competence and ability as evidenced by performance.

(b) Demonstrated good judgment and understanding of critical role of negotiator and negotiation process.

(c) Effective communication skills to ensure success as a negotiator.

(d) Special skills, training, or appropriate education as it pertains to the assignment.

(e) Commitment to the unit, realizing that the assignment may necessitate unusual working hours, conditions, and training obligations.

(f) A possible scenario.

The oral board shall submit a list of successful applicants to staff for final selection.

408.6.2 TRAINING OF NEGOTIATORS

Those officers selected as members of the Negotiation Team should attend the Basic Negotiators Course as approved by the Commission on Peace Officer Standards and Training (POST) prior to primary use in an actual crisis situation. Untrained officers may be used in a support or training capacity. Additional training will be coordinated by the team supervisor.

A minimum of one training day per quarter will be requested to provide the opportunity for role playing and situational training necessary to maintain proper skills. This will be coordinated by the team supervisor.

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the unit shall be conducted by the team supervisor. Performance and efficiency levels, established by the team supervisor, will be met and maintained by all team members. Any member of the Negotiation Team who performs or functions at a level less than satisfactory shall be subject to dismissal from the unit.

408.7 SWAT TEAM ADMINISTRATIVE PROCEDURES

The Special Weapons and Tactics (SWAT) Team was established to provide a skilled and trained team which may be deployed during events requiring specialized tactics in such situations as cases where suspects have taken hostages and/or barricaded themselves as well as prolonged or predictable situations in which persons armed or suspected of being armed pose a danger to themselves or others.

The following procedures serve as directives for the administrative operation of the Special Weapons and Tactics Team.

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408.7.1 SELECTION OF PERSONNEL

Interested sworn personnel who are off probation shall submit a change of assignment request to their appropriate Bureau Deputy Chief, a copy of which will be forwarded to the CRU Commander and other SWAT supervisors. Those qualifying applicants will then be invited to participate in the testing process. The order of the tests will be given at the discretion of the CRU Commander. The testing process will consist of an oral board, physical agility, SWAT basic handgun, and team evaluation.

(a) Oral board: The oral board will consist of personnel selected by the CRU Commander. Applicants will be evaluated by the following criteria:

1. Recognized competence and ability as evidenced by performance;
2. Demonstrated good judgment and understanding of critical role of SWAT member;
3. Special skills, training, or appropriate education as it pertains to this assignment; and,
4. Commitment to the unit, realizing that the additional assignment may necessitate unusual working hours, conditions, and training obligations.

(b) Physical agility: The physical agility test is designed to determine the physical capabilities of the applicant as it relates to performance of SWAT-related duties. The test and scoring procedure will be established by the CRU Commander. A minimum qualifying score shall be attained by the applicant to be considered for the position.

(c) SWAT basic handgun: Candidates will be invited to shoot the SWAT Basic Drill for the handgun. A minimum qualifying score of 400 out of a possible score of 500 must be attained to qualify.

(d) Team evaluation: Current team members will evaluate each candidate on his or her field tactical skills, teamwork, ability to work under stress, communication skills, judgment, and any special skills that could benefit the team.

(e) A list of successful applicants shall be submitted to staff, by the CRU Commander, for final selection.

408.7.2 TEAM EVALUATION

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the unit shall be conducted by the CRU Commander. The performance and efficiency level, as established by the team supervisor, will be met and maintained by all SWAT Team members. Any member of the SWAT Team who performs or functions at a level less than satisfactory shall be subject to dismissal from the team.

408.8 OPERATION GUIDELINES FOR CRISIS RESPONSE UNIT

The following procedures serve as guidelines for the operational deployment of the Crisis Response Unit. Generally, the Special Weapons and Tactics Team and the Hostage and Crisis Negotiation Team will be activated together. It is recognized, however, that a tactical team may

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be used in a situation not requiring the physical presence of the Hostage and Crisis Negotiation Team such as warrant service operations. This shall be at the discretion of the CRU Commander.

408.8.1 ON-SCENE DETERMINATION

The supervisor in charge on the scene of a particular event will assess whether the Hostage and Crisis Response Team is to respond to the scene. Upon final determination by the Watch Commander, he/she will notify the CRU Commander.

408.8.2 APPROPRIATE SITUATIONS FOR USE OF CRISIS RESPONSE UNIT

The following are examples of incidents which may result in the activation of the Crisis Response Unit:

(a) Barricaded suspects who refuse an order to surrender.

(b) Incidents where hostages are taken.

(c) Cases of suicide threats.

(d) Arrests of dangerous persons.

(e) Any situation that could enhance the ability to preserve life, maintain social order, and ensure the protection of property.

408.8.3 OUTSIDE AGENCY REQUESTS

Requests by field personnel for assistance from outside agency crisis units must be approved by the Watch Commander. Deployment of the Bay Area Rapid Transit Police Department Crisis Response Unit in response to requests by other agencies must be authorized by a Bureau Deputy Chief.

408.8.4 MULTI-JURISDICTIONAL SWAT OPERATIONS

The SWAT team, including relevant specialized units and supporting resources, should develop protocols, agreements, MOU's, or working relationships to support multi-jurisdictional or regional responses.

(a) If it is anticipated that multi-jurisdictional SWAT operations will regularly be conducted; SWAT multi-agency and multi-disciplinary joint training exercises are encouraged.

(b) Members of the Bay Area Rapid Transit Police Department SWAT team shall operate under the policies, procedures and command of the Bay Area Rapid Transit Police Department when working in a multi-agency situation.

408.8.5 MOBILIZATION OF CRISIS RESPONSE UNIT

The On-Scene supervisor shall make a request to the Watch Commander for the Crisis Response Unit. The Watch Commander shall then notify the CRU Commander. If unavailable, a team supervisor shall be notified. A current mobilization list shall be maintained in the Watch Commander's office by the CRU Commander. The Watch Commander will then notify the Operations Bureau Deputy Chief as soon as practical.

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The Watch Commander should advise the CRU Commander with as much of the following information which is available at the time:

(a) The number of suspects, known weapons and resources.

(b) If the suspect is in control of hostages.

(c) If the suspect is barricaded.

(d) The type of crime involved.

(e) If the suspect has threatened or attempted suicide.

(f) The location of the command post and a safe approach to it.

(g) The extent of any perimeter and the number of officers involved.

(h) Any other important facts critical to the immediate situation and whether the suspect has refused an order to surrender.

The CRU Commander or supervisor shall then call selected officers to respond.

408.8.6 FIELD UNIT RESPONSIBILITIES

While waiting for the Crisis Response Unit, field personnel should, if safe, practical and sufficient resources exist:

(a) Establish an inner and outer perimeter.

(b) Establish a command post outside of the inner perimeter.

(c) Evacuate any injured persons or citizens in the zone of danger.

(d) Attempt to establish preliminary communication with the suspect. Once the CRU has arrived, all negotiations should generally be halted to allow the negotiators and SWAT time to set up.

(e) Be prepared to brief CRU Commander on situation.

(f) Plan for, and stage, anticipated resources.

408.8.7 ON-SCENE COMMAND RESPONSIBILITIES

Upon arrival of the Crisis Response Unit at the scene, the Incident Commander shall brief the CRU Commander and team supervisors about the situation. Upon review, it will be the Incident Commander's decision, with input from the CRU Commander, whether to deploy the Crisis Response Unit. Once the Incident Commander authorizes deployment, the CRU Commander 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 support for the Crisis Response Unit. The Incident Commander and the CRU Commander (or his or her designee) shall maintain communications at all times.

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408.8.8 COMMUNICATION WITH CRISIS RESPONSE UNIT PERSONNEL

All of those persons who are non-Crisis Response Unit personnel should refrain from any non-emergency contact or interference with any member of the unit during active negotiations. Operations require the utmost in concentration by involved personnel and, as a result, no one should interrupt or communicate with Crisis Team personnel directly. All non-emergency communications shall be channeled through the Negotiation Team Sergeant or his or her designee.

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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 Bay Area Rapid Transit Police Department Ride-Along Program is offered to residents, students and those employed within the District. 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 District and/or Department
- Denial by any supervisor

410.1.2 AVAILABILITY

The Ride-Along Program is available on most days of the week, with certain exceptions. The ride-along times are from 10:00 a.m. to 11:00 p.m. Exceptions to this schedule may be made as approved by the Chief of Police, Bureau Deputy Chief, or Watch Commander.

410.2 PROCEDURE TO REQUEST A RIDE-ALONG

Generally, ride-along requests will be scheduled by the Personnel and Training Sergeant or Watch Commander. The participant will complete a ride-along waiver form. Information requested will include a valid ID or California driver's license, address, and telephone number. If the participant is under 18 years of age, a parent/guardian must be present to complete the Ride-Along Form.

The Personnel and Training Sergeant or Watch Commander will schedule a date, based on availability, at least one week after the date of application. If approved, a copy will be forwarded to the respective Watch Commander as soon as possible for his/her scheduling considerations.

If the ride-along is denied after the request has been made, a representative of the Department will contact the applicant and advise him/her of the denial.

410.2.1 PROGRAM REQUIREMENTS

Once approved, civilian ride-alongs will be allowed to ride no more than once every six months. An exception would apply to the following: Police applicants, and all others with approval of the Watch Commander.

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An effort will be made to ensure that no more than one citizen will participate in a ride-along during any given time period. Normally, no more than one ride-along will be allowed in the officer's vehicle at a given time.

The participant shall review this policy and complete the Departments Ride-Along Request and Waiver Form. The Ride-Along Evaluation portion should be completed prior to the end of the ride-along and submitted to the Watch Commander who will return the form to the Personnel and Training Sergeant.

410.2.2 SUITABLE ATTIRE

Any person approved to ride along is required to be suitably dressed in collared shirt, blouse or jacket, slacks and shoes. Sandals, T-shirts, tank tops, shorts and ripped or torn blue jeans are not permitted. Hats and ball caps will not be worn in the police vehicle. The Watch Commander or field supervisor may refuse a ride along to anyone not properly dressed.

410.2.3 PEACE OFFICER RIDE-ALONGS

Off-duty members of this department or any other law enforcement agency will not be permitted to ride-along with on-duty officers without the expressed consent of the Watch Commander. In the event that such a ride-along is permitted, the off-duty employee shall not be considered on-duty and shall not represent themselves as a peace officer or participate in any law enforcement activity except as emergency circumstances may require.

410.2.4 RIDE-ALONG CRIMINAL HISTORY CHECK

All Ride-along applicants are subject to a criminal history check. The criminal history check may include a local records check and a Department of Justice Automated Criminal History System check through CLETS prior to their approval as a ride-along with a law enforcement officer (provided that the ride-along is not an employee of the Bay Area Rapid Transit Police Department) (CLETS Policies, Practices and Procedures Manual § 1.6.1.D.3.).

410.3 OFFICER'S RESPONSIBILITY

The officer shall advise the dispatcher that a ride-along is present in the vehicle before going into service. Officers shall consider the safety of the ride-along at all times. Officers should use sound discretion when encountering a potentially dangerous situation, and if feasible, let the participant out of the vehicle in a well-lighted place of safety. The dispatcher will be advised of the situation and as soon as practical have another police unit respond to pick up the participant at that location. The ride-along may be continued or terminated at this time.

The Personnel and Training Sergeant or Watch Commander is responsible for maintaining and scheduling ride-alongs.

410.4 CONTROL OF RIDE-ALONG

The assigned employee shall maintain control over the ride-along at all times and instruct him/her in the conditions that necessarily limit their participation. These instructions should include:

(a) The ride-along will follow the directions of the officer

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(b) The ride-along will not become involved in any investigation, handling of evidence, discussions with victims or suspects, or handling any police equipment

(c) The ride-along may terminate the ride at any time and the officer may return the observer to their home or to the station if the ride-along interferes with the performance of the officer's duties

(d) Ride-alongs may be allowed to continue riding during the transportation and booking process provided this does not jeopardize their safety

(e) Officers will not allow any ride-alongs to be present in any residences or situations that would jeopardize their safety or cause undue stress or embarrassment to a victim or any other citizen

(f) Under no circumstance shall a civilian ride along be permitted to enter a private residence with an officer without the expressed consent of the resident or other authorized person

(g) Ride-alongs should be limited to four hour blocks of time.

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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)

Employee's 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 supervisor on the District's employee report of injury and worker's compensation forms. 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 District employee report of injury and worker's compensation forms.

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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, the supervisor 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 unlawfully held by a hostage-taker as security so that specified terms or conditions will be met.

414.2 POLICY

It is the policy of the Bay Area Rapid Transit Police Department to address hostage and barricade situations with due regard for the preservation of life and balancing the risk of injury, while obtaining the safe release of hostages, apprehending offenders and securing available evidence.

414.3 COMMUNICATION

When circumstances permit, initial responding officers should try to establish and maintain lines of communication with a barricaded person or hostage-taker. Officers should attempt to identify any additional subjects, inquire about victims and injuries, seek the release of hostages, gather intelligence information, identify time-sensitive demands or conditions and obtain the suspect's surrender.

When available, department-authorized negotiators should respond to the scene as soon as practicable and assume communication responsibilities. Negotiators are permitted to exercise flexibility in each situation based upon their training, the circumstances presented, suspect actions or demands and the available resources.

414.3.1 EMERGENCY COMMUNICATIONS

Only an officer who has been designated by the District Attorney or Attorney General may use or authorize the use of an electronic amplifying or recording device to eavesdrop on or record, or both, oral communication in response to an emergency situation involving a hostage or the barricading of a location, and only when (Penal Code § 633.8(b)):

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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 Section 629.50 is made within 48 hours of the beginning of the eavesdropping.

(e) The contents of any oral communications overheard are recorded on tape or other comparable device.

414.4 FIRST RESPONDER CONSIDERATIONS

First responding officers should promptly and carefully evaluate all available information to determine whether an incident involves, or may later develop into, a hostage or barricade situation.

The first responding officer should immediately request a supervisor's response as soon as it is determined that a hostage or barricade situation exists. The first responding officer shall assume the duties of the supervisor until relieved by a supervisor or a more qualified responder. The officer shall continually evaluate the situation, including the level of risk to officers, to the persons involved and to bystanders, and the resources currently available.

The handling officer should brief the arriving supervisor of the incident, including information about suspects and victims, the extent of any injuries, additional resources or equipment that may be needed, and current perimeters and evacuation areas.

414.4.1 BARRICADE SITUATION

Unless circumstances require otherwise, officers handling a barricade situation should attempt to avoid a forceful confrontation in favor of stabilizing the incident by establishing and maintaining lines of communication while awaiting the arrival of specialized personnel and trained negotiators. During the interim the following options, while not all-inclusive or in any particular order, should be considered:

(a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.

(b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.

(c) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).

(d) Provide responding emergency personnel with a safe arrival route to the location.

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(e) Evacuate non-injured persons in the immediate threat area if it is reasonably safe to do so.

(f) Attempt or obtain a line of communication and gather as much information on the subject as possible, including weapons, other involved parties, additional hazards or injuries.

(g) Establish an inner and outer perimeter as circumstances require and resources permit to prevent unauthorized access.

(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 Media and Public Affairs Manager.

(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 non-injured persons in the immediate threat area if it is reasonably safe to do so.

(h) Coordinate pursuit or surveillance vehicles and control of travel routes.

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(i) Attempt or obtain a line of communication and gather as much information about the suspect as possible, including any weapons, victims and their injuries, additional hazards, other involved parties and any other relevant intelligence information.

(j) Establish an inner and outer perimeter as resources and circumstances permit to prevent unauthorized access.

(k) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.

(l) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the Media and Public Affairs Manager.

(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 CRU response if appropriate and apprising the CRU Commander of the circumstances. In addition, the following options should be considered:

(a) Ensure injured persons are evacuated and treated by medical personnel.

(b) Ensure the completion of necessary first responder responsibilities or assignments.

(c) Request crisis negotiators, specialized units, additional personnel, resources or equipment as appropriate.

(d) Establish a command post location as resources and circumstances permit.

(e) Designate assistants who can help with intelligence information and documentation of the incident.

(f) If it is practicable to do so, arrange for video documentation of the operation.

(g) Consider contacting utility and communication providers when restricting such services (e.g., restricting electric power, gas, telephone service).

(h) Ensure adequate law enforcement coverage for the remainder of the District during the incident. The supervisor should direct non-essential personnel away from the scene unless they have been summoned by the supervisor or the Communications Center.

(i) Identify a media staging area outside the outer perimeter and have the department Media and Public Affairs Manager or a designated temporary media representative provide media access in accordance with the News Media Relations Policy.

(j) Identify the need for mutual aid and the transition or relief of personnel for incidents of extended duration.

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(k) Debrief personnel and review documentation as appropriate.

414.6 CRISIS RESPONSE UNIT RESPONSIBILITIES

The Incident Commander will decide, with input from the CRU Commander, whether to deploy the CRU during a hostage or barricade situation. Once the Incident Commander authorizes deployment, the CRU 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 CRU. The Incident Commander and the CRU Commander or the authorized designee shall maintain communications at all times.

414.7 REPORTING

Unless otherwise relieved by a supervisor or Incident Commander, the handling officer at the scene is responsible for completion and/or coordination of incident reports.

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Hostage Negotiations Team

415.1 PURPOSE AND SCOPE

The BART Police Department has established guidelines for the operation and responsibility of Hostage Negotiators involved in incidents which may pose imminent danger to human life. Hostage Negotiators will respond to crisis situations where a suspect(s) is believed to be barricaded and/or holding hostages and may reasonably be expected to possess deadly weapons which could be used against hostages, innocent persons, or law enforcement officers. This policy establishes procedures that will govern the response of the Hostage Negotiations Team (HNT) and the responsibilities of various organizational elements in handling hostage and barricaded person situations.

415.1.1 MISSION STATEMENT

The basic principle of operation for all missions of the Hostage Negotiations Team is that every situation should be resolved without injury to victims, bystanders, officers, perpetrators/subjects if at all possible. A reverence for the value of human life guides the actions of all police personnel on the team. The use of force in any manner will be an option reserved for those situations where no viable alternative is prudent.

415.1.2 DEFINITIONS

Hostage Negotiators: Designated officers and police personnel who have been specifically trained to negotiate directly with the principal in a crisis situation.

415.1.3 ORGANIZATIONAL STRUCTURE

The Hostage Negotiations Team is comprised of sworn police officers and non-sworn police personnel who have been provided with specialized training in the field of negotiations.

(a) **Hostage Negotiations Team Coordinator(s):** The administration, supervision and control of the Hostage Negotiations Team will be the responsibility of the Hostage Negotiations Team Coordinator(s). An officer(s) of the rank of Lieutenant or higher will be designated as the Hostage Negotiations Team Coordinator(s) by the Chief of Police. The coordinator(s) will be responsible for an annual report to the Chief of Police on the activities and budget of the Hostage Negotiations Team. The coordinator(s) will also ensure that the Hostage Negotiation Team's policy is updated and kept current with the industry's best practices.

(b) **Team Leader(s):** The Team Leader(s) is the first step in the chain of command of team members for all business pertaining to the team and the hostage /crisis negotiation process, and will:

1. Be responsible for operational assignments;
2. Will oversee the negotiators' equipment, reports, records, and training;
3. Handle any requests for training, equipment, procedural and/or policy changes;

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4. Receive compliments, complaints, concerns involving team members pertaining to the negotiating process or team business; and
5. Coordinate community presentations and training for other police agencies.
6. The Team Leader(s) will be at the rank of Sergeant or can be an officer who has the tenure and experience with the Hostage Negotiations Team. The selection for Team Leader(s) will be made by the Hostage Team Coordinator(s) and approved by the Chief of Police.

(c) **Training Officers:** This will be a rotational position comprised of negotiators appointed by the Team Leader. Responsibilities will include preparing the training sessions involving the Hostage Negotiation Team. All training sessions shall be documented with a HNT After Action Training Report by the Training Officers and submitted to a Team Leader.

The below listed training is from the Department's Training Plan and is either mandatory, essential or desirable. The Training Plan can also be located on the G/drive.

HNT Coordinator and team leader mandatory training - HNT course.

HNT Coordinator and team leader essential training - HNT update, HNT refresher, terrorism course. HNT on scene commander course.

415.2 REGULATIONS AND PROCEDURES

415.2.1 ACTIVATION

A Hostage Negotiator, upon being notified of a situation, will respond immediately to the designated location. If any negotiators are unable to respond, they will so advise the caller to contact another negotiator. If a negotiator has received a message to respond and is unable to do so they will contact the caller and advise. The caller can then eliminate them from the recall list if additional negotiators are needed.

The negotiator, after being advised of a situation will obtain as much information as possible and cause the SWAT Section Lieutenant and the Hostage Negotiation Coordinator(s) to be notified. This will be done for all situations including, but not limited to, hostage/barricade scenes, jumpers, foreign jurisdiction requests, and other crisis intervention scenes.

A minimum of four (4) negotiators will be needed to respond to each scene including at least one Team Leader.

415.2.2 DUTIES UPON ARRIVAL

Upon arrival on the scene negotiators will notify the Communications Section over the primary radio channel. All negotiators will not begin negotiations until at least two negotiators are at the scene, unless authorized by the Incident Commander.

(a) The first "sworn" negotiator to arrive will be designated the "Primary Negotiator" and will have the duties consisting of:

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1. Receive briefing at the Command Post;
2. Until negotiations starts, the primary negotiator will direct arriving negotiators to perform tasks, to gather information or set up equipment so the primary negotiator will be prepared to start negotiations;
3. Prepare equipment to be used, such as setting up the "throw phone" and making sure other alternative forms of communications are available e.g. bullhorn, baby monitor system, cell phones;
4. Analyze the information received and determine how to best communicate with the perpetrator;
5. Begin negotiations when advised by the SWAT Lieutenant;
6. Gather intelligence information as the situation dictates prior to the start of negotiations.

(b) The second negotiator to arrive will be designated the "Back-up Negotiator" and will have the duties consisting of:

1. Receive briefing at the Command Post.
2. Assist "primary" in preparing equipment.
3. Will be liaison between "primary" and Command Post.
4. Monitors negotiations.
5. Provides "primary" with information and suggests topics of discussion with perpetrator.
6. Maintain negotiation log.
7. Relieves "Primary Negotiator" when necessary.
8. Gather intelligence information as the situation dictates prior to the start of Negotiations.

(c) The third negotiator to arrive will be designated the "Operations Negotiator", whose duties will consist of:

1. Receive briefing at the Command Post.
2. Assign duties to remaining negotiators , after primary starts negotiating.
3. Assist in gathering intelligence on the perpetrator.
4. Maintain record of information gathered.

(d) All other negotiators will be briefed and will be assigned duties by the "Operations Negotiator". These duties may consist of:

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1. Interviewing pertinent persons such as the first officer(s) on the scene, family members, friends, roommates, etc.
2. Gathering personal information such as criminal history, mental history, and medical history.

Give all acquired information to the "Operations Negotiator". This should be presented in writing if possible. Try to refrain from contacting the primary or secondary negotiator directly so as to cut down on confusion.

Regardless of the incident response system used, the HNT Team Leader should be seen as a critical advisor and have direct contact to the on-scene Incident Commander and the SWAT Lieutenant. Meanwhile the Incident Commander shall not function as a negotiator while also assuming the role of Incident Commander.

It should be realized that the above duties are to be used as guidelines. Each negotiator's duties will vary as the scene dictates. It is important to obtain as much information as possible on the perpetrator(s), hostages(s), etc. However, it may not be possible, or necessary, for the "primary" negotiator to have all the information prior to beginning negotiations. The "primary" must be mentally ready, and the equipment adequately prepared to begin negotiations as soon as the Incident Commander calls for it, or the situation dictates.

415.2.3 NEGOTIATORS REQUIRED EQUIPMENT AND SUPPLIES

(a) Service Weapon and/or approved off duty weapon

(b) Badge and ID

(c) Armored Vest

(d) Police Radio

(e) Hostage Negotiator's team jacket.

415.3 TACTICS

Negotiators will maintain communications and work in conjunction with the SWAT Lieutenant.

(a) When deemed necessary by the SWAT Lieutenant, one or more members of the SWAT contingent at the scene will be assigned to the primary negotiator to provide personal protection and/or act as liaison with SWAT Lieutenant/Command Post.

(b) Negotiators will attempt to avoid being involved in the physical arrest of a subject.

415.3.1 BASIC SURRENDER PROCEDURES

When the hostage takers indicate they are willing to surrender, they should be allowed to do so as quickly as possible. For that reason, the SWAT Lieutenant should either begin or assign someone to begin planning for the surrender immediately upon arrival.

The following guidelines should be considered in planning for the surrender:

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(a) Keep the plan as simple as possible.

(b) The suspect(s) will be told to come out first, one at a time. (If they wish to have the hostages out first, we can accept that.)

(c) Attempt to convince suspect(s) that weapons are to be left inside.

(d) Negotiator is to instruct suspect(s) to come out walking forward with hands up, palm open and turned out.

(e) Once out, suspect(s) will be given directions by the custody team. These directions will have the suspect(s) move out of the field of fire of the scene and into handcuff and search position.

(f) Hostages will be treated as suspects until it is determined that all suspects are in custody.

It is important to remember these are guidelines. All situations are different and, therefore, deviations may be necessary.

415.4 AFTER ACTION REPORTS

Within seven (7) working days after an incident, a completed "Police Negotiator Incident Summary Form" will be completed by the Team Leader and forwarded to the Hostage Negotiator Coordinator(s). The Coordinator(s) will forward copies to the following persons:

- The Chief of Police;
- Deputy Chiefs;
- SWAT Lieutenant; and
- All members of the Hostage Negotiation Team.

415.5 DEBRIEFINGS

Negotiators at a SWAT mission will attend the departmental debriefing and critique which is conducted immediately after the situation has ended. Permission to miss the debriefing will only be granted by the Hostage Negotiation Coordinator(s).

After the departmental debriefing , the negotiators will conduct a mandatory debriefing to discuss any negotiator-related items, which need attention.

- Prior to the end of this briefing, the "Statistical Information Summary" form will be completed and (usually by the primary) and given to a Team Leader for the annual yearly report.
- A Hobus form shall also be filled out by the primary negotiator and forwarded to the F.B.I. within fourteen days after the mission.

415.6 SELECTION OF HOSTAGE NEGOTIATION TEAM MEMBERS

The size of the Hostage Negotiations Team will be determined by the Hostage Negotiations Coordinator(s) and will be filled upon the Chief of Police's discretion.

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- Prospective team members will be solicited from sworn and non sworn personnel with at least 2 (two) years of non- probationary experience with the department.

The Hostage Negotiation Coordinator(s) will develop selection criteria that will include but is not limited to the following:

(a) The submission of a department memorandum of interest;

(b) A review of a recent police report generated by the applicant;

(c) A review of the applicant's work record (e.g. EDR file);

(d) An interview with the applicant's supervisor; and

(e) An oral board process with possible scenario.

415.7 TRAINING

The below listed training is from the Departments Training Plan and is either mandatory, essential or desirable. The Training Plan can be located in the G/drive. Hostage Negotiations Team members will be required to attend:

Essential training:

(a) A forty (40) hour basic POST Hostage Negotiation course.

Desirable training:

(a) HNT update course

(b) Terrorism course

(c) HNT CAHN conference

(d) HNT refresher training.

415.8 REQUIREMENTS TO REMAIN A HOSTAGE NEGOTIATOR

It is imperative that all negotiators receive as much updated training as possible as to remain active on the Hostage Negotiations Team. To this end it is required that each negotiator:

(a) Attend all mandatory meetings scheduled by the Hostage Negotiations Coordinator(s) or Team Leader(s) (an absence can only be granted by the Hostage Negotiations Coordinator(s) prior to the meeting).

(b) Attend at least 3 (three) of the 4 (four) quarterly sessions during the calendar year.

(c) Attend at least one tactical training session with the SWAT Team annually.

(d) Team members will be in good standing with the department and can be removed from the team at any time based on the Chief of Police's discretion.

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415.9 UNIFORMS

The Hostage Negotiator uniform will consist of a HNT jacket to be worn with a class B uniform or plain clothing. When responding to scenes negotiators are expected to be in their HNT jacket unless a reasonable response time will not permit.

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Response to Bomb Calls

416.1 PURPOSE AND SCOPE

These guidelines have been prepared to assist officers in their initial response to incidents involving explosives, explosive devices, or explosion/bombing incidents. Under no circumstances should these guidelines be interpreted as compromising the safety of first responders or the public. When confronted with an incident involving explosives, safety shall always be the primary consideration.

416.2 FOUND EXPLOSIVES/SUSPECT DEVICES

When handling an incident involving a suspected explosive device, the following guidelines should be followed:

(a) No known or suspected explosive item should be considered safe regardless of its size or apparent packaging. The appropriate bomb squad or military explosive ordnance disposal team should be summoned for assistance.

(b) A perimeter should be established around any found explosives or suspected devices. The size of the perimeter should be adjusted depending on the size or nature of the device. For an item such as a pipe bomb or a suitcase sized object, the perimeter should be established at a minimum of 150 feet indoors or 1850 feet outdoors. For a suspected vehicle containing explosives , the perimeter should be established at a minimum of 320 feet indoors or 1500 feet outdoors. An access point should be provided for support personnel. As much information as is available should be promptly relayed to the Watch Commander including:

1. The stated threat.
2. Exact comments.
3. Time of discovery.
4. Exact location of the device.
5. Full description (e.g., size, shape, markings, construction) of the device.

(c) The device should not be touched or moved except by qualified bomb squad personnel.

(d) Police radios should be left on so that critical information can be relayed to first responders. Personnel should refrain from making radio transmissions when they are within 300 feet of any found explosives or suspected devices unless failure to transmit information on the radio would likely result in loss of life or serious injury to other persons. Consideration should be given to evacuating any buildings near the device.

(e) A search of the area should be conducted for secondary devices or other objects that are either hazardous or foreign to the area and a perimeter should be established around any additional suspicious device found.

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Explosive or military ordnance of any type should be handled only by the bomb squad or military ordnance disposal team.

416.3 EXPLOSION/BOMBING INCIDENTS

When an explosion has occurred, there are multitudes of considerations which may confront the responding officers. As in other catastrophic incidents, a rapid response may help to minimize injury to victims, contamination of the scene by gathering crowds, or additional damage by resulting fires or unstable structures. Whether the explosion was the result of an accident or a criminal act, the responding officers should consider the following actions:

- Assess the scope of the incident, including the number of victims and extent of injuries.
- Assist with first aid (Fire Department has primary responsibility).
- Assist with evacuation of victims (Fire Department has primary responsibility).
- Identify and take appropriate precautions to mitigate scene hazards such as collapsed structures, bloodborne pathogens, hazardous materials and secondary explosive devices.
- Request additional resources as needed.
- Identify witnesses.
- Preserve evidence.

416.3.1 NOTIFICATIONS

When an explosion has occurred, the following people or organizations shall be notified as soon as practical if their assistance is needed:

(a) Fire Department

(b) Operation Control Center

(c) Bomb Squad

(d) Additional field officers

(e) Field supervisor

(f) Watch Commander

(g) Detectives

(h) Forensic Science Services

(i) If terrorism is suspected, call the FBI at 415-553-7400 and report an active terrorist incident

416.3.2 CROWD CONTROL

Only authorized personnel with a legitimate need shall be permitted access to the scene. Spectators and other unauthorized individuals shall be excluded to a safe distance as is reasonably practicable given the available resources and personnel.

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416.3.3 SCENE OF INCIDENT

Establish the crime scene perimeter to a distance that is a minimum of one and a half times the total distance from the location of the suspected explosion than the farthest piece of evidence that is located (i.e. if the farthest evidence item is located 200 feet from the explosion, the perimeter should be established at a minimum of 300 feet.)

As in any other crime scene, steps should immediately be taken to preserve the scene. The scene could extend over a long distance. Evidence may be imbedded in nearby structures or hanging in trees and bushes.

416.4 BOMB THREATS RECEIVED AT POLICE FACILITY

This procedure shall be followed should a bomb threat call be received at the police facility.

416.4.1 BOMB THREATS RECEIVED BY TELEPHONE

The following questions should be asked if a call of a bomb threat is received at the Police Department:

- When is the bomb going to explode?
- Where is the bomb?
- What kind of bomb is it?
- What does it look like?
- Why did you place the bomb?
- Who are you? (to avoid possible termination of the call this should be the last question asked)

Attempt to keep the caller on the line as long as possible and obtain expanded answers to these five basic questions.

During this time, document the following:

- Time of the call.
- Exact words of the person as accurately as possible.
- Estimated age and gender of the caller.
- Speech patterns and/or accents.
- Background noises.

If the incoming call is received at the police facility on a recorded line, steps shall be taken to ensure that the recording is preserved in accordance with current department evidence procedures.

416.4.2 RESPONSIBILITIES

The employee handling the call shall ensure that the Watch Commander is immediately advised and fully informed of the details. The Watch Commander will then direct and assign officers as required for coordinating a general building search or evacuation as he/she deems appropriate.

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Exclusion (Prohibition) Orders

417.1 PURPOSE AND SCOPE

The Bay Area Rapid Transit (BART) District Board of Directors have received increasing complaints from transit riders and employees regarding safety on BART trains, in parking lots, and passenger waiting areas. In an effort to better protect its riders and employees, California State Assembly Bill 716 (Dickinson) was enacted into law in 2012 and allows BART to issue exclusion or "prohibition" orders to people who are cited or arrested for certain offenses, thus reducing the number of crime-related disruptions. By excluding passengers cited or arrested for certain offenses, as outlined in the bill, BART seeks to reduce the number of passenger disruptions and improve overall service. This policy does not target or adversely impact any particular group of individuals.

417.2 OBJECTIVES

The purpose of this policy is to enhance safety and system security. This policy allows BART to exclude passengers from using transit for limited periods of time, depending on the nature and the frequency of offenses committed while on transit district property and for which they have been cited.

An oversight committee comprised of local residents with experience in the areas of mental health, homelessness, public safety, and cultural awareness will monitor the number of citations and exclusions issued by BART and oversee the training of transit personnel to deal with special needs passengers.

Training of transit personnel is mandated in order to recognize and facilitate the special needs of homeless and those who may have psychiatric disabilities.

This security effort to exclude specific individuals also requires that an appeals process be established for those who believe they have been mistakenly cited or are transit-dependent.

417.3 DISTRICT ADMINISTRATIVE RULES

417.3.1 ISSUANCE AND PROCESSING OF EXCLUSIONS

The following Administrative Rules shall govern the issuance and processing of prohibition orders by BART, in accordance with Public Utilities Code (PUC) §99171.

Nothing in these Rules or the existence of these Rules shall prevent BART from taking any lawful steps to protect its employees, passengers and the BART Transit System. Specifically, nothing in these Rules affects the right of BART or law enforcement to request the immediate departure of any person posing a safety threat to system users, BART personnel or any other persons, or is in violation of any provision of criminal law or BART's administrative rules or procedures. Further, nothing in these Rules affects the right of law enforcement to accomplish the forceful removal of any person posing an imminent threat, so long as the law authorizes such action.

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417.4 DEFINITIONS

As used in these Rules, the following terms shall mean:

Business Day. The term "business day" shall mean Monday through Friday, with the exception of BART Holidays: Christmas Day, New Years Day, Martin Luther King Jr.'s birthday, Thanksgiving Day, Labor Day, Memorial Day and Independence Day. When the last business day of any time period set forth in these Rules falls on a BART Holiday, an additional day shall be added to any time provisions set forth by virtue of the holiday, excluding all weekend days.

Calendar Day. The term "calendar day" shall include all week days. When a calendar day falls on the following holidays: Christmas Day, New Years Day, Martin Luther King Jr.'s birthday, Thanksgiving Day, Labor Day, Memorial Day and Independence Day an additional day shall be added to any time provisions set forth in these Rules by virtue of the holiday.

Exclusion Administrator. The term "Exclusion Administrator" shall include all BART employees appointed by the General Manager to conduct an initial review of a Prohibition Order issued pursuant to these Rules.

Exclusion Officer. The term "Exclusion Officer" includes all BART officers authorized to issue Prohibition Orders under these Rules.

Transit Dependent. The term "Transit Dependent" means a person who has no independent source of transportation and relies solely on public transit for trips of necessity, including but not limited to, travel to and from medical or legal appointments, school or training classes, places of employment, or obtaining food, clothing and necessary household items.

BART System. The term "BART System" shall include the property, vehicles, equipment and improvements of whatever nature, owned, leased, maintained, controlled or operated by BART to provide mass transportation for passengers or to provide for the movement of people, and includes any BART vehicle, bus stop on District property, parking facility, track way and BART right of way.

Hearing Officer: The term "Hearing Officer" shall include those persons appointed by the General Manager to conduct an Administrative Hearing following an initial review of a Prohibition Order issued pursuant to these Rules. Hearing Officers may be a BART employee or agents; however, the Hearing Officer's continued service, performance, evaluation, compensation, and benefits, as applicable, shall not be directly linked to his or her findings related to the number of prohibition orders upheld by the Hearing Officer.

417.5 ISSUANCE OF PROHIBITION ORDER

417.5.1 AUTHORITY FOR PROHIBITION ORDER

BART may exclude an individual from any or all parts of the BART system, as permitted by Public Utilities Code (PUC) §99171 or other applicable law. In accordance with this authority, a person subject to a prohibition order may not during the period of exclusion, enter or remain upon any part of the BART system from which the person is excluded, except as permitted by the terms of the prohibition order or by applicable law.

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A Notice of Prohibition Order may be issued by any authorized person that has received training from BART, as required by PUC §99171; including, but not limited to, law enforcement officers, and BART Police Officers.

417.5.2 DESIGNATION OF VIOLATIONS ELIGIBLE FOR PROHIBITION ORDER

The violations eligible for a Prohibition Order and the corresponding length of exclusion is established by PUC §99171. A Prohibition Order may be issued to any person who:

(a) On at least three (3) separate occasions within a period of ninety (90) consecutive days, is cited for a crime committed in or on a transit system for any act that constitutes a violation of any of the following:

1. Penal Code §640(d) (1) - Willfully disturbing others on or in a system facility or vehicle by engaging in boisterous or unruly behavior.
2. Penal Code §640(d) (2) €# Carrying an explosive or acid, flammable liquid, or toxic or hazardous material in a public transit facility or vehicle.
3. Penal Code §640(d) (3) €# Urinating or defecating in a system facility or vehicle, except in a lavatory. (This section does not apply to a person who cannot comply with this section as the result of a disability, age or medical condition.).
4. Penal Code §640(d) (4) €# Willfully blocking the free movement of another person in a system facility or vehicle.
5. Penal Code §640.5(a) (1) €# Defacing with graffiti or other inscribed material the interior or exterior of the facilities or vehicles of a public transit system.
6. Public Utilities Code 99170(a) (2) €# Interfering with the operator or operation of a transit vehicle, or impeding the safe boarding or alighting of passengers.
7. Public Utilities Code 99170(a) (5) €# Committing an act or engaging in a behavior that may, with reasonable foresee ability, cause harm or injury to any person or property.

(b) Or: The person is placed under arrest or convicted for a misdemeanor or felony committed in a vehicle, bus stop, or parking lot on BART property for acts involving violence or threats of violence upon passengers and transit employees, lewd or lascivious behavior, or possession for sale of a controlled substance.

- Persons arrested for acts involving violence or threats of violence upon BART personnel on BART property will be booked unless there are mitigating circumstances that support the release of the subject on a citation, field interview, or reprimand. Any exception to booking shall be approved by the Watch Commander.

(c) Or: The person is convicted of a violation of one of the following offenses:

(1) Health and Safety Code §11532(a) €# Loitering in a public place in a manner and under circumstances manifesting an intent to engage in drug-related activity.

(2) Penal Code §653.22(a) €# Loitering in a public place with the intent to commit prostitution.

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417.5.3 LENGTH AND SCOPE OF EXCLUSIONS
The length of any Prohibition Order shall be no greater than those permitted under PUC §99171(a)(2).

(A) If issued pursuant to section 2. (A) above, the period of exclusion shall be:

(1) For a period not to exceed thirty (30) days for the first prohibition order,

(2) For a period not to exceed 90 days for the second prohibition order issued within a one year period from the date of the first prohibition order; and

(3) For a period not to exceed 180 days for a third or subsequent prohibition order issued within a one year period from the date of the first prohibition order.

(B) If issued pursuant to section 2. (B) or (C) above, the period of exclusion shall be:

(1) For a period not to exceed thirty (30) days if issued pursuant to an arrest.

(2) Upon conviction of a misdemeanor, the duration of the prohibition order for the conviction, when added to the duration of the prohibition order shall not exceed 180 days.

(3) Upon conviction of a felony, duration of the prohibition order for the conviction, when added to the duration of the prohibition order for the initial shall not exceed one year.

A Notice of Prohibition Order shall identify the violation supporting the exclusion and must state the length of exclusion. No person is permitted to vary the length of exclusion, except:

a. In accordance with the findings of the Exclusion Administrator or the Hearing Officer who may vary the length or scope of exclusion in accordance with his or her authority.

b. In response to changed conditions, the Exclusion Administrator or the Hearing Officer may modify a prohibition order.

c. In response to a finding by the Exclusion Administrator or the Hearing Officer, that exclusion is not warranted or does not comport with BART policy, the Exclusion Administrator or the Hearing Officer may invalidate or modify a prohibition order, based upon a review of all the facts and circumstances, as provided in these Rules.

417.6 ENFORCEMENT REQUIREMENTS

417.6.1 SUFFICIENCY OF FACTS AND CAUSE FOR CITATION OR EXCLUSION
All citations and exclusions issued for prohibited conduct must be based upon probable cause. In determining whether there is enough evidence to justify a prohibition order or citation, peace officers and exclusion officers may rely upon facts resulting from their own personal observations or reliable facts provided by witnesses or others.

417.6.2 NOTICE OF EXCLUSION
Every person alleged to have engaged in conduct prohibited by PUC §99171(a) (1) (A)-(C) and sought to be excluded for such a violation(s), shall be issued a Notice of Prohibition Order. The Notice of Prohibition Order to be used for exclusions is incorporated by reference.

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The exclusion officer alleging the violation shall complete the Notice of Prohibition Order in its entirety and provide a copy of the notice to the individual sought to be excluded.

In order to be deemed valid, the Notice of Prohibition Order must accurately denote the violating conduct and reference the applicable provision or statute that was violated, in accordance with PUC §99171(a).

The Notice of Prohibition Order may be issued to the person sought to be excluded contemporaneously with the course of conduct supporting the exclusion or at some time period after the violating conduct has occurred. When the Notice of Prohibition Order is issued to the person sought to be excluded at some time period after the violating conduct has occurred, the Notice of Prohibition Order must be personally served upon the person sought to be excluded as set forth in PUC §99171 (b)(2)(A)-(C). Service may be accomplished by in-person delivery, registered mail, overnight delivery (with confirmation of delivery) or any other means agreed to in writing by BART and the person being served.

At no time may a Notice of Prohibition Order be served to a person sought to be excluded more than six (6) months after the violating conduct has occurred, unless agreed to in writing by the person being served.

Service of the Notice of Prohibition Order shall be deemed to be complete on one of the following dates:

- On the date of delivery, if delivered in person.
- On the date of confirmed delivery, for any delivery by mail.
- For any alternative method of service, as provided in writing specifying the alternative method.

Proof of service shall be filed with the BART Exclusion Administrator.

417.7 MULTIPLE PENALTIES

An exclusion will not be issued for the same act or omission committed by a single person during a single interaction. However, multiple citations, or a citation and a prohibition order, may be issued to a single person who during a single interaction engages in multiple acts or omissions that constitute violations of those provisions delineated in PUC §99171(a)(1)(A)-(C). The issuance of a citation or Notice of Prohibition Order to a person shall not prevent the arrest, prosecution or conviction of that person for violation of criminal laws for the same or different act or omission.

417.8 STAY OF PROHIBITION ORDER

In accordance with PUC 99171(b) (6), all prohibition orders will be subject to an automatic stay of ten (10) calendar days following the date of service. Thus, exclusions will not take effect until the eleventh (11th) calendar day following the date of issuance, or if review has been requested, the date on which the Exclusion Administrator or Hearing Officer's final order takes effect in accordance with review process set forth in these Rules, but no less than eleven (11) calendar days after service of the final order.

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417.9 VIOLATION OF PROHIBITION ORDER

Any person in violation of an active prohibition order shall be placed under arrest per Penal Code 369i(b): "Any person who enters or remains upon any transit-related property without permission or whose entry, presence, or conduct upon the property interferes with, interrupts, or hinders the safe and efficient operation of the transit-related facility is guilty of a misdemeanor."

Persons arrested should be booked unless there are mitigating circumstances that support the release of the subject on a citation, field interview, or reprimand. Notification to the Watch Commander is required for any such violator not taken into custody.

417.10 REVIEW AND APPEAL PROCEDURES

417.10.1 INITIAL REVIEW OF NOTICE OF PROHIBITION ORDER

An initial review may be requested by the person issued a Notice of Prohibition Order within ten (10) days after personal service to a BART Exclusion Administrator. There shall be no charge for the initial review. The request may be made by telephone (510)464-6730, in writing to P.O. Box 12688, Oakland, CA 94604-2688, or in person at: 300 Lakeside Drive, Oakland, CA. 94604-2688. If an initial review is requested, the Notice of Prohibition Order shall be reviewed by a BART Exclusion Administrator. The Exclusion Administrator shall determine:

(a) Whether the prohibition order meets the requirements of PUC §99171; and

(b) Unless the person has been convicted of the offense or offenses, whether the offense or offenses for which the person was cited or arrested are proven by a preponderance of the evidence.

(c) Whether the exclusion has been issued to a person not eligible for a complete exclusion under the circumstance outlined in Section 9. Circumstances Affecting Applicability of Exclusion.

If the Exclusion Administrator determines, based on the initial review, that the prohibition order is not adequately supported or that extenuating circumstances make dismissal of the Prohibition Order appropriate in the interests of justice, the Exclusion Administrator shall cancel the notice. The Exclusion Administrator shall cancel a prohibition order if it determines that the person did not understand the nature and extent of his or her actions or did not have the ability to control his or her actions. The cancellation of a Prohibition Order shall be effective immediately and the excluded person may continue to use the BART system subject all rules and regulations regarding its use.

If the Exclusion Administrator determines that the person is dependent upon the transit system for trips of necessity, including, but not limited to, travel to or from medical or legal appointments, school or training classes, places of employment, or obtaining food, clothing, and necessary household items, the Exclusion Administrator shall modify the Prohibition Order to reasonably allow for those trips under the conditions established by the Exclusion Administrator. Any person entitled to such a modification of the prohibition order shall remain subject to all applicable laws,

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rules and regulations regarding the use of the transit system, including but not limited to, providing proof of fare payment.

If the Exclusion Administrator determines that the Prohibition Order is valid, either in whole or in part, the Exclusion Administrator shall issue a written statement to that effect and may include any modification to the period or scope of the Prohibition Order.

The burden of proof to establish the conditions for cancellation or modification, as provided above, is on the party seeking the cancellation or modification. The party seeking to establish the qualifying circumstances must do so by a preponderance of the evidence.

The Exclusion Administrator shall serve the results of the initial review to the person contesting the notice by personal service. This decision shall become final after the expiration of ten (10) days after service, unless the person is dissatisfied with the results of the initial review and requests an administrative hearing within the ten (10) days. If an administrative hearing is requested, the excluded individual shall be entitled to further review in the form of a hearing as provided below.

417.10.2 RIGHT TO AN APPEAL HEARING FOLLOWING THE INITIAL REVIEW

Every person issued a Notice of Prohibition Order is entitled to a hearing as a matter of right upon issuance of the results of the initial review. The purpose of the hearing is: (a) to review and determine whether the Prohibition Order meets the requirements of PUC 99171; (b) unless the person has been convicted of the offense or offenses, to determine whether the offense or offenses for which the person was cited or arrested are proven by the preponderance of the evidence; (c) to determine whether the length and scope of the exclusion is commensurate with the nature of the violation; (d) to consider any mitigating and aggravating factors relevant to the scope and length of the exclusion; and (e) issue a final decision to sustain, modify, or set aside a Notice of Prohibition Order. All persons receiving a prohibition order shall receive notice of their right to a hearing on the Notice of Prohibition Order.

417.10.3 INITIATION OF HEARING PROCEEDINGS

An individual who has received a Notice of Prohibition Order following an initial review, must contact BART by 5:00 p.m. no later than the tenth (10th) calendar day following service of the Exclusion Administrator's decision in order to request a hearing. The Exclusion Administrator may be reached by phone at (510)464-6730; in writing to P.O. Box 12688, Oakland, CA 94604-2688; or in person at 300 Lakeside Drive, Oakland, CA. 94604-2688.

The request may be made by phone, in writing or in-person, but must be received by the Exclusion Administrator by the tenth (10th) calendar day following the date of personal service of the Administrator's decision. An individual requesting a hearing need not demonstrate cause for the hearing, and the Administrator shall immediately forward a copy of the Notice of Prohibition Order and any supporting documentation to the designated Hearing Officer.

The Hearing Officer, or his/her designee, will contact the individual by phone or mail to schedule a hearing within three (3) business days of receipt of the Notice of Exclusion. The Hearing Officer

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shall provide notice to the exclusion officer that issued the Notice of Prohibition Order of the date and time of the hearing in accordance with the Hearing Officer's procedures for issuing such notice.

The person requesting the hearing shall have the choice of a hearing by mail or in person. An in-person hearing shall be conducted at a location selected by the Hearing Officer, within the boundaries of the BART District.

417.10.4 SCHEDULE OF HEARINGS

Hearing Date: Each hearing shall be scheduled directly with the Hearing Officer or his/her designee within thirty (30) calendar days of the request. To the extent possible, the Hearing Officer shall make every attempt to schedule each hearing at a time that is convenient for appearance by the excluded individual, BART, and any witnesses, including exclusion officers. All hearings shall be scheduled on a weekday, Monday through Friday, during normal business hours.

Continuance: The Hearing Officer may grant one continuance, on its own motion or the motion of one of the Parties, of no more than seven (7) calendar days. The Hearing Officer has the sole discretion to grant or deny a continuance. Further, the Hearing Officer has the discretion to impose a stay, pending the later hearing date.

417.10.5 TREATMENTOF EVIDENCE

In conducting a hearing and reaching a decision, the Hearing Officer may rely upon any evidence that a reasonable person would rely upon in making an important decision or conducting personal business. Hearsay is admissible, except where its admission would offend due process. The Hearing Officer shall have the authority to compel testimony or evidence deemed necessary; in the Hearing Officer's sole discretion, to a fair decision. The Hearing Officer may receive testimony concerning the interpretation of the Administrative Rules from any BART representative.

The Notice of Prohibition Order shall be prima facie evidence of the violation or violations pursuant to PUC 99171(a) establishing a rebuttable presumption affecting the burden of producing evidence. The person who issued the notice of prohibition order shall not be required to participate in an administrative hearing, unless their participation has been requested by the person requesting the hearing no less than five (5) calendar days prior to the hearing. Requests for such participation shall be made to the Hearing Officer by telephone, in writing or in person through the Exclusion Administrator.

417.10.6 STATEMENT OF RIGHTS BY HEARING OFFICER

The Hearing Officer shall advise all parties, through written correspondence or personally when parties appear for the hearing, of the following rights:

- Hearings shall be informal and shall be conducted so as to facilitate the parties' ability to present their respective positions to the Hearing Officer. BART shall present its reasons for the exclusion first, and then the person contesting the exclusion shall present his or her reasons in support of rescission or modification of the exclusion.

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- The Hearing Officer may question the parties and witnesses, and shall review all evidence submitted by the parties.
- The hearing shall be electronically recorded.
- An aggrieved party has the right to seek Administrative Mandamus from any County Superior Court within the boundaries of the BART District in accordance with Cal. Code CIV. Proc. 10946.
- A party has the right to representation by an attorney at their sole cost.
- BART has the burden of proof, based upon a presentation of substantial evidence, to establish that it is more probable than not that the conduct justifying the exclusion occurred and that no factors are present to nevertheless warrant setting aside the exclusion.

417.10.7 LENGTH AND SCOPE OF EXCLUSIONS

The length and scope of prohibition order shall be determined in light of all the facts and circumstances giving rise to the exclusion. After consideration of the evidence presented, the Hearing Officer may sustain the exclusion, modify the exclusion or set aside the exclusion.

The Hearing Officer shall make a finding on whether it is more probable than not that the excluded individual engaged in the conduct supporting the exclusion. In addition, the Hearing Officer shall consider any mitigating or aggravating factors in determining the appropriate scope and length of the exclusion, that the Hearing Officer determines relevant, in his or her sole discretion.

If the Hearing Officer determines that the exclusion will be sustained but the scope or length of the exclusion is not commensurate with the seriousness of the violation, the Hearing Officer may modify the exclusion. An order modifying the exclusion should discuss the Hearing Officer's basis for the modification of the exclusion, including a discussion of findings related to the factors listed above.

417.10.8 FINAL ORDER BY THE HEARING OFFICER

Within five (5) business days following the conclusion of a hearing, the Hearing Officer shall issue a final Order setting forth all findings and a decision on the exclusion, unless issuance of a final order within five (5) business days is not practicable. If a final order cannot be issued within five (5) business days of the hearing, the Hearing Officer shall extend the stay on the exclusion until the final order is effective. The Hearing Officer's decision following the administrative hearing shall be delivered by personal service.

The final order shall set forth the findings of the Hearing Officer and the basis for such findings. If the final order sustains or modifies the Notice of Prohibition Order, the final order shall clearly set forth the period of exclusion, including the exact starting and ending date. The final order shall notify the person excluded of the right to seek judicial review with any Superior Court within the boundaries of the BART District within 90 days of delivery by personal service, in accordance with Cal. Code Civ. Proc. 1094.6. The final order shall be effective ten (10) days after personal service.

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417.11 CIRCUMSTANCES AFFECTING THE APPLICABILITY OF EXCLUSIONS

If the Hearing Officer determines that BART has established that the violation was more probable than not, and that consideration of the factors justifies sustaining the exclusion, the Hearing Officer must nevertheless modify or set aside the exclusion in the circumstances defined below. Any person asserting the right to a qualified prohibition order on the basis of the factors set forth below shall have the burden of establishing their applicability by a preponderance of the evidence.

417.11.1 EXCLUSIONS ISSUED TO PERSONS WHO DID NOT UNDERSTAND THE NATURE AND EXTENT OF ACTION OR DID NOT HAVE THE ABILITY TO CONTROL ACTIONS

The Hearing Officer shall cancel a Prohibition order if he or she determines that the person did not understand the nature and extent of his or her actions or did not have the ability to control his or her actions.

417.11.2 EXCLUSIONS ISSUED TO DISABLED PERSONS

An individual with a disability shall not be issued a complete exclusion from the BART System unless the person engaged in violent, seriously disruptive or criminal conduct, or in conduct posing a serious threat to the safety of others or to the operation of the transit system. Absent such a finding, if a Hearing Officer determines that a violation was more probable than not, the Hearing Officer shall order a qualified Prohibition Order to permit an individual with a disability to use the system for trips of necessity (e.g., travel to and from medical and legal appointments, school or training classes, places of employment, obtaining food, clothing and necessary household items, or for accessing any critical services.).

417.11.3 EXCLUSIONS ISSUED TO TRANSIT DEPENDENT PERSONS

If a person issued a Prohibition Order is dependent on the BART system for trips of necessity, including, but not limited to, travel to and from medical and legal appointments, school or training classes, places of employment, obtaining food, clothing and necessary household items, the Hearing Officer shall order a qualified prohibition order to permit a transit dependent person to allow for those trips.

417.11.4 EXCLUSIONS ISSUED BASED UPON EXPRESSIVE CONDUCT PROTECTEDBY THE FIRST AMENDMENT

A person issued a Notice of Exclusion for conduct determined to be expressive conduct protected by the First Amendment to the U.S. Constitution, shall not be excluded on the basis of such conduct. If the Hearing Officer finds that a violation was more probable than not, but also finds that the conduct involved expressive conduct by the First Amendment of the U.S. Constitution, the Notice of Prohibition Order shall be set aside, unless the Hearing Officer also finds that the effect of the conduct endangered public safety, disrupted service, or interfered with transit operations. For the purposes of this paragraph, the parameters of the free expression and religious protections afforded under this paragraph shall be coextensive with constitutional guarantees.

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417.12 TREATMENT OF PERSON WHO DOES NOT PROVIDE A MAILING ADDRESS

If a person issued a Notice of Prohibition Order cannot, or will not, provide a mailing address at the time of issuance by an exclusion officer, a Notice Letter from an Exclusion Administrator, correspondence from the Hearing Officer, and any other documents concerning the Prohibition Order, shall be made available for pick-up at BART's administrative offices located at 300 Lakeside Drive, Oakland, CA. 94604-2688. If at any time during the pendency of an initial review or administrative hearing, an excluded individual, or his or her representative, designates an address for mailing, any correspondence or documents produced subsequent to the date of the request shall be mailed to the address designated by the individual. If an individual is represented by counsel in the exclusion proceedings, all written materials shall be provided to the individual's attorney, at the attorney's mailing address.

An excluded individual without a mailing address may personally appear at the BART administrative offices, to request a hearing, or any other process to which he or she is entitled.

417.12.1 AFFECT OF FAILURE TO PROVIDE AN ADDRESS

When a person receiving a Notice of Prohibition Order is not able, or refuses, to provide a mailing address at the time of issuance, the Notice of Prohibition Order shall set forth the procedure for picking up any letters, notices or orders produced by an Exclusion Administrator or Hearing Officer, in a manner that is consistent with these Rules.

417.12.2 APPOINTMENT OF HEARING OFFICER

The General Manager shall appoint one or more Exclusion Administrators and Hearing Officer(s) based on the individual's qualifications, training and objectivity. Hearing Officers may be BART employees or agents, however, the Hearing Officers continued service, performance, evaluation, compensation, and benefits, as applicable, shall not be directly or indirectly linked to his or her findings related to the number of prohibition orders upheld by the Hearing Officer.

417.13 WRIT OF ADMINISTRATIVE MANDAMUS

All decisions issued by the Hearing Officer shall be subject to judicial review from any County Superior Court within the boundaries of the BART District as provided by Code of Civil Procedure §1094.6. Judicial review must be filed within 90 calendar days of the delivery of the decision of the Hearing Officer by personal service.

Any judicial review proceedings shall not stay the effective date of the Prohibition Order, unless so ordered by a Judge of the Superior Court. Any and all costs, fees or other expenses related to judicial review shall be borne by each party, unless otherwise ordered by the Superior Court.

417.14 REQUEST FOR REFUND OF FARE MEDIA

A person issued a prohibition order under PUC §99171(a) may, within ten (10) calendar days of the date the order goes into effect, request a refund for any prepaid fare media rendered unusable in whole or in part by the prohibition order. The request for refund should be made in writing to the Exclusion Administrator.

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If there is a balance of useable fare media of one or more days following the period of the prohibition order, the refund shall be prorated based on the number of days the fare media will be unusable. The issuance of any refund shall be subject to the surrender of the fare media.

417.15 TRACKING AND DOCUMENTATION

417.15.1 EXCLUSION OFFICER

All Prohibition Order information for arrests pursuant to PUC §99171 shall be entered into the Alliance database by the officer. This task shall be accomplished by going into the "Case Reports-Persons & Vehicles-Alerts-Add New" section to document the excluded person's Prohibition Order information. Enter "Prob Ordr" under the Hazard Code. The Prohibition Order shall be added to the report. The issuing officer will also immediately advise the on-duty watch commander whenever a Prohibition Order has been issued.

Whenever a citation has been issued pursuant to PUC §99171(A), the issuing shall enter the information in the suspect's "alert" section in the Alliance database. The information will allow dispatch to provide notification of individuals who have been cited for any crime committed on two or more separate occasions within a period of ninety (90) consecutive days in or on the BART District that constitutes a violation pursuant to PUC §99171(A).

417.15.2 EXCLUSION ADMINISTRATOR AND HEARING OFFICER

The Exclusion Administrator and/or Hearing Officer shall notify BART Police via e-mail (_BPD ACL) of:

- all appeal requests
- all initial review results by the Exclusion Administrator
- all final orders given by the Hearing Officer

417.15.3 WATCH COMMANDER

The on-duty watch commander shall make a notification on the Watch Commander's Daily Log of any incident which results in the issuance of a Prohibition Order.

The watch commander shall enter the excluded person's information into the "alert" notification of the Alliance database upon notification by the Exclusion Administrator or Hearing Officer via e-mail (_BPD ACL) of:

- all appeal requests
- all initial review results by the Exclusion Administrator
- all final orders given by the Hearing Officer

417.15.4 COMMUNICATIONS CENTER

Upon request by an officer via a BART Police records check, dispatch shall provide notification of individuals who have been cited for any crime committed on two or more separate occasions

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within a period of ninety (90) consecutive days in or on the BART District that constitutes a violation pursuant to PUC §99171(A).

Dispatch shall also provide officers with the current status of any person believed to have an active Prohibition Order pursuant to PUC 99171.

417.15.5 CRIME ANALYST

From the CADS Alliance database, the crime analyst shall create a weekly report that lists individuals with two or more qualifying citations within a period of 90 consecutive days.

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Mental Illness Commitments

418.1 PURPOSE AND SCOPE

This procedure describes an officer's duties when a person is to be committed to a mental health unit pursuant to Welfare and Institutions Code § 5150 and 5170. The commitment of a person under § 5150 does not constitute an arrest. If an officer believes that a person falls within the provisions of Welfare and Institutions Code § 5150 or 5170, he/she shall transport that person to the designated facility for evaluation and commitment.

418.2 AUTHORITY

Pursuant to Welfare and Institution Code § 5150 When any person, as a result of mental disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer, member of the attending staff, as defined by regulation, of an evaluation facility designated by the county, designated members of a mobile crisis team provided by Bureau 5651.7, or other professional person designated by the county may, upon probable cause, take, or cause to be taken, the person into custody and place him or her in a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation.

Pursuant to Welfare and Institution Code § 5170, when any person is a danger to others, or to himself, or gravely disabled as a result of inebriation, a peace officer, member of the attending staff, as defined by regulation, of an evaluation facility designated by the county, or other person designated by the county may, upon reasonable cause, take, or cause to be taken, the person into civil protective custody and place him in a facility designated by the county and approved by the State Department of Alcohol and Drug Abuse as a facility for 72-hour treatment and evaluation of inebriates. Pursuant to Welfare and Institution Code § 5150 and 5170, such facility shall require an application in writing stating the circumstances under which the person's condition was called to the attention of the officer, or other individual authorized by statute has probable cause to believe that the person is, as a result of mental disorder or inebriation, a danger to others, or to himself or herself, or gravely disabled. If the probable cause is based on the statement of a person other than the officer, or other individual authorized by statute, such person shall be informed that they may be liable in a civil action for intentionally giving a statement which he or she knows to be false.

418.3 OFFICER CONSIDERATIONS AND RESPONSIBILITIES

Any officer responding to or handling a call involving a suspected mentally disabled individual or an involuntary mental illness commitment should consider utilizing the following as time and circumstances reasonably permit:

(a) Any available information that might assist in determining the cause and nature of the mental illness or developmental disability.

(b) Conflict resolution and de-escalation techniques.

(c) Language that is appropriate for interacting with a mentally disabled person.

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(d) If circumstances permit, alternatives to deadly force.

(e) Any available community resources that can assist in dealing with a mentally disabled individual.

(f) Primary dispatched officers will respond to handle calls involving mentally disabled individuals. When available, a Crisis Intervention Trained (CIT) officer should be requested to respond to events involving a mentally disabled individual, drunk, and disorderly person. CIT officers shall be listed on the daily rosters. The closest available CIT officer should be allowed to respond to these types of events from their assignment to assist when possible.

418.3.1 TRANSPORTATION

Committals under 5150/5170 W&I will be transported to the nearest mental health facility via ambulance, except where ambulance service is not provided for this purpose.

Officers will request the ambulance via Dispatch and provide their precise location in order to expedite emergency medical personnel response. If, in the evaluation of the officer, the detainee has urgent medical problems, or is so violent as to cause harm to himself/herself or others, the officer should request the ambulance to respond Code 3. Officers will ride in the patient compartment of the ambulance when requested to do so by ambulance personnel. Whenever possible, ambulance personnel will make arrangements to return the officer to his/her patrol vehicle or station.

418.3.2 RESTRAINTS

If the patient is violent or potentially violent, the officer will notify the staff of this concern. The staff member in charge will have discretion as to whether soft-restraints will be used. If these restraints are desired, the officer will wait while they are being applied to help provide physical control of the patient, if needed.

418.3.2 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 staff member assigned to that patient. The officer will retain a copy of the 72-hour evaluation for inclusion in the case report. The officer shall also provide a verbal summary to an emergency department staff member regarding the circumstances leading to the involuntary detention. The officer will document the incident on a BART Police report CR-1 form. These reports must be written, submitted and approved by a supervisor prior to the reporting officer(s) going off duty. A self-committal will continue to be classified in Alliance as a "sick person" with the subject being assigned the role of a "sick person."

All 5150 W&I reports which include a criminal hold, including all warrants, will be treated as an "in custody" and classified in the Alliance report writing system as an "arrest," with the subject being assigned the role of an "arrestee." The report, including all supplements, shall be written, submitted and approved by a supervisor prior to the reporting officer(s) going off duty. This shall also apply to arrestees who are transported for medical treatment prior to being booked into a

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jail facility. These reports cannot be approved by Field Training Officers and must be approved by a supervisor.

When an arrestee is transported from a medical or mental health care facility and booked into a jail, the transporting officer shall complete a supplemental report and send an email to all Detectives and the Detective Sergeant advising them of the booking. The email should include the arrestee's name and case number and be sent as soon as practicable after the transport has been completed.

418.3.4 SECURING OF WEAPONS

If a receiving and secured facility prohibits weapons or if an extraordinary event occurs in the treatment facility and officers determine a need to secure their weapons, the weapons shall be secured in the appropriate locker at the facility or in the police unit.

418.4 MENTALLY ILL PERSON CHARGED WITH A CRIME

Whenever a subject committed per "5150" or "5170" is to be charge with a crime, the officer will ensure that a police hold is placed on him/her.

418.5 CONFISCATION OF FIREARMS AND OTHER WEAPONS

Whenever a person has been detained or apprehended for examination pursuant to Welfare and Institutions Code § 5150, the handling officer should seek to determine if the person owns or has access to any firearm or other deadly weapon. Any such firearm or other deadly weapon should be confiscated in a manner consistent with current search and seizure law (Welfare and Institutions Code § 8102(a)).

Officers are cautioned that a search warrant may be needed before entering a residence or other place to search unless lawful, warrantless entry has already been made (e.g., exigent circumstances, valid consent) (Penal Code § 1524).

For purposes of this section, deadly weapon means any weapon, the possession of which or carrying while concealed, is prohibited by Penal Code § 19100; 21310.

The officer taking custody of any firearm or other deadly weapon shall issue the individual possessing such weapon a receipt, fully describing the weapon (including any serial number) and indicating the location where the weapon may be recovered, along with any applicable time limit for recovery (Penal Code § 33800).

The handling officer shall further advise the person of the below described procedure described below for the return of any firearm or other deadly weapon which that has been confiscated (Welfare and Institutions Code § 8102(a)). For purposes of this section deadly weapon means any weapon that the possession of or carrying while concealed is prohibited by Penal Code § 19100; 21310.

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

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circumstances in a report. The report shall be forwarded to the Criminal Investigations Bureau which shall be responsible for initiating a petition to the superior court for a hearing in accordance with Welfare and Institutions Code § 8102(b), to determine whether or not the weapon(s) will be returned.

(b) The petition to the Superior Court shall be initiated within 30 days of the release of the individual from whom such weapon(s) have been confiscated unless the Department makes an ex parte application to the court to extend the time to file such a petition, up to a maximum of 60 days. At the time any such petition is initiated, the Department shall send written notice to the individual informing him or her of the right to a hearing on the issue and that he or she has 30 days to confirm with the court clerk any desire for a hearing and that the failure to do so will result in the forfeiture of any confiscated weapon(s).

(c) If no petition is initiated within the above period, the Department shall make the weapon(s) available for return in accordance with subsection (d) below. If the person does not confirm a desire for a hearing within the prescribed 30 days, the Department may file a petition for an order of default.

(d) Under no circumstances shall any firearm be returned to any individual unless and until such person presents valid identification and written notification from the California Department of Justice which conforms to the provisions of Penal Code § 12021.3(e).

(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 § 12021.3(g)).

418.6 TRAINING

As a part of advanced officer training programs, this agency will endeavor to include POST approved training on interaction with mentally disabled persons as provided by Penal Code § 13515.25.

418.8 JUVENILE MENTAL ILLNESS COMMITMENTS

It is the policy of the Police Department to detain dangerous or gravely disabled juveniles due to a mental disorder or inebriation, when they are a danger to themselves or others. It is the responsibility of the primary officer to notify the juvenile's parent or guardian of the circumstances regarding the 5150 W&I commitment.

418.8.1 COMMITMENT FACILITIES

Juvenile 5150 W&I committals should be transported to the following facilities via an ambulance, except where ambulance service is not provided for this purpose:

(a) **Alameda County**

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1. 11 years old and under: John George Pavilion Psychiatric Hospital, 2000 Fairmount Avenue, San Leandro, 510-481-4141.
2. 12 through 17 years old: Alta Bates Adolescent Services, Herrick Campus, 2001 Dwight Way, Berkeley, 510-204-4405 or 510-204-4546.

(b) **Contra Costa County**

1. Contra Costa County Regional Center, 2500 Alhambra Avenue, Martinez, 925-370-5000.
2. Mount Diablo Hospital, 2540 East Street, Concord, 925-674-2333.

(c) **San Francisco County**

1. Child Crisis Services, 3801 3rd Street, Suite #400, San Francisco, 415-970-3800. Call for pick-up arrangements.
2. If juvenile is violent or aggressive, transport to San Francisco County General Hospital, 1001 Potrero Street, San Francisco, 415-206-8000.

(d) **San Mateo County**

1. North County'''Peninsula Hospital, 1783 El Camino Real, Burlingame, 650-696-5170.
2. South County'''San Mateo Medical Center, 222 West 39th Avenue, San Mateo, 650-573-2662.

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Fare Evasion

419.1 PURPOSE AND SCOPE

The purpose of this policy is to establish uniform procedures for the legal detention of individuals suspected of fare evasion on the BART system.

419.2 POLICY

It shall be the policy of the BART Police Department to vigorously enforce transit specific crimes including fare evasion.

419.2.1 FARE EVASION ENFORCEMENT

The California Penal Code for fare evasion used by officers of the BART Police Department is 640(c)(1): Evasion of the payment of a fare of the system. For purposes of this section, fare evasion includes entering an enclosed area of a public transit facility beyond posted signs prohibiting entrance without obtaining valid fare, in addition to entering a transit vehicle without valid fare.

The offense is an infraction punishable by a fine not to exceed two hundred fifty dollars ($250) and by community service for a total time not to exceed 48 hours over a period not to exceed 30 days, during a time other than during his or her hours of school attendance or employment.

The aforementioned penal code does not, absent probable cause to suspect fare evasion, authorize police officers to ask persons to display their ticket for validation. Officers shall not use civil codes as probable cause to ask persons to display their ticket for validation.

419.2.2 FARE EVASION DEFINED

Fare evasion occurs when an individual travels or attempts to travel on the BART system without payment of the required fare. Fare evasion can be reflected in a variety of ways:

- A person who jumps over the fare gate.
- A person who walks closely behind another person, who is using a valid ticket, through a fare gate before the fare gate closes (piggybacking).
- A person who enters/exits the station from an elevator from the free to paid area/paid to free area with intent to avoid paying fare.
- A person who enters/exits through the emergency gate from the free to paid/paid to free area with intent to avoid paying fare.

419.2.3 CONSENSUAL ENCOUNTER, REASONABLE SUSPICION, AND PROBABLE CAUSE

The following are the most common definitions of consensual encounter, reasonable suspicion, and probable cause:

(a) **Consensual Encounter:** A consensual encounter is a contact between an officer and an individual which is strictly voluntary. The key element is that the person remains totally free

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to leave or not cooperate. An officer does not need any objective reason or justification for initiating this type of contact.

(b) **Reasonable Suspicion:** Reasonable suspicion to detain a suspect exists if officers were aware of specific facts that reasonably indicated the person was in the process of committing a crime, or was wanted for a completed crime. It is based on objective facts. Reasonable suspicion is the level of proof necessary for a temporary detention.

(c) **Probable Cause to Arrest:** Although some courts continue to cite the old definition which requires an "honest and strong suspicion", the trend is toward incorporating the new "fair probability" standard; i.e. probable cause to arrest exists if there is a fair probability that the suspect committed the crime. Probable cause is the level of suspicion required to make an arrest.

419.2.4 FARE EVASION/MISUSE OF DISCOUNT TICKET REPORTS BY BART EMPLOYEES

Every officer who responds to a call for service by any BART District employee regarding any report of a fare evasion or the misuse of a discount ticket will contact the BART employee who reported the incident, and ask the BART employee who reported the incident whether he/she wants the subject(s) suspected of fare evasion or the misuse of a discount ticket placed under citizen's arrest for fare evasion or the misuse of a discount ticket before making a disposition of the case . This includes requesting via dispatch that the BART employee arrive at the location where the officer has the suspect(s) detained for fare evasion or the misuse of a discount ticket to in order make a positive identification before making a disposition of the case.

If the officer is unable to locate and detain the suspected fare evader and/or misuse of discount ticket user at or near the scene, then it will not be necessary to contact the BART employee.

419.3 LEGAL ISSUES REGARDING FARE EVASION CONTACTS

With the exception of passes and vouchers issued by the District or other electronic payment methods, BART customers are required to have a valid ticket with at least a minimum value (currently $1.75) to enter the paid areas of BART.

Persons obviously attempting to evade fare payment of fare such as using the emergency gate without authorization, jumping the fare gates, or piggybacking are subject to being cited for fare evasion under the Penal Code.

Aside from these obvious examples, there are other situations where a person in the paid area may be cited for fare evasion. Generally, in these contacts the person was brought to the attention of police by a station agent or in the course of an unrelated police contact. One of the key issues in less obvious cases of fare evasion is determining when a person in the paid area can be required to show that he/she has a valid ticket.

Based on recent research and review with the local District Attorney offices in the four counties in which BART serves, sections of the California Civil Code, which include 2186-2188, shall not be used as the basis for establishing reasonable suspicion to detain or probable cause to arrest

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persons within the BART system. Officers should not require persons to show their fare ticket, unless that officer has already established reasonable suspicion or probable cause regarding fare evasion or any other criminal activity.

Facts are needed to establish both reasonable suspicion and probable cause. Sometimes one fact is sufficient and sometimes it takes a combination of facts. Hunches, instincts, or unsupported conclusions are inadmissible. An officer's subjective feelings or beliefs are immaterial. Specific facts are needed to justify your suspicion and must be articulated in the police report.

Examples where a person should not be required to show his/her ticket include:

- Entering the paid area (without using an authorized method) to use the restroom, buy a newspaper, or use a pay phone
- Waiting in the paid area for an extended period of time
- Inspection of fare tickets during station or train sweeps
- Arbitrarily asking to see a person's ticket while he/she is in the paid areas

Without more facts, a crime has not occurred in the above examples. In order for the officer to develop cause to detain a person, the officer has to be patient and observe the actions of the person to gather more facts. A person who uses the emergency gate to enter the station, buys a newspaper, then proceeds directly to the platform may be detained for fare evasion.

Arbitrarily asking to see someone's ticket may give the perception of profiling. Officers should only ask to see a person's fare ticket after determining that they have reasonable suspicion or probable cause.

It is not automatically fare evasion for a person to lose his or her BART ticket. The District has policies in place which permit for the payment of fare in this type of situation. The officer would have to investigate the circumstances further to develop facts in order to make a determination that a fare evasion has occurred.

Officers must have reasonable suspicion or probable cause to believe that the person has committed some crime or infraction in order to detain and arrest someone and to check his or her ticket. Ultimately, officers should be guided by their training and experience in determining whether reasonable suspicion or probable cause exists for contacting an individual within the paid area.

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Cite & Release , Warning Citation and Field Interview Policy

420.1 PURPOSE AND SCOPE

Penal Code § 853.6 requires law enforcement agencies to use citation release procedures in lieu of arrest for misdemeanor offenses with certain exceptions. The State Legislature has shown the intent to release all persons on misdemeanor citations, if qualified for such release.

420.2 STATUTORY REQUIREMENTS

Citation releases are authorized by Penal Code § 853.6. Release by citation for misdemeanor offenses can be accomplished in two separate ways:

(a) A field release is when the violator is released in the field without being transported to a jail facility.

(b) A jail release is when a violator is released after being transported to the jail and booked.

420.2.1 DISCRETION TO ARREST

While this department recognizes the statutory power of peace officers to make arrests throughout the state, officers are encouraged to use sound discretion in the enforcement of the law. On-duty arrests will not generally be made outside the jurisdiction of this department except in cases of hot and/or fresh pursuit, while following up on crimes committed within the District, or while assisting another agency. On-duty officers who discover criminal activity outside the jurisdiction of the District should, when circumstances permit, consider contacting the agency having primary jurisdiction before attempting an arrest.

Off-duty officers observing criminal activity should generally take enforcement action only when it reasonably appears that imminent risk to life or property exists and the reasonable opportunity does not exist to contact the law enforcement agency with primary jurisdiction. In such situations the involved officer shall clearly identify him/herself as a police officer.

Officers are authorized to use verbal warnings to resolve minor traffic and criminal violations when appropriate.

420.3 DEPARTMENT PROCEDURE

The following procedure will be followed to comply with this law.

Officers shall receive an incident number and document all enforcement contacts within the CAD/RMS system. This shall be completed by either;

- Police report.
- Completion of the front and back of a Notice to Appear (citation or warning citation).
- Entry of a Field Interview card in the CAD/RMS Citation module.

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420.3.1 FIELD CITATIONS

In most misdemeanor cases an arrestee 18 years or older may be released on citation provided the individual can be satisfactorily identified, there is no outstanding arrest warrant for the individual and none of the below described disqualifying circumstances are present (Penal Code § 853.6 and Penal Code § 1270.1).

The warning citation should be viewed as a community-oriented approach to quality-of-life infractions and traffic enforcement. The intent is to educate the violator through awareness, rather than penalize him/her via the issuance of a notice to appear. The receipt of a warning citation should have a stronger psychological impact than that of a mere verbal warning. The issuance of a warning citation will be left to the sole discretion of the issuing officer.

Warning citations will be entered in the Department's Record Management System in a manner similar to that currently used to enter standard citations. Dispatch will create a new disposition code within the Computer Automated Dispatch system which will reflect that a warning citation was issued.

(a) The officer shall conduct a records check on all persons issued a warning citation. If the records check reveals that a warning citation(s) has been issued for the same violation in the past, the officer shall consider this fact before electing to provide a verbal warning, written warning, or citation.

(b) To complete a warning citation, the officer will use the existing BART Police Department citation form. All information will be completed on the form except that the court date will not be issued, the word "WARNING" will be written in the violator's signature box, and a diagonal line will be drawn across the citation.

(c) The officer will give the violator his/her copy of the citation form and explain to the violator that the citation is only a warning. The officer shall emphasize its purpose and the purpose of the warning program.

(d) The warning citation shall only apply to quality-of-life infractions that occur on the trains or within the stations and to traffic infractions that occur on District property.

(e) Warning violations shall not be issued if a citation is going to be forwarded to the court for other violations.

(f) Warning citations shall not be issued for any infraction in which a citizen's arrest was requested; nor should they be issued for equipment, driver's license, or insurance violations.

(g) The officer will document the incident on the back of the Department copy of the warning citation.

420.3.2 JAIL RELEASE

In certain cases, it may be impractical to release a person arrested for misdemeanor offenses in the field. The person arrested may instead be released after booking at the jail, with Watch Commander approval.

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Any person arrested for a misdemeanor offense shall be released on his/her written promise to appear after the booking procedure is completed, unless disqualified for reasons listed below.

420.3.3 DISQUALIFYING CIRCUMSTANCES

A person arrested for a misdemeanor shall be released on a notice to appear unless one of the following situations is present (Penal Code § 853.6(i)):

(a) The person arrested is so intoxicated that he/she could be a danger to him/herself or to others. Release may occur as soon as this condition no longer exists.

(b) The person arrested requires medical examination or medical care or is otherwise unable to care for his/her own safety

1. The Bay Area Rapid Transit Police Department shall not release an arrestee from custody for the purpose of allowing that person to seek medical care at a hospital, and then immediately re-arrest the same individual upon discharge from the hospital, unless the hospital determines this action will enable it to bill and collect from a third-party payment source (Penal Code § 4011.10).

(c) The person is arrested for one or more of the offenses listed in Vehicle Code §§ 40302, 40303 and 40305.

1. Any person arrested for any offense listed in Vehicle Code § 40303(b) shall, in the judgment of the arresting officer, either be given a 10 day notice to appear or be taken without delay before a magistrate in the county of arrest.

2. If a person under Vehicle Code §§ 40303 or 40305 does not have satisfactory identification, the officer may require the individual to provide a right thumbprint (or other finger). However such print may not be used for other than law enforcement purposes.

3. Should any person arrested on a notice to appear claim under penalty of perjury not to be the person listed in the notice, such person may request that his/her thumbprint be taken for comparison at a fee not to exceed the actual cost of such service.

(d) There are one or more outstanding arrest warrants for the person.

(e) The person could not provide satisfactory evidence of personal identification.

(f) The prosecution of the offense or offenses for which the person was arrested or the prosecution of any other offense or offenses would be jeopardized by the immediate release of the person arrested.

(g) There is a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by the release of the person arrested.

(h) The person arrested demands to be taken before a magistrate or has refused to sign the notice to appear.

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(i) There is reason to believe that the person would not appear at the time and place specified in the notice to appear. The basis for this determination shall be specifically documented.

(j) The charges fall under Penal Code § 1270.1 (serious or violent felonies, domestic violence, etc.)

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 included with the case file in the Records Section.

420.3.4 OTHER REASONS FOR NON-RELEASE

If the person arrested is not released for one or more of the reasons specified in Policy Manual § 420.33, the Watch Commander shall state specifically on the booking form the reason for non-release. Such reasons for non-release may include:

(a) Previous failure to appear is on record

(b) The person lacks ties to the area, such as a residence, job, or family

(c) Unusual circumstances lead the officer responsible for the release of prisoners to conclude that the suspect should be held for further investigation

420.3.5 INSTRUCTIONS TO CITED PERSON

The citing officer shall, at the time he/she asks the defendant to sign the notice to appear, call attention to the time and place for appearance and take any other steps he/she deems necessary to ensure that the defendant understands his/her written promise to appear.

420.4 CITATION RELEASE ON MISDEMEANOR WARRANTS

Penal Code § 827.1 allows the release by citation of a person designated in a warrant of arrest unless one of the following conditions exist:

(a) The misdemeanor cited in the warrant involves violence

(b) The misdemeanor cited in the warrant involves a firearm

(c) The misdemeanor cited in the warrant involves resisting arrest

(d) The misdemeanor cited in the warrant involves giving false information to a peace officer

(e) The person arrested is a danger to himself or herself or others due to intoxication or being under the influence of drugs or narcotics

(f) The person requires medical examination or medical care or was otherwise unable to care for his or her own safety

(g) The person has other ineligible charges pending against him/her

(h) There is reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be immediately endangered by the release of the person

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(i) The person refuses to sign the notice to appear

(j) The person cannot provide satisfactory evidence of personal identification

(k) The warrant of arrest indicates that the person is not eligible to be released on a notice to appear

Release under this section shall be done in accordance with the provisions of this section.

420.5 JUVENILE CITATIONS

A Uniform Juvenile Citation (form #0047) is used to provide juvenile suspects a notice to appear for felony violations and misdemeanor non-traffic violations where the juvenile is not booked into a juvenile detention facility. Further instructions may be found in Policy Manual § 344.7.

For infraction as well as misdemeanor traffic cases, in which a citation is issued, the standard Notice to Appear (form #0460) will be used.

In all instances in which a Uniform Juvenile Citation or a Notice to Appear is issued to a juvenile, a report shall also be prepared. All juvenile cases shall be forwarded to the Detective Section for further action, including diversion.

420.6 FIELD INTERVIEWS

Officers may stop individuals for the purpose of conducting an FI where reasonable suspicion is present. In justifying the stop, the officer should be able to point to specific facts which, when taken together with rational inferences, reasonably warrant the stop. Such facts include, but are not limited to, the following:

(a) The appearance or demeanor of an individual suggests that he/she is part of a criminal enterprise or is engaged in a criminal act.

(b) The actions of the suspect suggest that he/she is engaged in a criminal activity.

(c) The hour of day or night is inappropriate for the suspect's presence in the area.

(d) The suspect's presence in the particular area is suspicious. (e) The suspect is carrying a suspicious object.

(f) The suspect's clothing bulges in a manner that suggests he/she is carrying a weapon.

(g) The suspect is located in proximate time and place to an alleged crime.

(h) The officer has knowledge of the suspect's prior criminal record or involvement in criminal activity.

420.6.1 INITIATING A FIELD INTERVIEW

An officer may initiate the stop of a person when there is articulable, reasonable suspicion to do so. A person however, should not be detained longer than is reasonably necessary to resolve the officer's suspicions.

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Nothing in this policy is intended to discourage consensual contacts. Frequent and random casual contacts with consenting individuals are encouraged by the Department to strengthen our community involvement, community awareness and problem identification.

420.6.2 WITNESS INDENTIFICATION AND INTERVIEWS

Because potential witnesses to an incident may become unavailable or the integrity of their statements compromised with the passage of time, officers should, when warranted by the seriousness of the case, take reasonable steps to promptly coordinate with an on-scene supervisor and/or criminal investigators to utilize available personnel for the following:

(a) Identify all persons present at the scene and in the immediate area.

1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.

2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to his/her departure.

(b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by department personnel.

1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness in a department vehicle. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.

420.6.3 FIELD INTERVIEW CARDS

When documenting contacts where a suspect is reprimanded for on-property traffic infractions, as well as infraction Penal Code violations, the field interview card will be used to capture the contact in the Citation module of Alliance. Officers shall complete the portions of the card to fully identify the suspect, the violation and a brief summary of the offense, as well as the identity of the involved officer. The officer shall enter the information in the Citation module him/herself in Alliance. These contacts are entered in the Citation module using the designation "RR" before the event number, to designate the case as a reprimand/release (e.g., RR0905-1234). Entering this information in the Citation module allows the suspect and vehicle to be searched for prior contacts using the Person search feature in Alliance.

Community Service Officers will make daily pickup and delivery of completed Field Interview cards throughout the system. Monday through Friday, all completed FI cards will be collected from direct report locations and delivered to the FI card mailbox located at the Lake Merritt BART Police office.

BART Police Detectives will utilize these resources to assist in their investigations.

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420.6.4 CONSENSUAL AND NON-CONSENSUAL CONTACTS

All BART Police personnel will be required to document specific, pertinent information from all consensual and non consensual contacts. These are contacts that are initiated by BPD personnel for enforcement purposes. Enforcement purposes mean that all the parties involved or because of the nature of the call for service all the parties involved may be subject to arrest, citation, warning citation or a field interview card.

Contacts ranging from an arrest to "field interviews" will require appropriate documentation to be completed by the involved officer(s). The primary or initiating officer will be responsible for completing (or directing the completion of) said documentation.

In contacts which do not rise to the level of written police reports, a "field interview" card will be required. Information gathered from the field interview card will be submitted by the officer into the Alliance Field Interview Module. This Module is designed to hold unique information that may later be used to help identify and apprehend criminal suspects. This information may also assist law enforcement agencies with linking criminal activity from one jurisdiction to that of another.

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Crimes Related to Transit Conduct

421.1 PURPOSE AND SCOPE

To establish a uniform procedure for the enforcement of transit-related infractions under section 640 of the California Penal Code.

421.2 POLICY

It shall be the policy of the BART Police Department to vigorously enforce transit specific crimes. The District views the enforcement of quality of life violations under 640 P.C. as an important method of maintaining the system as an attractive, crime-free environment.

421.3 DEFINITION

Several crimes against the transit district are defined in section 640 of the California Penal Code. Any of the acts described therein are infractions punishable by a fine and/or community service when committed on or in any of the following:

(a) (1) Any of the acts described in paragraphs (1) to (5), inclusive, of subdivision (b) is an infraction punishable by a fine not to exceed two hundred fifty dollars ($250) and by community service for a total time not to exceed 48 hours over a period not to exceed 30 days, during a time other than during the violator's hours of school attendance or employment. Any of the acts described in paragraphs (1) to (3), inclusive, of subdivision (c), upon a first or second violation, is an infraction punishable by a fine not to exceed two hundred fifty dollars ($250) and by community service for a total time not to exceed 48 hours over a period not to exceed 30 days, during a time other than during the violator's hours of school attendance or employment. A third or subsequent violation of any of the acts described in paragraphs (1) to (3), inclusive, of subdivision (c) is a misdemeanor punishable by a fine of not more than four hundred dollars ($400) or by imprisonment in a county jail for a period of not more than 90 days, or by both that fine and imprisonment. Any of the acts described in subdivision (d) shall be punishable by a fine of not more than four hundred dollars ($400), by imprisonment in a county jail for a period of not more than 90 days, or by both that fine and imprisonment.

(2) This section shall apply only to acts committed on or in a facility or vehicle of a public transportation system.

(b)(1) Eating or drinking in or on a system facility or vehicle in areas where those activities are prohibited by that system. (2) Disturbing another person by loud or unreasonable noise. (3) Smoking in or on a system facility or vehicle in areas where those activities are prohibited by that system. (4) Expectorating upon a system facility or vehicle. (5) Skateboarding, roller skating, bicycle riding, roller blading, or operating a motorized scooter or similar device, as defined in Section 407.5 of the Vehicle Code in a system facility, vehicle, or parking structure. This paragraph does not apply to an activity that is necessary for utilization of the transit facility by a bicyclist, including, but not limited to, an activity that is necessary for parking a bicycle or transporting a bicycle aboard a transit vehicle, if that activity is conducted with the permission of the transit

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agency in a manner that does not interfere with the safety of the bicyclist or other patrons of the transit facility.

(c)(1) Evasion of the payment of a fare of the system. For purposes of this section, fare evasion includes entering an enclosed area of a public transit facility beyond posted signs prohibiting entrance without obtaining valid fare, in addition to entering a transit vehicle without valid fare. (2) Misuse of a transfer, pass, ticket, or token with the intent to evade the payment of a fare. (3) (A) Unauthorized use of a discount ticket or failure to present, upon request from a transit system representative, acceptable proof of eligibility to use a discount ticket, in accordance with Section 99155 of the Public Utilities Code and posted system identification policies when entering or exiting a transit station or vehicle. Acceptable proof of eligibility must be clearly defined in the posting. (B) In the event that an eligible discount ticket user is not in possession of acceptable proof at the time of request, any citation issued shall be held for a period of 72 hours to allow the user to produce acceptable proof. If the proof is provided, the citation shall be voided. If the proof is not produced within that time period, the citation shall be processed.

(d)(1) Willfully disturbing others on or in a system facility or vehicle by engaging in boisterous or unruly behavior. (2) Carrying an explosive, acid, or flammable liquid in a public transit facility or vehicle. (3) Urinating or defecating in a system facility or vehicle, except in a lavatory. However, this paragraph shall not apply to a person who cannot comply with this paragraph as a result of a disability, age, or a medical condition. (4) Willfully blocking the free movement of another person in a system facility or vehicle. This paragraph shall not be interpreted to affect any lawful activities permitted or First Amendment rights protected under the laws of this state or applicable federal law, including, but not limited to, laws related to collective bargaining, labor relations, or labor disputes. (5) Willfully tampering with, removing, displacing, injuring, or destroying any part of any facility or vehicle of a public transportation system. (e) Notwithstanding subdivision (a), the City and County of San Francisco, the Los Angeles County Metropolitan Transportation Authority, the Santa Clara Valley Transportation Authority, the Sacramento Regional Transit District, Long Beach Transit, Foothill Transit, and the Alameda-Contra Costa Transit District may enact and enforce an ordinance providing that any of the acts described in subdivision (b) or (c) on or in a facility or vehicle described in subdivision (a) for which the City and County of San Francisco, the Los Angeles County Metropolitan Transportation Authority, the Santa Clara Valley Transportation Authority, the Sacramento Regional Transit District, Long Beach Transit, Foothill Transit, or the Alameda-Contra Costa Transit District has jurisdiction shall be subject only to an administrative penalty imposed and enforced in a civil proceeding. The ordinance for imposing and enforcing the administrative penalty shall be governed by Chapter 8 (commencing with Section 99580) of Part 11 of Division 10 of the Public Utilities Code and shall not apply to minors. (f) For purposes of this section, a "facility or vehicle of a public transportation system" means any of the following: (1) A facility or vehicle of a public transportation system as defined by Section 99211 of the Public Utilities Code. (2) A facility of, or vehicle operated by any entity subsidized by, the Department of Transportation. (3) A leased or rented facility or vehicle for which any of the entities described in paragraph (1) or (2) incurs costs of cleanup, repair, or replacement as a result of any of those acts.

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421.4 PROCEDURE

BART Police will diligently pursue the enforcement of the above crimes against the District in order to provide a safe and secure environment for BART patrons. Officers may use discretion and demonstrate diplomacy through verbal and/or written warnings, and through the issuance of citations for 640 PC violations.

(a) **Fare Evasion -** Refer to policy manual 419 for fare evasion procedures.

(b) **Smoking Violations on Trains** - Officers shall issue citations for violations of the "no smoking" regulation observed inside BART trains.

(c) **Smoking, Eating and Drinking Violations Inside the Paid Area of BART Stations** - Officers may exercise discretion in enforcement of "no smoking, eating or drinking" regulations or violations occurring inside the paid area of BART stations and consider available alternatives including:

1. Issuance of a warning, absent any previous warnings as determined by a records check;
2. Issuance of a citation, if the subject has been previously warned as determined by a records check;
3. Issuance of a citation for a first offense without extending a warning when warranted by the circumstances.

421.5 DISCOUNT TICKETS

(a) **Red Discount Ticket** - A red discount ticket provides a 62.5% discount for seniors 65 years and older or for persons with disabilities. Also for medicare cardholders and children 5-12 years old.

(b) **Green Discount Ticket** - A green discount ticket provides a 62.5% discount for seniors 65 years and older or for persons with disabilities.

(c) **Orange Discount Ticket** - An orange discount ticket provides a 50% discount for middle and secondary school students. Tickets include a last ride bonus allowing a trip of any value to be made with last remaining value of as little as $0.05). Special purchasing restrictions apply. Tickets may be used only by the student (s) who purchased them.

1. Orange tickets are sold to participating schools within Alameda, Contra Costa, San Francisco, and San Mateo Counties, and are only to be used to and from school, or school related activities (including summer school). Tickets are sold by the school, and can also be ordered on-line by establishing an on-line account with the participating school (limit four per month). Schools collect payment in advance from students and place ticket orders directly with BART. Students should check with their school administrator for requirements and forms. School administrators should call (510) 464-6406 to request an information packet.

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2. Students age 13 to 18 who are enrolled in middle or secondary school, and have no history of vandalism with their school or the BART District are eligible. The orange ticket may be used only for trips to and from school or school-sponsored events, Monday through Friday only. Student must present school ID card or other verifying identification if requested to do so by BART Personnel. A citation from BART Police for violating law or BART rules may result in revocation of program privileges.

421.5.1 PROCEDURE FOR RED AND GREEN DISCOUNT TICKETS

Penal Code sections 640 (c)(3)(A) shall be used when taking enforcement action on the use of red, green, or orange discount tickets. Officers who contact a person using a red, green, or orange discount ticket should verify the person's eligibility through either disability, age, or education requirement.

It shall be the policy of the BART Police Department provide enforcement against the illegal use of red, green, and orange discount tickets. It will also be the policy of this department to use discretion and to demonstrate diplomacy if it becomes necessary to cite a person who has a physical/mental handicap.

If the discount ticket user claims eligibility as a result of a disability, several forms of identification can be presented for proof of eligibility. Acceptable proofs of eligibility include:

- A valid Regional Transit Card
- A California DMV Disabled Veterans placard
- A valid discount card from any California transit operator
- A valid Medicare Card

Station agents and police personnel have discretion to accept other forms of identification that he/she believes is valid. If the discount ticket claims eligibility as a result of a disability, two forms of identification can be used to substantiate the disability. If the discount ticket user cannot substantiate their disability with either of these identification cards, and the officer elects to issue a citation for 640 (c)(3) A) PC, the officer shall:

- Instruct the person cited to present an acceptable form of identification with the citation to a BART Police Department officer at any BART station within the five day grace period from the issuance date of the citation.
- Inform the person that only BART Police Department officers can verify the possession of valid identification cards for this particular purpose.
- Give the person cited the five day grace period advisement notice along with a copy of the citation.

In accordance to 640 (c)(3)(B) PC, in the event that an eligible discount ticket user is not in possession of acceptable proof at the time of request, any citation issued shall be held for a period of 72 hours to allow the user to produce acceptable proof. If the proof is provided, the citation

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shall be voided. If the proof is not produced within that time period, the citation shall be processed. Though 72 hours is the minimum mandated by the law this department will allow up to 5 days before taking the following steps whenever he/she is requested to verify the individual's transit discount identification card:

(a) Verify that the card was issued to the bearer, and is currently in effect. It is not necessary that the ID card was valid at the time the citation was issued.

(b) The retrieved citation will be placed back into the "five day hold" citation box before the officer goes off duty.

(c) Direct reporting officers will give verified citations to their supervisor who will place citation in the "five day hold" box.

(d) The Traffic Officer will send all such verified 640 (c)(3)(A) PC citations to the court requesting dismissal.

(e) Once the court returns the disposition of the request, the Traffic Officer will notify the subject via mail of the court's disposition.

Individuals seeking discount card verification on citations received outside the five working day grace period shall be informed that the matter will have to be adjudicated in a court of law. In such cases, the officer will not accept the citation.

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Arrest or Detention of Foreign Nationals

422.1 PURPOSE AND SCOPE

Article 36 of the Vienna Convention on Consular Relations, sets forth certain rights of foreign nationals from member countries when arrested, detained or imprisoned by law enforcement officials in this country. This section provides direction to officers when considering a physical arrest or detention of a foreign national. All foreign service personnel shall be treated with respect and courtesy, regardless of the level of established immunity. As noted herein, the United States is a party to several bilateral agreements that obligate authorities to notify the consulate upon the person's detention, regardless of whether the detained person requests that his/her consulate be notified. The list of specific countries that the United States is obligated to notify is listed on the U.S. Department of State website.

422.1.1 DEFINITIONS

Foreign National - Anyone who is not a citizen of the United States (U.S.). A person with dual-citizenship, U.S. and foreign, is not a foreign national.

Immunity - Refers to various protections and privileges extended to the employees of foreign governments who are present in the U.S. as official representatives of their home governments. These privileges are embodied in international law and are intended to ensure the efficient and effective performance of their official #missions# (i.e., embassies, consulates, etc.) in foreign countries. Proper respect for the immunity to which an individual is entitled is necessary to ensure that U.S. diplomatic relations are not jeopardized and to maintain reciprocal treatment of U.S. personnel abroad. Although immunity may preclude U.S. courts from exercising jurisdiction, it is not intended to excuse unlawful activity. It is the policy of the U.S. Department of State's Office of Foreign Missions (OFM) that illegal acts by Foreign Service personnel should always be pursued through proper channels. Additionally, the host country's right to protect its citizens supersedes immunity privileges. Peace officers may intervene to the extent necessary to prevent the endangerment of public safety or the commission of a serious crime, regardless of immunity claims.

422.2 ARREST OR DETENTION OF FOREIGN NATIONALS

Officers should take appropriate enforcement action for all violations observed, regardless of claims of diplomatic or consular immunity received from violators. A person shall not, however, be subjected to in-custody arrest when diplomatic or consular immunity is claimed by the individual or suspected by the officer, and the officer has verified or reasonably suspects that the claim of immunity is valid.

422.3 LEVELS OF IMMUNITY

The specific degree of immunity afforded to foreign service personnel within the U.S. is directly related to their function and position in this country.

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422.3.1 DIPLOMATIC AGENTS

Diplomatic agents (e.g., ambassadors and United Nations representatives) are afforded the highest levels of immunity. They are exempt from arrest or detention and are immune from all criminal (and most civil) prosecution by the host state. The family members of diplomatic agents enjoy these same immunities. Currently there are no diplomatic agents permanently assigned to California; but they do occasionally visit the state.

422.3.2 CONSULAR OFFICERS

Consular officers are the ranking members of consular posts who perform various formal functions on behalf of their own governments. Typical titles include consul general, consul, and vice consul. These officials are immune from arrest or detention, except pursuant to a felony warrant. They are only immune from criminal and civil prosecution arising from official acts. Official acts immunity must be raised as an affirmative defense in the court jurisdiction, and its validity is determined by the court. Under this defense, the prohibited act itself must have been performed as an official function. It is not sufficient that the consular agent was on-duty or in an official capacity at the time of the violation. The family members of consular officers generally enjoy no immunity, however, any family member who enjoys a higher level of immunity is issued an identification card by Department of State (DOS) enumerating any privileges or immunities on the back of the card. Examples are consular officers and family members from Russia or China.

There are approximately 600 consular officers in California, with most located in Los Angeles, San Francisco and San Diego.

422.3.3 HONORARY CONSULS

Honorary consuls are part-time employees of the country they represent and are either permanent residents of the U.S. or U.S. nationals (unlike career consular officers, who are foreign nationals on temporary assignment to the U.S.). Honorary consuls may be arrested and detained; limited immunity for official acts may be available as a subsequent defense. Family members have no immunity. There are less than 100 honorary consuls in California.

422.4 IDENTIFICATION

All diplomatic and consular personnel who are entitled to immunity are registered with the Department of State and are issued distinctive identification cards by the Department of State Protocol Office. These cards are the best means of identifying Foreign Service personnel. They include a photograph, identifying information, and, on the reverse side, a brief description of the bearer's immunity status. Unfortunately, these identification cards are not always promptly issued by the Department of State. In addition to the Department of State identification card, Foreign Service personnel should also have a driver license issued by the Department of State Diplomatic Motor Vehicle Office (DMVO), which in most circumstances replaces the operator's license issued by the state. Additionally they may have California credentials issued by the California Emergency Management Agency (Cal EMA).

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422.4.1 VEHICLE REGISTRATION

Vehicles that are owned by foreign missions or Foreign Service personnel and their dependents are registered with the Department of State OFM and display distinctive red, white, and blue license plates. Vehicles assigned to diplomatic or consular officers will generally have license plates labels with the words #diplomat# or #consul.# Vehicles owned by honorary consuls are not issued OFM license plates; but may have California license plates with an #honorary consul# label. Driver's identity or immunity status should not be presumed from the type of license plates displayed on the vehicle. The status of an OFM license plate should be run via the National Law Enforcement Telecommunications System (NLETS), designating #US# as the state, if the officer has reason to question the legitimate possession of the license plate.

422.5 ENFORCEMENT PROCEDURES

The following procedures provide a guideline for handling enforcement of foreign nationals:

422.5.1 CITABLE OFFENSES

An enforcement document shall be issued at the scene for all violations warranting such action, regardless of the violator's immunity status. The issuance of a citation is not considered an arrest or detention under current Department of State guidelines. Whenever the equivalent of a notice to appear is issued to an immunity claimant, the following additional procedures shall be followed by the arresting officer:

(a) Identification documents are to be requested of the claimant

(b) The title and country represented by the claimant are to be recorded on the back of the officer's copy of the Notice to Appear for later reference. Do not include on the face of the notice to appear

(c) The claimant shall be requested to sign the notice to appear. If the claimant refuses, the identity and immunity status of the individual shall be conclusively established

(d) Verified diplomatic agents and consular officers, including staff and family members from countries with which the U.S. has special agreements, are not required to sign the Notice to Appear. The word #Refused# shall be entered in the signature box, and the violator shall be released

(e) Verified consular staff members, excluding those from countries with which the U.S. has special agreements, are generally obligated to sign the Notice to Appear, but a signature shall not be required if their immunity status is uncertain

(f) All other claimants are subject to the provisions of Vehicle Code § 40302(b) and policy and procedures outlined in this chapter

(g) The violator shall be provided with the appropriate copy of the notice to appear

422.5.2 IN-CUSTODY ARRESTS

Diplomatic agents and consular officers are immune from arrest or detention (unless they have no identification and the detention is to verify their diplomatic status). Proper identification of

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immunity claimants is imperative in potential in-custody situations. Claimants who are not entitled to immunity shall be placed in custody in accordance with the provisions outlined in Policy Manual § 422.6 of this policy.

A subject who is placed under arrest and claims diplomatic or consular immunity shall not be physically restrained before verification of the claim (unless restraint is necessary for the protection of the officer or others.)

A supervisor shall be promptly notified and should respond to the scene when possible.

Field verification of the claimant's identity is to be attempted as follows:

(a) Identification cards issued by the Department of State, Protocol Office, are the only valid evidence of diplomatic or consular immunity. The following types of identification cards are issued: Diplomatic (blue bordered), Consular (red bordered), and Official (green bordered), The Department of State identification cards are 3-3/4 inch by 1-1/2 inch and contain a photograph of the bearer.

(b) Initiate telephone verification with the Department of State. Newly arrived members of diplomatic or consular missions may not yet have official Department of State identity documents. Verify immunity by telephone with the Department of State any time an individual claims immunity and cannot present satisfactory identification, the officer has reason to doubt the claim of immunity, or there is a possibility of physical arrest. Law enforcement personnel should use the following numbers in order of preference:

Office of Foreign Missions

San Francisco, CA

(415) 744-2910, Ext. 22 or 23

(415) 744-2913 FAX

(0800-1700 PST)

Office of Foreign Missions

Diplomatic Motor Vehicle Office

Washington D.C.

(202) 895-3521 (Driver License Verification) or

(202) 895-3532 (Registration Verification)

(202) 895-3533 FAX

(0815-1700 EST)

Office of the Foreign Missions

Los Angeles, CA

(310) 235-6292, Ext. 121 or 122

(310) 235-6297 FAX

(0800-1700 PST)

Department of State

Diplomatic Security Service

Command Center

Washington D.C.

(202) 647-7277

(202) 647-1512

(Available 24 hours)

(202) 647-0122 FAX

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Members of diplomatic or consular missions also may have other forms of identification. These include identification cards issued by California Emergency Management Agency (Cal EMA), local law enforcement agencies, the foreign embassy, or consulate; driver licenses issued by Department of State; and, Department of State license indicia on the vehicle. All these items are only an indication that the bearer may have some form of immunity.

Subjects verified through the above procedures as being officials entitled to immunity (diplomatic agent, consular officers and consular staff and family members from countries with which the U.S. has special agreements) may not be arrested. The procedures below shall be followed. These procedures should also be used in the event immunity cannot be verified, but another form of identification indicates that immunity is probable.

If the release of the violator will not create an additional hazard, adequate information to properly identify the violator shall be obtained then the official shall be released. A supervisor's approval for the release shall be obtained whenever possible. The necessary release documents and/or a Certificate of Release form should only be issued under the proper conditions.

If the violator appears to have been driving while under the influence, field sobriety tests, including Preliminary Alcohol Screening (PAS) device tests and chemical tests should be offered and obtained whenever possible, however, these tests cannot be compelled. The subject shall not be permitted to drive. A supervisor's approval for release shall be obtained whenever possible and alternative transportation should be arranged.

All facts of the incident shall be documented in accordance with this policy in a Driving Under the Influence (DUI) Arrest-Investigation Report, Arrest-Investigation Report and/or any other relevant Report form. Notwithstanding the field release of the subject, prosecution is still appropriate and should be pursued by the command concerned. The Department of State will take appropriate sanctions against errant foreign service personnel, even where prosecution is not undertaken by the agency.

422.6 TRAFFIC COLLISIONS

Persons involved in traffic collisions who possess a Department of State OFM Diplomatic Driver License, issued by the DMVO, shall have #D# coded in the license #class# box of the Traffic Collision Report. The actual driver license class (e.g., 1, 2, 3, or A, B, C, M) shall be entered in the miscellaneous box on page two of the traffic report. If subsequent prosecution of the claimant is anticipated, the claimant's title, country, and type of identification presented should be recorded for future reference. Issuance of a citation to, or arrest of, an immunity claimant at the accident scene should be handled in accordance with the procedures specified in Policy Manual § 422.5 of this chapter.

422.6.1 VEHICLES

Vehicles, which are owned by subjects with full immunity, may not be searched, stored, or impounded without the owner's permission. (Such permission may be assumed if the vehicle has been stolen.) These vehicles may, however, be towed the necessary distance to remove them from obstructing traffic or creating any other hazard.

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422.6.2 REPORTS

A photocopy of each traffic collision report involving an identified diplomat and/or immunity claimant shall be forwarded to the office of the Chief of Police within 48 hours whether or not the claim is verified. The words #Immunity Claim# shall be marked on the photocopy, together with a notation of the claimant's title, country, and type of identification presented (if applicable). In addition to the report, a follow-up cover memorandum should be submitted if the violation was flagrant, if the claimant was uncooperative, or if there were any other unusual aspects of the enforcement contact that should be reported to the Department of State for further action. The Watch Commander/Supervisor apprised of the incident/accident shall also send a copy of all documents and reports submitted by the investigating officer along with any supervisor's notes, materials and/or logs to the Chief of Police's office within 48 hours of the incident. The Chief of Police's office will check to ensure that notification of Department of State and all necessary follow-up occur.

422.7 FOREIGN NATIONALS WHO DO NOT CLAIM IMMUNITY

These policies and procedures apply to foreign nationals who do not claim diplomatic or consular immunity.

Officers shall arrest foreign nationals only under the following circumstances:

(a) There is a valid warrant issued for the person's arrest

(b) There is probable cause to believe that the foreign national has violated a federal criminal law, a state law, or a local ordinance

(c) Officers shall not arrest foreign nationals solely for alleged undocumented entry into the U.S. unless the undocumented entry is committed in the officer's presence

After a lawful detention or criminal arrest, officers may detain foreign nationals solely for alleged undocumented presence in the U.S. if the U.S. Immigration and Customs Enforcement (ICE) is contacted and can respond to take custody within a reasonable time. Officers shall not arrest foreign nationals for undocumented presence. Federal courts have consistently held that undocumented presence is not a crime but a federal civil violation only enforceable by federal officers.

- Officers shall not stop or detain persons solely for determining immigration status.
- International treaty obligations provide for notification of foreign governments when foreign nationals are arrested or otherwise detained in the U.S.
- Whenever an officer arrests and incarcerates a foreign national or detains a foreign national for investigation for over two hours, the officer shall promptly advise the individual that he/she is entitled to have his/her government notified of the arrest or detention. (Penal Code § 834c). If the individual wants his/her government notified, the officer shall begin the notification process.

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422.7.1 ARREST PROCEDURE

Whenever an officer physically arrests or detains an individual for criminal investigation and the officer reasonably believes the person to be a foreign national, the officer shall inquire to determine the person's citizenship.

This procedure applies to detentions of more than two hours. An inquiry is not required if the individual is detained less than two hours for criminal investigation.

If the individual indicates that he/she is other than a U.S. citizen, the officer shall advise the individual that he/she has a right to have the nearest appropriate embassy or consulate notified of the arrest/detention (Vienna Convention on Consular Relations, Art. 36, (1969)).

If the individual requests such notification, the officer shall contact the Communications Center as soon as practical and request the appropriate embassy/consulate be notified. Officers shall provide the Communications Center with the following information concerning the individual:

- Country of citizenship
- Full name of individual, including paternal and maternal surname, if used
- Date of birth or age
- Current residence
- Time, date, place, location of incarceration/detention and the 24-hour telephone number of the place of detention if different from the Department itself

If the individual claims citizenship of one of the countries for which notification of the consulate/embassy is mandatory, officers shall provide the Communications Center with the information above as soon as practicable, regardless of whether the individual desires that the embassy/consulate be notified. This procedure is critical because of treaty obligations with the particular countries. The list of countries and jurisdictions that require notification can be found on the U.S. Department of State website.

422.7.2 DOCUMENTATION

Officers shall document on the face page and in the narrative of the appropriate Arrest-Investigation Report the date and time the Communications Center was notified of the foreign national's arrest/detention and his/her claimed nationality.

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San Francisco Arrest Procedures Involving, Narcotics, Misdemeanor In-Custody Reports and Non-Traffic Misdemeanor Citations

423.1 PURPOSE AND SCOPE

To establish a uniform procedure for the disposition of San Francisco arrest cases and cases where evidence has been logged into the San Francisco Police Department Property Control Section.

423.2 DEFINITIONS

Outside Agency Incident Case Number - A nine-digit number (i.e. 000 000 001) which is assigned by the San Francisco Police Department to allow for the tracking of prisoners through the San Francisco criminal justice system. This number must be obtained whenever an arrest is made for a felony and/or misdemeanor, or a misdemeanor citation given. The number for an Outside Agency Incident Case Number is 415-575-0737

423.3 NARCOTIC EVIDENCE

On any case where narcotic evidence is confiscated the officer originating the case shall contact the San Francisco Police Department's Records Section at 1-415-575-0737. The officer shall request an Outside Agency Incident Case Number. This number shall be placed on the secured SFPD evidence envelope prior to booking the evidence. The Outside Agency Incident Case Number shall be included prior to the police report narrative.

The arresting officer will be responsible for the weighing, packaging and booking of all narcotic evidence. The evidence will be left in the evidence drop box located at SFPD, 850 Bryant St.

423.4 PRISONERS BOOKED AT SAN FRANCISCO SHERIFF'S DEPARTMENT JAIL

On any case where a suspect is to be booked at a San Francisco Sheriff's Department facility, the officer originating the case shall contact San Francisco Police Department Records Section at 1-415-575-0737. The officer shall request an Outside Agency Incident Case Number from the Records Clerk. This number must be furnished to the Sheriff's Department Personnel when the suspect is booked. The Outside Agency Incident Case Number shall also be included before the narrative of the report. The report is then faxed to the OR Project at 1-415-431-3658. Officers shall also call the Sheriff's Central Warrants Bureau at 415-553-1871. Officers need to check for any outstanding San Francisco warrants and document the warrant clerks name and star number on the booking card.

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423.5 BOOKINGS

On all cases where a suspect is arrested and booked on a felony or misdemeanor charge in San Francisco the report shall be faxed to San Francisco Police Inspector at 415-553-9876 and to the OR Project at 1-415-431-3658. OR Project can be called at 415-552-2202.

423.6 NON-BOOKING OFFENSES AND FELONY OFFENSES

On any requests for criminal complaints through the San Francisco District Attorney's Office, the assigned investigator shall make certain an Outside Incident Case Number has been obtained and is included prior to the narrative of the report. If the number has not previously been obtained, the assigned investigator shall obtain the number from San Francisco Police Department Records Bureau prior to delivering the report to the District Attorney's Office of the Police Department. The number will be reflected in a follow-up report in order that the case can be tracked.

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Rapid Deployment Operation Policy

424.1 PURPOSE AND SCOPE

Violence in schools, workplaces and other locations by any individual or group of individuals presents a difficult situation for law enforcement. The purpose of this policy is to identify guidelines and factors that will assist responding officers as they make decisions in these rapidly unfolding and tense situations.

424.2 POLICY

The policy of this department in dealing with the crisis situation shall be:

(a) To obtain and maintain complete operative control of the incident.

(b) To explore every reasonably available source of intelligence regarding the circumstances, location, and suspect(s) in the incident.

(c) To attempt, by every means available, to attain any tactical advantage over the responsible individual(s).

(d) To attempt, whenever feasible, a negotiated surrender of the suspect(s) and release of the hostages through the expertise of the members of this department and others.

(e) When an emergency situation exists, neutralize the threat as rapidly as reasonably possible to minimize injury and loss of life.

Nothing in this policy shall preclude the use of necessary force, deadly or otherwise, by members of this department in protecting themselves or others from death or serious injury.

424.3 PROCEDURE

If there is a reasonable belief that acts or threats by a suspect are placing lives in imminent danger, first responding officers should consider reasonable options to immediately eliminate the threat. Officers must decide, often under a multitude of difficult and rapidly evolving circumstances, whether to advance on the suspect, take other actions to deal with the threat or wait for additional resources.

When deciding on a course of action officers should consider:

(a) Whether sufficient personnel are available on-scene to advance on the suspect. Any advance on a suspect should be made using teams of two or more officers whenever reasonably possible.

(b) Whether individuals who are under imminent threat can be moved out of danger with reasonable safety.

(c) Whether the officers have the ability to effectively communicate with others in the field.

(d) Whether planned tactics can be effectively deployed.

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(e) The availability of rifles, shotguns, shields, control devices and any other appropriate tools, and whether the deployment of these tools will provide a tactical advantage.

(f) In a case of a barricaded suspect with no hostages and no immediate threat to others, officers should consider summoning and waiting for additional assistance (special tactics and/or hostage negotiation team response).

(g) If a suspect is actively engaged in the infliction of serious bodily harm or other life-threatening activity toward others, the officer should take immediate action, if reasonably possible, to stop the threat presented by the suspect while calling for additional assistance.

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Reporting Police Activity Outside of Jurisdiction

426.1 PURPOSE AND SCOPE

This policy provides general guidelines for reporting police activity while on or off-duty and occurring outside the jurisdiction of the Bay Area Rapid Transit Police Department.

426.1.1 ASSISTANCE TO AGENCIES OUTSIDE THE DISTRICT

When an officer is on-duty and is requested by an allied agency to participate in law enforcement activity in another jurisdiction, he/she shall obtain prior approval from the immediate supervisor or the Watch Commander. If the request is of an emergency nature, the officer shall notify the Communications Center before responding and thereafter notify a supervisor as soon as practical.

426.1.2 LAW ENFORCEMENT ACTIVITY OUTSIDE THE DISTRICT

Any on-duty officer, who engages in law enforcement activities of any type outside the immediate jurisdiction of BART shall notify his or her supervisor or the Watch Commander at the earliest possible opportunity. Any off-duty officer who engages in any law enforcement activities, regardless of jurisdiction shall notify the Watch Commander as soon as practical.

The involved officer(s) will complete a case report or other documentation of the their activity. The report or other documentation shall be forwarded to the officer's Bureau Deputy Chief via the chain of command.

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Immigration Violations

428.1 PURPOSE AND SCOPE

The immigration status of individuals alone is generally not a matter for police action. It is incumbent upon all employees of this department to make a personal commitment to equal enforcement of the law and equal service to the public regardless of immigration status. Confidence in this commitment will increase the effectiveness of the Department in protecting and serving the entire community.

428.2 DEPARTMENT POLICY

The U.S. Immigration and Customs Enforcement (ICE) has primary jurisdiction for enforcement of the provisions of Title 8, United States Code dealing with illegal entry.

When assisting ICE at its specific request, or when suspected criminal violations are discovered as a result of inquiry or investigation based on probable cause originating from activities other than the isolated violations of 8 USC § 1304; 8 USC § 1324; 8 USC § 1325 and 8 USC § 1326, this department may assist in the enforcement of federal immigration laws.

428.3 PROCEDURES FOR IMMIGRATION COMPLAINTS

Persons wishing to report immigration violations should be referred to the local office of the U.S. Immigration and Customs Enforcement (ICE). The Employer Sanction Unit of ICE has primary jurisdiction for enforcement of Title 8, United States Code.

428.3.1 BASIS FOR CONTACT

Unless immigration status is relevant to another criminal offense or investigation (e.g., harboring, smuggling, terrorism), the fact that an individual is suspected of being an undocumented alien shall not be the sole basis for contact, detention, or arrest.

428.3.2 SWEEPS

The Bay Area Rapid Transit Police Department does not independently conduct sweeps or other concentrated efforts to detain suspected undocumented aliens.

When enforcement efforts are increased in a particular area, equal consideration should be given to all suspected violations and not just those affecting a particular race, ethnicity, age, gender, sexual orientation, religion, socioeconomic status or other group.

The disposition of each contact (e.g., warning, citation, arrest), while discretionary in each case, should not be affected by such factors as race, ethnicity, age, gender, sexual orientation, religion or socioeconomic status.

428.3.3 ICE REQUEST FOR ASSISTANCE

If a specific request is made by ICE or any other federal agency, this department will provide available support services, such as traffic control or peacekeeping efforts, during the federal operation.

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Members of this department should not participate in such federal operations as part of any detention team unless it is in direct response to a request for assistance on a temporary basis or for officer safety. Any detention by a member of this department should be based upon the reasonable belief that an individual is involved in criminal activity.

428.3.4 IDENTIFICATION

Whenever any individual is reasonably suspected of a criminal violation (infraction, misdemeanor or felony), the investigating officer should take reasonable steps to determine the person's identity through valid identification or other reliable sources.

If an individual would have otherwise been released for an infraction or misdemeanor on a citation, the person should be taken to the station and given a reasonable opportunity to verify his/her true identity (e.g., telephone calls). If the person's identity is thereafter reasonably established, the original citation release should be completed without consideration of immigration status.

428.3.5 ARREST

If the officer intends to take enforcement action and the individual is unable to reasonably establish his/her true identity, the officer may take the person into custody on the suspected criminal violation (see Vehicle Code § 40302(a) and Penal Code § 836, if pertinent to the circumstances). A field supervisor shall approve all such arrests.

428.3.6 BOOKING

If the officer is unable to reasonably establish an arrestee's identity, the individual may, upon approval of a supervisor, be booked into jail for the suspected criminal violation and held for bail.

A person detained exclusively pursuant to the authority of Vehicle Code § 40302(a) for any Vehicle Code infraction or misdemeanor shall not be detained beyond two hours for the purpose of establishing his/her true identity. Regardless of the status of that person's identity at the expiration of two hours, he/she shall be released on his/her signature with a promise to appear in court for the Vehicle Code infraction or misdemeanor involved.

428.3.7 NOTIFICATION OF IMMIGRATION AND CUSTOMS ENFORCEMENT

Whenever an officer has reason to believe that any person arrested for any offense listed in Health & Safety Code §11369 or any other felony may not be a citizen of the United States and the individual is not going to be booked into county jail, the arresting officer shall cause ICE to be notified for consideration of an immigration hold.

If an officer has an articulable belief that an individual taken into custody for any misdemeanor is an undocumented alien, and after he/she is formally booked there is no intention to transport to the county jail, ICE may be informed by the arresting officer so that ICE may consider placing an immigration hold on the individual.

In making the determination whether to notify ICE in such circumstances, the officer should, in consultation with a supervisor, consider the totality of circumstances of each case, including, but not limited to:

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(a) Seriousness of the offense

(b) Community safety

(c) Potential burden on ICE

(d) Impact on the immigrant community

Generally, officers will not need to notify ICE when booking arrestees at the county jail. Immigration officials routinely interview suspected undocumented aliens who are booked into the county jail on criminal charges and notification will be handled according to jail operation procedures.

428.4 CONSIDERATIONS PRIOR TO REPORTING TO ICE

The Bay Area Rapid Transit Police Department is concerned for the safety of local citizens and thus detection of criminal behavior is of primary interest in dealing with any person. The decision to arrest shall be based upon those factors which establish probable cause and not on arbitrary aspects. Race, ethnicity, age, gender, sexual orientation, religion, and socioeconomic status alone are of no bearing on the decision to arrest.

All individuals, regardless of their immigration status, must feel secure that contacting law enforcement will not make them vulnerable to deportation. Members should not attempt to determine the immigration status of crime victims and witnesses or take enforcement action against them absent exigent circumstances or reasonable cause to believe that a crime victim or witness is involved in violating criminal laws. Generally, if an officer suspects that a victim or witness is an undocumented immigrant, the officer need not report the person to ICE unless circumstances indicate such reporting is reasonably necessary.

Nothing in this policy is intended to restrict officers from exchanging legitimate law enforcement information with any other federal, state or local government entity (8 USC § 1373; 8 USC § 1644).

428.4.1 U-VISA/T-VISA NONIMMIGRANT STATUS

Under certain circumstances, federal law allows temporary immigration benefits to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U); 8 USC § 1101(a)(15)(T)). A declaration/certification for a U-Visa/T-Visa from the U.S. Citizenship and Immigration Services may be completed on the appropriate U.S. DHS Form supplements (I-918 or I-914) by law enforcement and must include information on how the individual can assist in a criminal investigation or prosecution in order for a U-Visa/T-Visa to be issued.

Any request for assistance in applying for U-Visa/T-Visa status should be forwarded in a timely manner to the Criminal Investigations Section sergeant assigned to supervise the handling of any related case. The Criminal Investigations Section sergeant should do the following:

(a) Consult with the assigned detective to determine the current status of any related case and whether further documentation is warranted.

(b) Review the instructions for completing the declaration/certification if necessary. Instructions for completing Forms I-918/I-914 can be found on the U.S. DHS website.

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(c) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the declaration/certification has not already been completed and whether a declaration/certification is warranted.

(d) Address the request and complete the declaration/certification, if appropriate, in a timely manner.

(e) Ensure that any decision to complete or not complete the form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed declaration/certification in the case file.

428.4.2 HUMAN TRAFFICKING T-VISA

Officers and their supervisors who are assigned to investigate a case of human trafficking shall complete the above process and documents needed for a T-Visa application within 15 business days of the first encounter with the victim, whether or not it is requested by the victim (Penal Code § 236.5).

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Patrol Rifle Operator Program

432.1 PURPOSE AND SCOPE

The members of the Patrol Rifle Operator Program are a cadre of trained personnel with the ability to effectively place accurate rifle fire from close quarters to distances beyond the effective range of pistols and shotguns. The Patrol Rifle Operator Program has been designed with the intent to enhance police officer and public safety. Patrol Rifles may be employed in any situation where police firearms use is justified, taking into account the enhanced range and penetration capabilities of the rifle.

432.2 PATROL RIFLE

The Department-issued patrol rifle is a semi-automatic, AR15-style rifle, chambered for 5.56 mm ammunition. patrol rifles, when carried in police vehicles, it must be secured in locking gun racks or weapons cases stored in vehicle trunks. The patrol rifle shall be carried in the "cruiser ready" configuration (18 or 28 round magazine inserted in the rifle, hammer forward on an empty chamber, and safety "off").

432.3 SPECIFICATIONS

- Semi-automatic: AR-15 type rifle
- Caliber: .223 and/or 5.56 mm
- Chamber: 5.56 NATO
- Barrel Length: 16"
- Barrel twist rate: 1:7" to 1:9"
- Carry handle: Fixed or detachable (flat top receiver)
- Sights: Metal sights adjustable for elevation and windage (minimum)
- Stocks: Fixed or collapsible
- Slings: Required. Single-, two- or two-point sling from a quality manufacturer
- Magazines: 20- or 30-round box magazines (minimum two magazines).
- Approved Rifle Manufacturers: Armalite, Bushmaster, Colt, JP Enterprises, Lewis Machine and Tool, LWRC, Noveske, Rock River Arms, and Smith & Wesson. "Kit guns" or other personally assembled rifles are not authorized.
- Authorized Optional Accessories:
    - Optics: Aimpoint Comp M series, EOTech 500 series, Trijicon ACOG series or Reflex series. If an optic is attached to the rifle, a backup iron sight system is required
    - Magnifiers for optics

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- Rail-interface systems
- Vertical foregrips
- Lights (strongly encouraged)

Personnel may add approved accessories (at their own expense) to departmental patrol rifles. However, a change of optics and/or sights require passing a departmental qualification course prior to carrying the weapon on duty. The patrol rifle must be returned to its original configuration prior to turn in.

Written approval from the Rangemaster is required for any exceptions to the aforementioned specifications and authorized accessories.

A personally-owned rifle used in an officer-involved shooting, may be retained as evidence without compensation or issuance of a replacement to the officer-owner.

432.3.1 WEAPON-MOUNTED LIGHTS

Personnel may utilize weapons-mounted lights on their patrol rifles. Weapon-mounted lights are intended to be used for searching, threat assessment, and target acquisition of potentially dangerous persons. Weapon-mounted lights shall not be used as ordinary flashlights for routine lighting purposes. Authorized manufacturers include Pelican, Pentagon Lights, Surefire, and Streamlight.

Weapon-mounted lights are subject to the following requirements:

(a) Personnel must demonstrate proficiency with the weapon-mounted light prior to carrying it in an on-duty capacity.

(b) The weapon shall be carried with the light affixed to it.

(c) Personnel equipped with a weapon-mounted light shall also have a handheld light readily available to them at all times while on-duty.

432.3.2 AMMUNITION

Patrol Rifle Operators shall carry only department-authorized ammunition while on duty. Patrol Rifle Operators shall annually be issued duty ammunition rifle during the semi-annual patrol rifle update and qualification training session. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by the Rangemaster when needed in accordance with established policy.

Required Ammunition (Quantity):

- Patrol Rifle Operators shall carry a minimum of two (2) rifle magazines of department-issued duty ammunition. Additional magazines may be carried in a magazine pouch mounted on the stock, coupled to the magazine in the rifle, and/or carried in a pouch/holder separate from the rifle.

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432.4 RIFLE MAINTENANCE

Sworn personnel may apply during an open MOI period to be Patrol Rifle Operators (PRO). Patrol Rifle Operators are authorized to carry a department-issued partol rifle, or to carry a personally-owned patrol rifle. Personnel who desire to carry a department-issued or personally-owned patrol rifles on duty must have completed probation. Personnel must successfully complete a departmental training course or equivalent (with approval of the Rangemaster), and departmental qualification prior to carrying or using any patrol rifle on duty. The purchase and all expenses related to a personally-owned patrol rifle will be the responsibility of the owner. Duty and practice ammunition for approved training will be provided by the department. Officers who purchase patrol rifles must comply with bureau 12280(g)(2) PC, which requires sworn peace officers to register the weapon with the Department of Justice not later than 90 days after purchase. Decertification of Patrol Rifle Operators

Patrol rifle operators may be decertified for any of the following reasons:

(a) Failure to qualify

(b) Failure to successfully complete required training.

(c) Failure to attend training sessions

(d) Willful and deliberate mistreatment, neglect, or improper use of the patrol rifle.

(e) Exhibiting a pattern of unsafe tactics during actual rifle deployments.

Patrol Rifle Operators may voluntarily resign from the program by submitting a written request to the Rangemaster.

Active Patrol Rifle Operators may be required to turn-in their Departmental rifles for the following reasons:

- Upon promotion in rank
- Assignment to a non-patrol special assignment
- Qualification with a personally-owned rifle
- Assignment to the SWAT Team
- For the needs of the Department

432.5 TRAINING

Personnel shall not carry or utilize patrol rifles unless they have successfully completed a departmental patrol rifle operator course or equivalent training (requires rangemaster approval), in addition to successfully completing the departmental patrol rifle qualification course.

The departmental patrol rifle operator course shall consist of a minimum of 24 hours.

Personnel shall thereafter be required to successfully complete semi-annual patrol rifle update and qualification training conducted by the Range Staff.

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432.5.1 QUALIFICATION
Patrol Rifle Operators are required to successfully complete: (1) Day Light and (1) Low Light patrol rifle qualification course per year.

432.6 DEPLOYMENT OF THE PATROL RIFLE

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

(a) Situations where the officer reasonably anticipates an armed encounter.

(b) When an officer is faced with a situation that may require the delivery of accurate and effective fire at long range.

(c) Situations where an officer reasonably expects the need to meet or exceed a suspect's firepower.

(d) When an officer reasonably believes that there may be a need to deliver fire on a barricaded suspect or a suspect with a hostage.

(e) When an officer reasonably believes that a suspect may be wearing body armor.

(f) When authorized or requested by a supervisor.

(g) When needed to euthanize an animal.

432.6.1 PATROL RIFLE DEPLOYMENT REPORTING
Whenever an employee deploys a patrol rifle during the performance of his/her duty in the presence of bystanders or to defend, detain, or to take any person into custody, an account of the incident shall be made in a police report. The employee should include in the narrative of the report how the weapon was used in the incident, as well as justification for such action. The documentation of how the patrol rifle was used should include information on how the weapon was presented. Examples of such documentation include, but are not limited to; the rifle was held at a low-ready position or pointed directly at a person.

432.7 DISCHARGE OF THE PATROL RIFLE

The discharge of the patrol rifle shall be governed by the Department's Deadly Force Policy, Policy Manual § 300.

432.8 PATROL READY

Primary responsibility for maintenance of patrol rifles shall fall on the individual patrol rifle operator. No modification shall be made to any patrol rifle without prior written authorization from the Rangemaster or designee.

Any patrol rifle that is found to be malfunctioning or needing service shall not be carried and shall be promptly presented to an armorer-trained member of the range staff for inspection. Any weapon determined to be in need of service or repair during the inspection will be immediately removed

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from service. If a replacement rifle is available, it may be issued to the individual until the duty weapon is again rendered serviceable. However, the replacement rifle cannot be carried on duty until after the patrol rifle operator qualifies with it.

432.9 RIFLE STORAGE

Patrol rifles shall be stored in the trunk vault or removed from vehicles whenever:

- The vehicle will not be driven on the on-coming shift;
- The on-coming employee is not a patrol rifle or SWAT operator.

When not in use, patrol rifles will be stored in a gun safe or locked locker in the following condition:

(a) Empty chamber

(b) Bolt forward with the hammer down

(c) The safety selector in "off" position

(d) No magazine in the weapon

(e) Optics (if equipped) turned off (if applicable)

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Aircraft Accidents

434.1 PURPOSE AND SCOPE

This policy describes situations involving aircraft accidents including responsibilities of personnel, making proper notification, and documentation.

434.2 RESPONSIBILITIES

In the event of an aircraft crash the employee responsibilities are as follows:

434.2.1 OFFICER RESPONSIBILITY

Officers should treat an aircraft crash site as a crime scene until it is determined that such is not the case. If a military aircraft is involved, additional dangers, such as live ordnance or hazardous materials, may be present. The scene may require additional security due to the potential presence of confidential equipment or information.

The duties of the field officer at the scene of an aircraft accident include the following:

(a) Determine the nature and extent of the accident.

(b) Request additional personnel and other resources to respond as needed.

(c) Provide assistance for the injured parties until the arrival of Fire Department personnel and/or other emergency personnel.

(d) Cordon off and contain the area to exclude unauthorized individuals as soon as practicable.

(e) Provide crowd control and other assistance until directed otherwise by a supervisor.

(f) Ensure the Coroner's office is notified if a death occurs.

Entering an aircraft or tampering with parts or debris is only permissible for the purpose of removing injured or trapped occupants, protecting the wreckage from further damage or protecting the public from danger. If possible, the investigating authority should first be consulted before entering or moving any aircraft or any crash debris. Photographs or sketches of the original positions should be made whenever feasible.

The Fire Department will be responsible for control of the accident scene until the injured parties are cared for and the accident scene has been rendered safe for containment. Thereafter, police personnel will be responsible for preserving the scene until relieved by the investigating authority.

Once the scene is relinquished to the investigating authority, personnel from this agency may assist in containment of the scene until the investigation is completed or assistance is no longer needed.

An airport service worker or the airport manager may respond to the scene to assist the on-scene commander with technical expertise, should it be needed during the operation.

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434.2.2 NATIONAL TRANSPORTATION SAFETY BOARD

The National Transportation Safety Board (NTSB) has the primary responsibility for investigating accidents involving civil aircraft. In the case of a military aircraft incident, the appropriate branch of the military will be involved in the investigation. The NTSB is concerned with several aspects of a crash as described in this section.

Every effort should be made to preserve the scene to the extent possible in the condition in which it was found until such time as NTSB or other authorized personnel arrive to take charge of the scene.

Military personnel will respond to take charge of any military aircraft involved, whether or not injuries or deaths have occurred.

If the accident did not result in a death or injury and the NTSB elects not to respond, the pilot or owner may assume control of the aircraft.

Removal of the wreckage shall be done under the guidance of the NTSB or military authorities or, if the NTSB is not responding for an on-site investigation, at the discretion of the pilot or the owner.

434.2.3 THE COMMUNICATIONS CENTER RESPONSIBILITIES

Dispatchers are responsible to make notifications as directed once an aircraft accident has been reported. The notifications will vary depending on the type of accident, extent of injuries or damage, and the type of aircraft involved. Generally, the dispatcher will need to notify the following agencies or individuals when an aircraft accident has occurred.

(a) Fire Department

(b) The affected airport tower

(c) Closest military base if a military aircraft is involved

(d) Ambulances or other assistance as required

When an aircraft accident is reported to the Police Department by the airport tower personnel the dispatcher receiving such information should verify that the tower personnel will contact the Federal Aviation Administration (FAA) Flight Standards District Office and the National Transportation Safety Board (NTSB). In the event that airport personnel are not involved, the dispatcher should notify the FAA and the NTSB.

434.2.4 RECORDS SUPERVISOR RESPONSIBILITIES

The Records Supervisor is responsible for the following:

(a) Forward and maintain an approved copy of the accident report to the California Department of Aeronautics

(b) Forward a copy of the report to the Operations Bureau Deputy Chief and the manager of the affected airport

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434.2.5 MEDIA AND PUBLIC AFFAIRS MANAGER RESPONSIBILITIES
The Department Media and Public Affairs Manager is responsible for the following:

(a) Obtain information for a press release from the on-scene commander or his or her designee

(b) When practical, the Department Media and Public Affairs Manager should coordinate with the FAA Press Information Officer to prepare a press release for distribution to the Media

Information released to the press regarding any aircraft accident should be handled by the Department Media and Public Affairs Manager or in accordance with existing policy.

434.3 DOCUMENTATION

Any aircraft accident (crash) within the District, regardless of whether injuries or deaths occur, shall be documented.

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Field Training Program

436.1 PURPOSE AND SCOPE

The Field Training 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 this department.

It is the policy of this department to assign all new police officers to a structured Field Training Program that is designed to prepare the new officer to perform in a patrol assignment possessing all skills needed to operate in a safe, skillful, productive and professional manner.

This policy shall outline the evaluation responsibilities of the field training officers and field training staff, establish the minimum qualifications for the position of field training officer, and establish the procedures for the selection, testing, qualifying and retention of field training officers. This policy shall also establish procedures for re-admission to the FTO program for those field training officers who have withdrawn from the program or who have been in special assignments.

436.2 FIELD TRAINING OFFICER - SELECTION AND TRAINING

The Field Training Officer (FTO) is an experienced officer trained in the art of supervising, training and evaluating entry level and lateral police officers in the application of their previously acquired knowledge and skills.

436.2.1 SELECTION PROCESS

FTO's will be selected based on the following requirements:

(a) Minimum of two (2) years non-probationary patrol experience, including at least one (1) non-probationary year as a BART police officer

(b) Possess a POST Basic certificate

(c) Immediate supervisor's recommendation

(d) Exemplary report writing skills

(e) Satisfactory performance evaluations, and an attendance record that complies with department guidelines

(f) Pass an internal written and oral interview selection process

(g) Applicants must be assigned to the Patrol Bureau at the time of selection, and have an exemplary work record

A field training officer selection committee shall be established, and this committee shall be composed of the following personnel who shall convene for the purposes of screening and selecting qualified applicants for field training officers:

- Field training program coordinator
- Field training program sergeant

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- Field training officer selected by the BPOA

The selection process for field training officer shall be as follows:

Upon notification of memorandums of interest being accepted for field training officer, all interested officers meeting the minimum qualifications listed shall submit memorandums of interest to the FTO program coordinator via the chain of command. All memorandums of interest must include a resume of law enforcement experience with BART police and other police agencies.

It will be the responsibility of the applicant's immediate supervisor to prepare a written recommendation as to the applicant's suitability for the field training officer position. Additionally, all supervisor's written recommendations will include comments on attendance, discipline, EDR file review, and ensure compliance with established minimum qualifications.

All qualified applicants will be invited to participate in a written examination to be administered by the field training staff. The test will consist of questions covering the following areas:

- Laws of arrest-search and seizure
- Penal Code, Vehicle Code (Div. 6, 11, and 17), Health and Safety Code, Welfare Institutions Code (Dive. 10), and BART resolutions
- Emergency and terrorism response procedures
- BART police department and system familiarity
- Standard operating procedures, training bulletins and videos
- Standard policies and procedures
- Booking procedures
- Use of Force policies
- Citation procedures
- Bureau orders
- Point of View articles on case law, search and seizure, and laws of arrest

The written examination will be scored by the FTO staff. A score of 75% or higher is required to proceed to the next phase of testing.

Those who successfully pass the written examination will be invited to participate in an assessment interview. The members of the interview assessment panel will be the field training officer selection committee. The committee will rate all candidates on a communication assessment form. An overall score of 75% is needed to pass. Those passing will comprise an eligibility pool that will remain in effect for twelve (12) months.

The ultimate decision regarding the final selection shall rest with the Chief of Police. Among the criteria considered in making the selection will be:

- Supervisor's recommendation

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- Report review history
- Review of personnel and Internal Affairs files
- Prior performance evaluations
- Performance on the written and communication assessment phases of the selection process

436.2.2 TRAINING

The below listed training is from the Departments Training Plan and is either mandatory, essential or desirable. This is also located in the Department's Training Plan located in the G/drive.

Mandatory training for FTO's - POST certified (40-hour) Field Training Officer's Course, a one-day department course prior to being assigned as an FTO. A 24-hour Field Training Officer update course every three years while assigned to the position of FTO.

Desirable training for FTO's - Report writing for instructors course, intoxilyzer training, 11550 H&S drug influence course.

436.3 FIELD TRAINING OFFICER PROGRAM SUPERVISOR

The FTO Program supervisor should be selected from the rank of sergeant or above by the Operations Deputy Chief or a designee and should possess, or be eligible to receive, a POST Supervisory Certificate.

The responsibilities of the FTO Program supervisor include the following:

(a) Assignment of trainees to FTOs

(b) Conduct FTO meetings

(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 below listed training is from the Department's Training Plan and is either mandatory, essential or desirable. The Department's Training Plan can be located in the G/drive.

The FTO program coordinator mandatory training - successfully complete a POST approved Field Training Administrator's Managent Course within one year of appointment to this position (11 CCR § 1004(c)).

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The FTO program supervisor mandatory training - successfully complete a POST approved Field Training Administrator's Managent Course within one year of appointment to this position (11 CCR § 1004(c)).

The FTO program supervisor desirable training - Field training course, FTO update course.

436.3.1 FIELD TRAINING PROGRAM SUPERVISORS

The Operations Bureau Deputy Chief, or his/her designee, will appoint a sufficient number of FTO supervisors to effectively monitor the daily workings of the FTO program. These supervisors will be selected from the rank of sergeant and shall possess a POST Supervisory Certificate. Ideally, these supervisors will have performed duties as field training officers during their careers and will be well versed in the intricacies of the FTO program.

The FTO supervisor shall review and approve the Daily Trainee Performance Evaluations and forward them to the field training administrator. Using the daily evaluations, the supervisor will also prepare a statistical report on each assigned trainee, tracking performance in each evaluated category. This report will be used to identify performance trends that need to be addressed while the officer is assigned to the training program.

FTO supervisors will be responsible for the following:

(a) Assignment of trainees to FTOs. In the event of a field training schedule change, the FTO sergeant shall make notification to the effected zone sergeants, and/or watch commander.

(b) Review and sign trainee evaluations, forward the original to the program coordinator, and place a copy of the evaluation and any reports, memos, and tests into the trainee's field training folder. The program coordinator will forward the original evaluation into the trainee's personnel file in accordance with department and District rules, regulations, and policies.

(c) Meet with assigned trainees every four to six weeks for performance discussions or anytime there is a serious performance issue and/or trend. The purpose of the meeting will be to provide guidance, input, retraining, or to place the trainee on notice. Discussions shall be documented in a memo and submitted to the FTO coordinator.

(d) Administer quizzes and written tests in a timely manner. The FTO supervisor will ensure that any material related to an upcoming quiz has been documented in the trainee's manual prior to the trainee taking the quiz. No quiz shall be faxed or mailed to a location.

(e) Monitor individual FTO performance and conduct within their respective zones. Preparation of quarterly performance evaluations while the trainee is in the FTO program and for the duration of the officer's probationary period.

(f) Ensure that all sections of the training manual, including all beat/zone orientation checklists, are completed prior to the beginning of the shadow phase of the training period.

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436.4 TRAINEE DEFINED

FTOs shall maintain professionalism, and refrain from expressing their differences of opinions regarding policies and procedures to their trainee officers. Any differences of opinions shall be brought to the attention of the FTO staff.

Field training officers, after successfully completing training, shall wear two chevrons on their uniform shirts. These chevrons do not confer rank or supervisory status upon the wearer except in the limited sense of supervision over the activities of officers in training assigned directly to them while in the FTO program.

All officers in training status should report directly to and utilize their assigned FTO as the first step in their chain of command. FTOs shall immediately report any major deficiencies with their trainees to the assigned FTO supervisor.

After the FTO's completion period with a trainee, the FTO will notify the trainee's next FTO as to the trainee's progress. This notification can be made via oral, written, telephone, e-mail or text communication.

During the shadow phase of the training period, the FTO, except during exigent circumstances, shall have the appearance of a passively interested bystander and should not become directly involved in situations.

436.4.1 REPORTS AND EVALUATIONS

FTOs shall follow the report writing guidelines per Policy 344. FTOs are to approve non-in-custody reports which do not involve the use of force for their trainees. All in-custody reports and reports involving the use of force are to be approved by a supervisor.

Unless FTO supervisor approval is granted, all reports generated by the FTO/trainee will be completed and approved by the end of the second work day. Examples: a) if the FTO has a trainee for two days, then reports generated during the first day are to be completed and approved by the end of the second work day; b) if the FTO has a trainee for one day, then the reports are to completed and approved at the end of that shift.

With supervisor approval, overtime may be granted for the completion and approval of outstanding reports due to calls for service or cases generated toward the end of the shift that occur on the last day.

The FTO shall attach copies of all citations with case numbers, non-Alliance system documents, and the narrative & property/evidence sections of reports from the Alliance system to the trainee's evaluation.

Evaluations are an important component of the training process and shall be completed as outlined below:

(a) FTOs shall complete and submit a written evaluation for each day of training, documenting the performance of their assigned trainee, to the assigned FTO supervisor. FTOs will evaluate trainees based on the "solo beat officer" standard. FTOs shall ensure that their

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evaluations have the correct ratings, and are free of spelling and/or grammatical errors. These performance evaluations shall be prepared on the departmental computerized form, and will cover all aspects of the training provided.

(b) All evaluations shall be discussed with the trainee, then signed by the field training officer and the trainee. A completed copy of each evaluation shall be sent via department e-mail to the trainee's field training sergeant and FTO coordinator no later than 48 hours after the evaluation's training date (FTO regular days off excluded).

436.4.2 FIELD TRAINING MANUAL

FTOs shall be responsible for the completion of signing off all topics contained in the Field Training Manual, including the beat/zone orientation checklist, noting the method(s) of learning and evaluating the performance of their assigned trainee. The training officers will also ensure that their name is placed on the POST certificate of completion page in the trainee's manual.

436.4.3 RETENTION

Any member of the field training program may be removed from the program by the Chief of Police. Reasons for removal include:

- Engages in unlawful or unprofessional behavior
- Fails to adhere to the rules and regulations of this policy
- Demonstrates a pattern of unsafe or unacceptable police practices
- Is a principal in any departmental investigation which results in a sustained finding
- Has substandard ratings on departmental performance evaluations
- Voluntarily withdraws from the FTO program

Any FTO or supervisor wishing to withdraw from the program voluntarily should submit a memorandum, via the chain of command, directed to the Operations Bureau Deputy Chief. Those FTOs or supervisors withdrawing voluntarily or involuntarily from the program may be readmitted when new openings occur by going through the selection process again.

The FTO staff will make a recommendation as to whether to reinstate the FTO. The final determination will rest with the Chief of Police. Returning FTOs must also participate in a two week patrol orientation with a field training officer prior to being assigned trainees.

The FTO coordinator will make a recommendation to the command staff as to whether to reinstate an FTO supervisor. The final determination will rest with the Chief of Police.

436.4.4 TIME OFF REQUESTS

FTOs will not be granted compensatory time off or discretionary time off while assigned to a trainee unless all of the following conditions are fulfilled:

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- The assigned FTO must locate and assign a certified FTO for the date(s) of the time off request. Email or phone message notification must be made to the FTO's supervisor of the change.
- The FTO must receive permission from his/her supervisor for the time off and make an email or phone message notification to the trainees FTO supervisor of the time off request.

The FTO requesting the time off is solely responsible for completing the aforementioned conditions. Time off requests by the trainee while in the FTO program will be approved by the FTO coordinator on a case-by-case basis.

436.5 REQUIRED TRAINING

Any entry level or lateral police officer newly appointed to this department who has successfully completed a POST approved Basic Academy.

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 Bay Area Rapid Transit 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 Bay Area Rapid Transit Police Department.

The trainee will bring the FTO manual to work each day of the training program. The manual contains training objectives and instructional materials pertaining to each geographic area of the District and each phase of training.

The FTO will work with the trainee to document training provided in each performance category in the training manual. The FTO supervisor shall review the trainee's manual periodically to ensure that the trainee is making satisfactory progress in the program.

At the completion of the trainee's training period in the FTO program, the FTO manual is to be turned over to the FTO coordinator for filing.

436.5.2 REQUIRED TRAINING

Entry level officers shall be required to successfully complete the Field Training Program, consisting of a minimum of twelve (12) weeks. The training period for a lateral officers may be modified depending on the trainee's demonstrated performance and level of experience, but shall consist of a minimum of ten (10) weeks.

436.5.3 TRAINEE RESPONSIBILITIES

Trainee officer should review and acknowledge each daily evaluation with his/her assigned FTO. If the trainee has any questions or concerns regarding the content of the evaluation, he/she

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should indicate on the evaluation that he/she wishes to discuss the matter with the field training supervisor.

At the completion of the Field Training Program, the trainee shall submit a confidential performance evaluation on each of their FTO's and on the Field Training Program.

436.6 EVALUATIONS

All documentation of the Field Training Program will be retained in the officer's training file and will consist of the following:

(a) Daily Trainee Performance Evaluations.

(b) Quiz and test results.

(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 Watch Commander, or his/her designee, will call the closest agency having helicopter support available. The Watch Commander on duty will apprise that agency of the specific details of the incident prompting the request.

438.2.2 CIRCUMSTANCES UNDER WHICH AID MAY BE REQUESTED

Police helicopters may be requested under any of the following conditions:

(a) When the helicopter is activated under existing mutual aid agreements

(b) Whenever the safety of law enforcement personnel is in jeopardy and the presence of the helicopters may reduce such hazard

(c) When the use of the helicopters will aid in the capture of a suspected fleeing felon whose continued freedom represents an ongoing threat to the community

(d) When a helicopter is needed to locate a person who has strayed or is lost and whose continued absence constitutes a serious health or safety hazard

(e) Vehicle pursuits

While it is recognized that the availability of helicopter support will generally provide valuable assistance to ground personnel, the presence of a helicopter will rarely replace the need for officers on the ground.

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Photographing of Field Detainees

440.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for conducting field interviews (FI) and pat-down searches, and the taking and retention of photographs of persons detained in the field but not arrested. Due to a variety of situations confronting the officer, the decision to FI or photograph a field detainee shall be left to the discretion of the involved officer based on the totality of the circumstances available to him/her at the time of the detention.

440.2 DEFINITIONS

Detention - Occurs when an officer intentionally, through words, actions or physical force causes an individual to reasonably believe he/she is being required to restrict his/her movement. Detentions also occur when an officer actually restrains a person's freedom of movement.

Consensual Encounter - Occurs when an officer contacts an individual but does not create a detention through words, actions or other means. In other words, a reasonable individual would believe that his/her contact with the officer is voluntary.

Field Interview - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purposes of determining the individual's identity and resolving the officer's suspicions.

Field Photographs - Field photographs are defined as posed photographs taken of a person during a contact, detention, or arrest in the field. Undercover surveillance photographs of an individual and recordings captured by the normal operation of a Mobile Audio Video (MAV) system when persons are not posed for the purpose of photographing are not considered field photographs.

Pat-Down Search - This type of search is used by officers in the field to check an individual for weapons. It involves a thorough patting down of clothing to locate any weapons or dangerous items that could pose a danger to the officer, the detainee, or others.

Reasonable Suspicion - Occurs when, under the totality of the circumstances, an officer has articulable facts that criminal activity may be afoot and a particular person is connected with that possible criminal activity.

440.3 PAT-DOWN SEARCHES

A pat-down search of a detained subject may be conducted whenever an officer reasonably believes that the person may possess an object that can be utilized as an offensive weapon or whenever the officer has a reasonable fear for his/her own safety or the safety of others. Circumstances that may establish justification for performing a pat-down search include, but are not limited to the following:

(a) The type of crime suspected, particularly in crimes of violence where the use or threat of deadly weapons is involved.

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(b) Where more than one suspect must be handled by a single officer.

(c) The hour of the day and the location or neighborhood where the stop takes place.

(d) Prior knowledge of the suspect's use of force and/or propensity to carry deadly weapons.

(e) The appearance and demeanor of the suspect.

(f) Visual indications which suggest that the suspect is carrying a firearm or other weapon.

(g) The age and gender of the suspect.

Whenever possible, pat-down searches should be performed by officers of the same gender.

440.4 FIELD PHOTOGRAPHS

Before photographing any field detainee, the officer shall carefully consider, among other things, the factors listed below.

440.4.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT

Field photographs may be taken when the subject of the photograph knowingly and voluntarily gives consent. When taking a consensual photograph, the officer should have the individual read and sign the appropriate form accompanying the photograph.

440.4.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT

Field photographs may be taken without consent only if they are taken during a detention that is based upon reasonable suspicion of criminal activity, and the photograph serves a legitimate law enforcement purpose related to the detention. Mere knowledge or suspicion of gang membership or affiliation is not a sufficient justification for taking a photograph without consent. The officer must be able to articulate facts that reasonably indicate that the subject was involved in or was about to become involved in criminal conduct.

If, prior to taking a photograph, the officer's reasonable suspicion of criminal activity has been dispelled, the detention must cease and the photograph should not be taken.

All field photographs and related reports shall be submitted to a supervisor and retained in compliance with this policy.

440.5 SUPERVISOR RESPONSIBILITY

While it is recognized that field photographs often become valuable investigative tools, supervisors should monitor such practices in view of the above listed considerations. This is not to imply that supervisor approval is required before each photograph. Access to field photographs shall be strictly limited to law enforcement purposes.

440.6 DISPOSITION OF PHOTOGRAPHS

All detainee photographs must be adequately labeled and submitted to the Watch Commander with either an associated FI card or other memorandum explaining the nature of the contact. If an

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individual is photographed as a suspect in a particular crime, the photograph should be submitted as an evidence item in the related case, following standard evidence procedures.

If a photograph is not associated with an investigation where a case number has been issued, the Watch Commander should review and forward the photograph to one of the following locations:

(a) If the photo and associated FI or memorandum is relevant to criminal street gang enforcement, the Watch Commander will forward the photo and documents to the Criminal Investigations Supervisor. The Criminal Investigations Supervisor will ensure the photograph and supporting documents are retained as prescribed by Policy § 442.

(b) Photographs that do not qualify for Criminal Street Gang file retention or which are not evidence in an investigation with an assigned case number should be forwarded to the Records Section. These photographs will be purged as described in Policy § 440.7.1.

When a photograph is taken in association with a particular case, the detective may use such photograph in a photo lineup. Thereafter, the individual photograph should be retained as a part of the case file. All other photographs will be kept in the Records Section in a separate non-booking photograph file in alphabetical order.

440.6.1 PURGING THE FIELD PHOTO FILE

The Investigations Section Supervisor will be responsible for periodically purging and destroying all such photographs more than five-years-old. Photographs that continue to serve a legitimate law enforcement purpose may be retained longer than five-years provided that a notation of that fact is added to the file for each additional year that they are retained. Access to the FI photo file shall be strictly limited to law enforcement purposes.

440.7 PHOTO REVIEW POLICY

Any person who has been the subject of a field photograph or an FI by this agency during any contact other than an arrest may file a written request within 30 days of the contact requesting a review of the status of the photograph/FI. The request shall be directed to the office of the Chief of Police who will ensure that the status of the photograph or FI is properly reviewed according to this policy as described below. Upon a verbal request, the Department will send a request form to the requesting party along with a copy of this policy.

440.7.1 REVIEW PROCESS

Upon receipt of such a written request, the Chief of Police or his or her designee will permit the individual to appear in person (any minor must be accompanied by their parent or legal guardian) for a review of the status of the photograph/FI.

Such a meeting will generally be scheduled during regular business hours within 30 days of the receipt of the written request. An extension of the 30-day limit may be made either upon the mutual convenience of the parties or if, at the discretion of the Chief of Police, there appears to be an ongoing legitimate law enforcement interest which warrants a delay. If the delay could jeopardize

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an ongoing investigation, nothing in this policy shall require the Chief of Police to disclose the reason(s) for the delay.

A meeting for the review of the status of any non-arrest photograph/FI is not intended to be a formal hearing, but simply an informal opportunity for the individual to meet with the Chief of Police or his/her designee to discuss the matter.

After carefully considering the information available, the Chief of Police or designee will determine, generally within 30 days of the original meeting, whether the photograph/FI was obtained in accordance with existing law and Department policy and, even if properly obtained, then whether there is any ongoing legitimate law enforcement interest in retaining the photograph/FI.

If the Chief of Police or his/her designee determines that the photograph/FI was obtained in accordance with existing law and department policy and that there is an ongoing legitimate law enforcement interest in retaining the non-arrest photograph, the photograph/FI shall be retained according to this policy and applicable law.

If the Chief of Police or his/her designee determines that the original legitimate law enforcement interest in retaining a non-arrest photograph no longer exists or that it was obtained in violation of existing law or Department policy, the original photograph will be destroyed or returned to the person photographed, if requested. All other associated reports or documents, however, will be retained according to department policy and applicable law.

If the Chief of Police or his/her designee determines that the original legitimate law enforcement interest in retaining a non-arrest FI no longer exists or that the original F/I was not obtained in accordance with established law or Department policy, the original FI may only be destroyed upon the execution of a full and complete waiver of liability by the individual (and guardian if a minor) arising out of that field contact.

If the Chief of Police or his/her designee determines that any Department personnel violated existing law or department policy, the Chief of Police or designee shall initiate a separate internal investigation which may result in additional training, discipline or other appropriate action for the involved employees.

The person photographed/FI'd will be informed in writing within 30 days of the Chief of Police's determination whether or not the photograph/FI will be retained. This does not entitle any person to any discovery or access to any law enforcement records not otherwise authorized by law.

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Criminal Street Gangs

442.1 PURPOSE AND SCOPE

It is the policy of this department to establish a procedure for identifying criminal street gangs, participants of criminal street gangs, and patterns of criminal activity as outlined in Penal Code § 186.20 through Penal Code § 186.33 of the "Street Terrorism Enforcement and Prevention Act."

The intent of this policy is to provide for the collection and management of criminal street gang information so as to enhance officer safety and the criminal prosecution of criminal street gang participants. This policy is not intended or designed to establish a formal gang intelligence database.

442.2 DEFINITIONS

Pattern of Criminal Gang Activity - The commission, attempted commission, conspiracy to commit, sustained juvenile petition for, or conviction of two or more of any offenses as described in Penal Code § 186.22(e).

Criminal Street Gang - Any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the criminal acts enumerated in Penal Code § 186.22(e), and which has a common name or common identifying sign or symbol, and whose members individually or collectively engage or have engaged in a pattern of criminal street gang activity.

Gang Related Crime - Any crime, which is committed for the benefit of, at the direction of, or in association with, a criminal street gang with the intent to promote, further or assist any criminal street gang.

442.3 IDENTIFICATION OF CRIMINAL STREET GANGS / PARTICIPANTS

The Gang Information Unit shall be authorized to collect information on individuals who are suspected of participating in a criminal street gang and groups that are suspected of being criminal street gangs.

(a) A group of three or more individuals shall be designated a criminal street gang when:

1. They have a common name or common identifying sign or symbol.
2. There is evidence, substantiated by crime and informational reports, that a primary activity of the group is the commission of one or more criminal acts enumerated in Policy Manual § 442.2.
3. One or more members individually or collectively have engaged in a pattern of criminal gang activity as defined in Policy Manual § 442.2 of this policy.
4. A designated representative of the District Attorney's Office reviews the available evidence and concurs with a Department finding that the group meets the criteria for being a criminal street gang.

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(b) An individual shall be designated as a participant in a criminal street gang and included in a gang file, when one or more of the following elements have been verified by a Gang Information Unit member and a reasonable basis for believing such affiliation has been established and approved by a supervisor:

1. An individual admits membership in a criminal street gang.
2. A reliable informant or known gang member identifies an individual as a participant in a criminal street gang.
3. An informant of previously untested reliability identifies an individual as a participant in a criminal street gang when that identification is corroborated by independent information.
4. An individual resides in or frequents a particular criminal street gang's area, and affects their style of dress, color of dress, use of jewelry, tattoos, monikers, or any other identifiable mannerism associated to that particular criminal street gang, and where the officer documents reasonable suspicion that the individual is involved in criminal gang activity or enterprise.
5. A person has been arrested in the company of identified criminal street gang members for offenses that are consistent with criminal street gang activity or criminal street gang related crimes.
6. An individual is identified as a gang member in a criminal street gang document or the individual is depicted in a criminal street gang member's photograph(s) in such a manner as to clearly indicate membership in a criminal street gang.
7. An individual otherwise meets the criteria of a criminal street gang participant under the guidelines of a department approved gang intelligence database and/or 28 C.F.R. 23.20.

(c) An individual may be designated as a gang affiliate only when the individual is known to affiliate with active criminal gang members and an officer has established that there is reasonable suspicion that the individual is involved in criminal activity. An officer's belief must be premised upon reasoning and logic coupled with sound judgment based upon law enforcement experience, rather than a mere hunch or whim.

442.4 CRIMINAL STREET GANG TEMPORARY FILE

The Gang Unit Supervisor may maintain a temporary file of reports and FIs that is separate from any criminal gang intelligence database when an individual or group has been identified as a suspected criminal street gang participant or a suspected criminal street gang but does not meet the criteria necessary for entry into a criminal gang intelligence database.

Inclusion in a temporary file may be done only if there is a reasonable likelihood that, within one year of the contact, the individual or group will meet the criteria for entry into a department approved criminal gang intelligence database. Reports and FIs will only be included in a temporary

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gang file with the written authorization of the Gang Unit Supervisor. A temporary file of criminal street gang participants or criminal street gangs shall include:

(a) Names, aliases, monikers, addresses, and other relevant identifying information.

(b) Gang name.

(c) Justification used to identify an individual as a criminal street gang participant.

(d) Vehicle(s) known to be used.

(e) Cross references to other identified gangs or gang members.

442.4.1 REVIEW AND PURGING OF GANG PARTICIPANT FILE

Temporary files shall not be retained longer than one year. At the end of one year, temporary files must be purged if the information does not qualify for entry into a department approved criminal gang intelligence database.

The Gang Unit Supervisor shall periodically review temporary files to verify that the information was properly obtained and meets the criteria for retention. Validation and purging of temporary criminal street gang files is the responsibility of the Gang Unit Supervisor.

442.4.2 CRIMINAL GANG INTELLIGENCE DATABASES

While this policy does not establish a criminal gang intelligence database, the Chief of Police may approve one or more criminal gang intelligence databases, such as CALGANG, for use by members of the Gang Unit. Any such database should be compliant with 28 C.F.R. § 23.20 regulating criminal intelligence systems. Employees must obtain the requisite training before accessing any such database.

It is the Gang Unit Supervisor's responsibility to determine whether any report or FI contains information that would qualify for entry into a department approved criminal gang intelligence database. The Gang Unit Supervisor should forward any such reports or FIs to the Records Section after appropriate database entries are made. The submitting Gang Unit Supervisor should clearly mark the report/FI as Gang Intelligence Information.

It is the responsibility of the Records Section Supervisor to retain reports and FIs in compliance with the procedures of the department approved criminal gang intelligence database and 28 C.F.R. § 23.20. The Records Section Supervisor may not purge these reports or FIs without the approval of the Gang Unit Supervisor.

442.5 FIELD CONTACTS

Officers who contact individuals who are, or may be participants in criminal street gang activity should complete a FI card and document the reasonable suspicion underlying the contact and the exact circumstances leading to the suspicion that the individual is a criminal street gang participant (e.g., subject states he or she is a member of XYZ gang; XYZ tattoo on right hand near thumb; wearing ball cap with gang name printed in blue or red ink).

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Photographing known or suspected criminal street gang participants shall be done in accordance with the provisions of Policy Manual § 440 (Photographing of Field Detainees).

442.6 INQUIRY BY PARENT OR GUARDIAN

When an inquiry is made by a parent or guardian as to whether a juvenile's name is in the temporary criminal street gang participant's file, such information shall be provided by the unit supervisor, unless there is good cause to believe that the release of such information may jeopardize an ongoing criminal investigation.

Employees must observe strict compliance with the rules of a department approved gang intelligence database regarding release of information from that database.

442.7 DISSEMINATIONS OF THE FILE INFORMATION

Information from the temporary criminal street gang participant files may only be furnished to Department personnel and other public law enforcement agencies on a need-to-know basis. This means information that may be of use in the prevention of gang-related criminal activity or information concerning the investigation of gang-related crimes shall only be released to members of this department and other law enforcement agencies.

Information from any department approved gang intelligence file must only be released in compliance with the rules for that particular database.

442.8 REPORTING CRITERIA AND ROUTING

Incidents that appear to be criminal street gang related shall be documented on a report form and shall at minimum include the following:

(a) A description of any document, statements, actions, dress or other information that would tend to support the officer's belief that the incident may be related to the activities of a criminal street gang.

(b) Whether any photographs were taken and a brief description of what they depict.

(c) What physical evidence, if any, was observed, collected or booked.

(d) A specific request to that a copy of the report be routed to the Gang Unit.

Any photographs taken or evidence collected shall be booked in accordance with current evidence booking procedures.

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Watch Commanders

444.1 PURPOSE AND SCOPE

Each patrol shift must be directed by supervisors who are capable of making decisions and communicating in a manner consistent with departmental policies, procedures, practices, functions and objectives. To accomplish this goal, a Lieutenant heads each watch.

444.2 DESIGNATION AS ACTING WATCH COMMANDER

When a Lieutenant is unavailable for duty as Watch Commander, in most instances the senior qualified sergeant shall be designated as acting Watch Commander. This policy does not preclude designating a less senior sergeant as an acting Watch Commander when operational needs require or training permits.

444.3 WATCH COMMANDERS DUTIES

The following are a list of Watch Commanders duties. Other duties may be assigned as needed by a Deputy Chief or Chief of Police.

- Notify the Chief and Operations Bureau Deputy Chief of any significant case(s).
- Report significant security concerns to TSA. As required by 49 C.F.R.§1580.203(b), the TSA's Transportation Security Operations Center (TSOC) will immediately be notified telephonically by the Watch Commander during any incident involving any potential threats or significant security concerns. The telephone number for the TSOC is 1-866-615-5150.
- Respond to Central to coordinate BPD activity if necessary
- Take care of daily log for assigned shift
- Approve call outs for K-9 use by outside agencies
- Accept or refer IA complaints
- Verbally update relief Watch Commander
- Ensure proper info is received and dispatched to patrol
- Notify Communications Department of inquiries from press regarding BPD activity prior to releasing information.
- Handle logistics request during emergencies
- Activating EOC if required
- Take sick calls and make BAP entries.
- Monitor overtime and inverse to fill empty assignments.
- Monitor Alliance report queue and approvals.
- Call out Detectives for in-custody Part I crimes and significant cases.

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- Monitor Alameda County PC declarations for approval status.
- Document circumstances surrounding incidents that involve train delays of 30 minutes or more in an email message to the Operations Bureau Deputy Chief and Chief of Police.

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Mobile Data Computers Use

448.1 PURPOSE AND SCOPE

The Mobile Data Computers (MDC) accesses confidential records from the State of California, Department of Justice and Department of Motor Vehicles databases. Employees using the MDC shall comply with all appropriate federal and state rules and regulations.

448.2 MDC USE

The MDC shall be used for official police communications only. Messages that are of a sexual, racist, or offensive nature, or otherwise critical of any member of the Department are strictly forbidden. MDC use is also subject to the Department Technology Use Policy.

Messages may be reviewed by supervisors at anytime without prior notification. Employees generating or transmitting messages not in compliance with this policy are subject to discipline.

All calls dispatched to patrol units should be communicated by voice and MDC unless otherwise authorized by the Watch Commander.

448.2.1 USE WHILE DRIVING

Use of the MDC by the operator should be limited to times when the vehicle is stopped. Sending or reading MDC messages while a vehicle is in motion is a potentially dangerous practice. Short transmissions, such as entry of a license number for a stolen or registration check are permitted if they can be done safely. Reading messages while in motion by the operator should only be attempted when the message requires the operator's immediate attention. In no case shall an operator attempt to send or review lengthy messages while the vehicle is in motion.

448.2.2 DOCUMENTATION OF ACTIVITY

MDC's and voice transmissions are used to record the officer's daily activity. To ensure the most accurate recording of these activities, the following are required:

(a) All contacts or activity shall be documented at the time of the contact;

(b) Whenever the activity or contact is initiated by voice, it shall be entered into the Computer Aided Dispatch (CAD) system by a dispatcher;

(c) Whenever the activity or contact is not initiated by voice, the officer shall record it on the MDC.

448.2.3 STATUS CHANGES

All changes in status (e.g., arrival at scene, meal periods, in service) will be transmitted either verbally over the police radio or through the MDC system.

Officers responding to in-progress calls shall advise changes in status verbally over the radio to assist other officers responding to the same incident.

Other changes in status may be entered by depressing the appropriate keys on the MDC's.

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448.2.4 EMERGENCY ACTIVATION OF MDC

If the emergency button is depressed on the MDC, the dispatcher will call the unit and ask if Code-4. If there is no emergency, then he/she should answer "Code-4" and all units will resume their normal activity. If there is no response or the officer answers in some other way, the dispatcher shall proceed as follows:

(a) If the unit is not on a call, send available units to assist in locating the unit transmitting the emergency. Whenever a location is known, immediately dispatch the nearest available unit Code-3.

(b) Notify the field sergeant and Watch Commander of the incident without delay.

Units not responding to the emergency shall refrain from transmitting on the radio until there is a Code-4, unless they are themselves handling an emergency.

448.3 MDC CONSIDERATIONS

448.3.1 NON-FUNCTIONING MDC

Whenever possible, officers will not use units with malfunctioning MDC's. Whenever officers must drive a unit in which the MDC is not working, they shall notify the Communications Center. It shall be responsibility of the Communications Center to record all information that will then be transmitted verbally over the police radio.

448.3.2 BOMB CALLS

When investigating reports of possible bombs, officers will turn off their MDC's. Operating the MDC may cause some devices to detonate.

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Use of Audio Recorders

450.1 PURPOSE AND SCOPE

This department allows its sworn members to use audio recorders while on-duty. These recorders are intended to assist officers in the performance of their duties by providing an unbiased audio record of a contact.

450.2 OFFICER RESPONSIBILITIES

Audio recorders may be used to record statements given by victims, witnesses, reporting parties, involved parties, and suspects. Recordings should not be made surreptitiously unless authorized by the applicable district attorney's office (see Section 450.4 below).

At the beginning of any recording, the officer should attempt to dictate his/her name, serial number and the current date and time. At the conclusion of the recording, the officer should attempt to dictate the ending date and time.

Each officer shall be responsible for maintaining his/her own recordings until the media is either full or placed into evidence/safekeeping.

450.3 MEMBER RESPONSIBILITIES

Penal Code § 632 prohibits any individual from surreptitiously recording any conversation in which any party to the conversation has a reasonable belief that the conversation was private or confidential. Penal Code § 633 expressly exempts certain law enforcement officers from this prohibition during the course of a criminal investigation. *This exemption does not include officers of this department.* If it is determined that surreptitiously recording a private or confidential conversation would be beneficial in the prosecuting of a criminal act(s), this department must obtain written permission from the appropriate District Attorney's office allowing the recording. This written permission must be obtained for each potential recording or for each investigation, as specifically approved by the District Attorney's office.

Conversations of a suspect or suspects being detained in a patrol car or holding cell, for example, are not normally considered private or confidential.

Additionally:

(a) No member of this department may surreptitiously record a conversation of any other member of this department without the expressed knowledge and consent of all parties. Nothing in this section is intended to interfere with an officer's right to openly record any interrogation pursuant to Government Code § 3303(g).

(b) Any officer of this department may record any statement or conversation during the course of a criminal investigation in which the officer reasonably believes that such a recording will be beneficial to the investigation, as long as the requirements of Penal Code § 632 are followed or are lawfully exempted through the District Attorney's office.

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1. For the purpose of this policy, any uniformed officer contacting an individual suspected of violating any law or during the course of any official law enforcement related activity shall be presumed to be engaged in a criminal investigation. This presumption shall not apply to contacts with other employees conducted solely for administrative purposes.
2. For the purpose of this policy, it shall further be presumed that any individual contacted by a uniformed officer wearing a conspicuously mounted audio recorder will have knowledge that such a contact is being recorded.

450.4 ACTIVATION OF THE AUDIO RECORDER

At any time that an officer records any portion of a contact which the officer reasonably believes constitutes evidence in a criminal case; the officer shall record the related case number and book the recording media into evidence or download the file in accordance with current procedure for storing digital files. A second recording shall also be forwarded to the Detective Section for any case that requires follow-up or the filing of charges.

(a) The officer shall further note in any related report that the recording has been placed into evidence.

(b) Recording media placed into evidence shall be retained through the final disposition of the related criminal case.

450.4.1 SURREPTITIOUS USE OF THE AUDIO RECORDER

Members of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the officer reasonably believes that such a recording will be beneficial to the investigation (Penal Code § 633).

Members shall not surreptitiously record another department member without a court order or unless lawfully authorized by the Chief of Police or the authorized designee.

450.5 PROHIBITED USE OF PORTABLE RECORDERS

Recorded files may be reviewed in any of the following situations:

(a) By a supervisor investigating a specific act of officer conduct

(b) Upon approval by a supervisor, any member of the Department who is participating in an official investigation such as a personnel complaint, administrative investigation or criminal investigation

(c) By the personnel who originally recorded the incident

(d) Pursuant to lawful process or by court personnel otherwise authorized to review evidence in a related case

(e) By media personnel with permission of the Chief of Police or authorized designee

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Use of the AXON Flex

451.1 PURPOSE AND SCOPE

The San Francisco Bay Area Rapid Transit District Police Department (BART) is providing each of its sworn sergeants and officers with a wearable AXON Flex video recorder for use while on-duty. The AXON Flex is designed to record both video and audio activity of members during the course of their official police duties. The AXON Flex is intended to assist officers in the performance of their duties by providing an objective, unbiased video and audio record of a contact and/or incident.

The use of the AXON Flex provides documentary evidence for criminal investigations, civil litigation, and allegations of officer misconduct. Such evidence shall be maintained by the Police Department as an investigatory record if it supports a criminal investigation based on reason to believe the subject of the investigation is or may be involved in criminal conduct, or for purposes of an administrative investigation on the conduct of a member(s) of the Police Department.

Officers shall utilize the AXON Flex in accordance with the provision of this Policy in order to maximize the effectiveness of the device, enhance transparency, and ensure the integrity of evidence.

451.2 DEFINITIONS

(a) "AXON Flex" This refers to the camera system that captures audio and video signals that is individually worn by officers and that includes at a minimum a recorder, microphone, and paired monitoring device.

(b) "Audio Recording" is the electronic recording of sound. "Evidence.com" is the online web-based digital media storage facility. The virtual warehouse stores digitally-encrypted data (photographs, audio and video recordings) in a highly secure environment. The digital recordings are accessible to authorized personnel based upon a security clearance and maintain an audit trail of user activity.

(c) "Evidence Transfer Manager" (ETM) is a docking station that simultaneously recharges the AXON Flex Camera and AXON Flex Controller and uploads all data captured from the camera's point of view during officer's shift to bartpd.evidence.com. The ETM ensures that evidence handling is secured and cannot be altered.

(d) "AXON Flex Camera connects to the AXON Flex Controller. The Flex Camera manages the video compression and storage and is capable of playback via a Bluetooth paired smart device. The AXON Flex Camera ensures that evidence handling is secured and cannot be altered. Once plugged into the docking station, the AXON Flex Camera will upload digitally-encrypted data through the Evidence Transfer Manager to bartpd.evidence.com.

(e) "AXON Controller" is the battery pack and on off switch for the AXON Flex Camera and connects to the Flex Camera via a small gage wire.

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(f) "AXON Flex Technician" An employee of the department assigned by the system administrator that will assign, oversees, and tracks Department equipment. The AXON Flex Technician shall oversee needed repairs or replacement of the AXON Flex and Evidence Transfer Manager equipment through Taser AXON representatives.

(g) "System Administrator" The Administrative Services Supervisor will be the bartpd.evidence.com system administrator with full access to user rights who controls passwords, coordinates with the AXON Flex Technician, and acts as liaison with Taser AXON representatives.

(h) "Video Recording" is the electronic recording of visual images with or without audio component.

(i) "Impound" is the process by which video and audio files are uploaded to Evidence.com by docking the AXON Flex to the Evidence Transfer Manager thereby ensuring files are secure and unable to be altered.

451.2.1 CATEGORIES AND RETENTION PERIODS

The BART Police Department has twelve (12) categories to tag and retain our cases in Evidence.Com. Each one is listed below with the current retention cycle. It should be noted that retention times can be extended at any time by a Supervisor, Internal Affairs, Evidence Specialist, BPD System Administrator for evidence.com, or by the Chief of Police or his/her designee. Categories can also be added if needed.

(a) 01) INFRACTION VIOLATIONS 2 YEARS

(b) 02) DETENTIONS 2 YEAR

(c) 03) SERVICE TO CITIZENS 1 YEAR

(d) 04) COLD REPORT 1 YEAR

(e) 05) ARREST (UNTIL MANUALLY DELETED)

(f) 06) OUTSIDE ASSIST 1 YEAR

(g) 07) CONSENSUAL CONTACTS 1 YEAR

(h) 08) SICK OR INJURED PATRONS 3 YEARS

(i) 09) STATEMENTS (UNTIL MANUALLY DELETED)

(j) 10) USE OF FORCE (UNTIL MANUALLY DELETED)

(k) 11) UNATTENDED DEATH / HOMICIDE (UNTIL MANUALLY DELETED)

(l) 12) TESTING / ACCIDENTAL 30 DAYS

451.3 UNIFORMED OFFICER RESPONSIBILITIES

Prior to going into service, each uniformed patrol officer equipped with a Department issued AXON Flex will be responsible for making sure that the AXON Flex is in good working order. The AXON

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Flex shall be conspicuously placed on the officer's person in any configuration supported by a TASER approved AXON Flex mounting accessory. The AXON Flex shall be worn in such a way as to provide an unobstructed camera view of officer/citizen contacts. . The camera shall be considered mounted correctly if it is mounted using a TASER approved AXON Flex mounting accessory.

Members of the Department that are assigned an AXON Flex shall receive mobile video training prior to deployment of the device in an operational setting. At this training, each officer will be provided a standard checklist of steps they are required to complete in order to ensure their AXON Flex and mounting systems are in good working order. Officers will conduct the following steps prior to going into service:

(a) Officers shall insure that the battery is fully charged

1. Depress the battery status button on the front of the controller and observe that the light is green

(b) Officers shall insure that the camera is able to be activated and is functioning

1. Connect the battery cable from the battery to the camera
2. Turn the camera on by clicking the on switch (should see orange sticker)
3. Observe the indicator lights are correct (blinking green)
4. Double tap button to activate recording (should hear two audible tones)
5. Observe that indication lights are correct (blinking red)
6. Press and hold to end recording (should hear one audible tone)
7. Observe that indicator lights are correct (blinking green)

(c) Officer shall insure that the player is properly paired

(d) Officer shall insure that the field of view for the camera is correct

1. Activate the Samsung Galaxy player
2. Activate the Live Preview feature
3. Using the player make necessary adjustments to camera
4. Be aware that camera adjustments may be needed periodically during shift

(e) Officers shall keep their AXON Flex on and in buffering mode at all times.

1. Except when in a bathroom or locker room.
2. Upon exiting the facilities listed in (a) the camera shall be reactivated.

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451.4 NON-UNIFORMED OFFICER RESPONSIBILITIES

Any officer assigned to a non-uniformed position may carry a Department-issued AXON Flex at any time the officer believes that such a device may be utilized in order to assist the officer in the performance of their duties by providing an objective, unbiased video and audio record of a contact and/or incident. However, whenever a non-uniformed officer is working a uniformed patrol assignment he/she shall wear a Department - issued AXON Flex in accordance with this policy.

451.5 ACTIVATION OF THE VIDEO/AUDIO RECORDER

Penal Code Section 632 prohibits any individual from surreptitiously recording any conversation (confidential communication) in which any party to the conversation has a reasonable belief that the conversation is private or confidential. This excludes a communication made in a public gathering or in any legislative, judicial, executive or administrative proceeding open to the public, or in any other circumstance in which the parties to the communication may reasonably expect that the communication may be overheard or recorded. However Penal Code Section 633 expressly exempts law enforcement from this prohibition during the course of a criminal investigation as follows:

(a) No member of the Department may surreptitiously record a contact with or conversation of any other member of this Department without the expressed knowledge and consent of all parties present, including the member whose acts or conversation are being recorded. Nothing in this Section is intended to interfere with an officer's right to openly record any interrogation pursuant to Government Code Section 3303(g).

(b) Any member of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the officer reasonably believes that such a recording will be beneficial to the investigation:

    1. For the purpose of this Policy, any officer contacting an individual suspected of violating any law or during the course of any official, law enforcement-related activity shall be presumed to be engaged in a criminal investigation. This presumption shall not apply to contacts with other employees conducted solely for administrative purposes.

    2. For the purpose of this Policy, it shall further be presumed that any individual contacted by a uniformed officer wearing a conspicuously mounted AXON Flex will have knowledge that such a contact is being recorded. This subsection shall not apply to contact between a member of the Department wearing a conspicuously mounted AXON Flex and other member(s) of the Department. For purposes of this policy, contact between members of this Department is governed by section 451.5(a), and 451.5(b) (1).

(c) All on-scene officers (inclusive of all initiating and witness officers) equipped with an AXON Flex shall activate their cameras prior to making contact with individuals in any of the following circumstances:

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1. Any enforcement contact e.g. detentions, vehicle stops, walking stops (officers are encouraged to activate their AXON Flex on consensual encounters also), as outlined in Policy section 322.3.
2. Probation and parole searches
3. Service of a search or arrest warrant
4. Any contact with a subject suspected of criminal behavior

(d) Members of the Department are expected to activate their AXON Flex any time they reasonably believe that a recording of an on-duty contact with a member of the public may be of future benefit to the Department.

1. At no time should an officer jeopardize his/her safety or the safety of another in order to activate their AXON Flex.
2. Members of the Department are expressly prohibited from utilizing Department recorders and recorded media for personal use.
3. Members of the Department will not make copies of any recordings for their personal use and are prohibited from using a recording device (such as a phone camera or secondary video camera) to record media from bartpd.evidence.com or the AXON Flex Camera unit. Nothing in this policy shall be construed as limiting an officer's right to carry and use a personal device such as a smart-phone, however officers shall not carry or use another mobile video recorder in addition to the District issued AXON Flex without express approval of the Chief of Police.

451.6 AXON FLEX OPERATING PROCEDURES

Members of the Department that are assigned an AXON FLEX shall receive mobile video training prior to deployment of the device in an operational setting.Prior to going into service each officer shall perform an inspection, consisting of the steps set forth in section 451.3 and provided to each officer at their initial AXON Flex training, to ensure that his/her AXON Flex is operational. If problems are encountered with any component of the system, the AXON Flex equipment will not be used. The officer to whom the problematic equipment is assigned shall report the problem to their immediate supervisor upon becoming aware of it. A spare AXON Flex shall be issued to that officer through a supervisor prior to the officer going into service. The officer and supervisor shall inform the AXON Flex Technician via email of problems that are occurring with the problem unit as well as what spare AXON Flex was assigned to the officer (number of AXON Flex unit). The problematic AXON Flex shall be routed to the AXON Flex Technician to diagnose and shall reassign a new unit to the affected employee.

(a) The officers shall report the loss or theft of an AXON Flex to their immediate supervisor. The officer shall prepare a memo to be routed via the chain of command to the Operations Deputy Chief documenting the circumstances surrounding the loss or theft of the device. The AXON Flex technician should be informed via email from the immediate supervisor of

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the loss. A spare AXON Flex shall be issued to the officer through a supervisor prior to going back into service. The officer and supervisor shall inform the AXON Flex Technician via email of what spare was issued (number of AXON Flex unit). The AXON Flex Technician shall assign a new unit to the officer as soon as possible after receiving notification of the loss or theft of the camera.

(b) Once the AXON Flex is activated pursuant to Section 451.5 of this policy, it shall remain on until the event giving rise to the activation has reached a conclusion and/or the officer leaves the scene of the event, whichever occurs first. When the officer reasonably believes the event giving rise to the activation is over, he/she may deactivate the AXON Flex from the recording mode. If the event giving rise to the activation resumes following the officer's termination of the AXON Flex recording the officer shall reactivate their AXON Flex.

(c) When the AXON Flex is used in any incident, investigation, or during a traffic stop, this fact will be documented on any relevant citation and/or report prepared regarding the incident. Conversely, when the AXON Flex is not used in any incident, investigation, or during a traffic stop, the reason for non-use will be documented on any relevant citation and/or report prepared regarding the incident. Whenever the AXON Flex is activated pursuant to Section 451.5 of this policy, this fact will be documented on any relevant citation and/or police report prepared regarding the event that gave rise to the activation. Conversely, whenever the AXON Flex is not activated as required by Section 451.5 of this policy, the reason for the lack of activation will be documented on the relevant citation and/or police report prepared regarding the event that otherwise would have given rise to activation. For the purposes of capturing the recording or lack of recording in the police report it should be mentioned at the beginning of the narrative summary.

(d) Except in circumstances prohibited by statute, or as directed by the Chief of Police, or his or her designee, an officer may have access to review his/her recordings when preparing written reports and/or statements relevant to any incident, to help ensure accuracy and consistency of accounts.

(e) Department personnel shall not intentionally erase, alter, reuse, modify or tamper with audio-video recordings, nor shall they attempt to erase, alter, reuse, modify or tamper with audio-video recordings.

(f) If the AXON Flex is accidentally activated, the officer shall inform his or her immediate supervisor requesting the recording be deleted. The request shall be sent via email and routed to the AXON Flex Administrator. Once the video has been reviewed by the supervisor and administrator and deemed to have no evidentry value the video will be categorized as "Testing/ Accidental" and retained for thirty (30) days prior to deletion. Officers should note accidental recordings by labeling them using the Samsung Player prior to download.

(g) Once an officer has completed a recordable encounter he or she shall label the recording using the Samsung Player. The officers shall provide the event number, category, and title

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of the video. This information will be uploaded along with the video once docked into the ETM at the end of shift.

(h) Officers working overtime assignments outside of their direct report locations shall utilize a spare AXON Flex and player at the location of their overtime assignment. Officers shall inform their supervisor of the utilization of the spares and send an email to the AXON Flex Technician documenting the spare unit's number to be used for that shift. If a spare is not available the officer shall contact the supervisor to inform them of this issue. The supervisor shall attempt to locate another spare unit on the line that may be available for use and provide the officer instruction on how to obtain it. If the officer and supervisor are unable to locate a spare for the assignment this shall be documented on all reports and citations taken by the officer assigned to the overtime shift.

(i) When an officer discovers that his/her AXON Flex battery is becoming depleted (as evidenced by a yellow indicator light and/or a sounding tone when recording), the officer shall immediately exchange the battery for a charged replacement. If the officer will be delayed in exchanging the battery, or if the officer is unable to locate a charged replacement, the officer shall notify a supervisor and the supervisor will locate a charged replacement for the officer's use as soon as possible.

451.7 AXON FLEX IMPOUNDING PROCEDURE

At the end of each shift, officers shall place the AXON Flex into an assigned open slot on the Evidence Transfer Manager (docking station). This will allow the data to be transferred from the AXON Flex, via the docking station, to bartpd.evidence.com. The data is considered impounded at this point and the AXON Flex is cleared of existing data.

451.8 REVIEW OF RECORDED MEDIA

Recorded files shall be reviewed in any of the following situations:

(a) By a supervisor investigating a specific incident, issue, and/or act of officer conduct.

(b) By any member of the Department who is authorized to participate in an official investigation in the following type of cases only: personnel complaints, administrative investigations, or criminal investigations.

(c) Pursuant to a lawful process or by members of the District Attorney's office or court personnel otherwise authorized to review evidence in a related case.

(d) By the Independent BART Police Auditor or his/her investigator.

(e) With the expressed permission of the Chief of Police or authorized designee.

(f) By the "System Administrators" for the purpose of managing the video evidence, quality assurance, and to categorize, label, provide case numbers to videos when needed.

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451.9 MOBILE VIDEO RECORDERS

The Department assigned AXON Flex shall be the only mobile video recorder allowed for Department employees while on-duty. Any other mobile video recorder shall only be used with the expressed permission of the Chief of Police.

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Medical Marijuana

452.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this department with guidelines for investigating the acquisition, possession, transportation, delivery, production or use of marijuana under California's medical marijuana laws.

452.1.1 DEFINITIONS

Definitions related to this policy include:

Cardholder - A person issued a current identification card.

Compassionate Use Act (CUA) (Health and Safety § 11362.5) - California law intended to provide protection from prosecution to those who are seriously ill and whose health would benefit from the use of marijuana in the treatment of illness for which marijuana provides relief. The CUA does not grant immunity from arrest but rather provides an affirmative defense from prosecution for possession of medical marijuana.

Identification card - A valid document issued by the State Department of Health Services to both persons authorized to engage in the medical use of marijuana and also to designated primary caregivers.

Medical marijuana - Marijuana possessed by a patient or primary caregiver for legitimate medical purposes.

Medical Marijuana Program (MMP) (Health and Safety § 11362.7 et seq.) - California laws passed following the CUA to facilitate the prompt identification of patients and their designated primary caregivers in order to avoid unnecessary arrests and provide needed guidance to law enforcement officers. MMP prohibits arrest for possession of medical marijuana in certain circumstances and provides a defense in others.

Patient - A person who is entitled to the protections of the CUA because he/she has received a written or oral recommendation or approval from a physician to use marijuana for medical purposes or any person issued a valid identification card.

Primary caregiver - A person designated by the patient, who has consistently assumed responsibility for the patient's housing, health or safety, who may assist the patient with the medical use of marijuana under the CUA or the MMP (Health and Safety Code § 11362.5; Health and Safety Code § 11362.7).

Statutory amount - No more than eight ounces of dried, mature, processed female marijuana flowers (#bud#) or the plant conversion (e.g., kief, hash, hash oil), and no more than six mature or 12 immature marijuana plants (roots, stems and stem fibers should not be considered).

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452.2 POLICY

It is the policy of the Bay Area Rapid Transit 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 Bay Area Rapid Transit Police Department will exercise discretion to ensure laws are appropriately enforced without unreasonably burdening both those individuals protected under California law and public resources.

452.3 INVESTIGATION

Investigations involving the possession, delivery, production or use of marijuana generally fall into one of several categories:

(a) Investigations when no person makes a medicinal claim.

(b) Investigations when a medicinal claim is made by a cardholder.

(c) Investigations when a medicinal claim is made by a non-cardholder.

452.3.1 INVESTIGATIONS WITH NO MEDICINAL CLAIM

In any investigation involving the possession, delivery, production or use of marijuana or drug paraphernalia where no person claims that the marijuana is used for medicinal purposes, the officer should proceed with a criminal investigation. A medicinal defense may be raised at any time, so officers should document any statements and observations that may be relevant to whether the marijuana was possessed or produced for medicinal purposes.

452.3.2 INVESTIGATIONS INVOLVING A MEDICINAL CLAIM MADE BY A CARDHOLDER

A cardholder or designated primary caregiver in possession of an identification card shall not be arrested for possession, transportation, delivery or cultivation of medical marijuana at or below the statutory amount unless there is reasonable cause to believe that (Health and Safety Code § 11362.71; Health and Safety Code § 11362.78):

(a) The information contained in the card is false or falsified.

(b) The card has been obtained or used by means of fraud.

(c) The person is otherwise in violation of the provisions of the MMP.

(d) The person does not possess marijuana for personal medical purposes.

Officers who reasonably believe that a person who does not have an identification card in his/her possession has been issued an identification card may treat the investigation as if the person had the card in his/her possession.

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Cardholders may possess, transport, deliver or cultivate medical marijuana in amounts above the statutory amount if their doctor has concluded that the statutory amount does not meet the patient's medical needs (Health and Safety Code § 11362.71; Health and Safety Code § 11362.77). Investigations involving cardholders with more than the statutory amount of marijuana should be addressed as provided in this policy for a case involving a medicinal claim made by a non-cardholder.

452.3.3 INVESTIGATIONS INVOLVING A MEDICINAL CLAIM MADE BY A NON-CARDHOLDER

No patient or primary caregiver should be arrested for possession or cultivation of an amount of medical marijuana if the officer reasonably believes that marijuana is in a form and amount reasonably related to the qualified patient's current medical needs (Health and Safety Code § 11362.5). This arrest guidance also applies to sales, transportation or, delivery of medical marijuana, or maintaining/renting a drug house or building that may be a nuisance if otherwise in compliance with MMP (Health and Safety Code § 11362.765).

Officers are not obligated to accept a person's claim of having a physician's recommendation when the claim cannot be readily verified with the physician but are expected to use their judgment to assess the validity of the person's medical-use claim.

Officers should review any available written documentation for validity and whether it contains the recommending physician's name, telephone number, address and medical license number for verification.

Officers should generally accept verified recommendations by a physician that statutory amounts do not meet the patient's needs (Health and Safety Code § 11362.77).

452.3.4 ADDITIONAL CONSIDERATIONS

Officers should consider the following when investigating an incident involving marijuana possession, delivery, production or use:

(a) Because enforcement of medical marijuana laws can be complex, time consuming and call for resources unavailable at the time of initial investigation, officers may consider submitting a report to the prosecutor for review, in lieu of making an arrest. This can be particularly appropriate when:

1. The suspect has been identified and can be easily located at a later time.
2. The case would benefit from review by a person with expertise in medical marijuana investigations.
3. Sufficient evidence, such as photographs or samples, has been lawfully obtained.
4. Other relevant factors, such as available department resources and time constraints prohibit making an immediate arrest.

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(b) Whenever the initial investigation reveals an amount of marijuana greater than the statutory amount, officers should consider the following when determining whether the form and amount is reasonably related to the patient's needs:

1. The amount of marijuana recommended by a medical professional to be ingested.
2. The quality of the marijuana.
3. The method of ingestion (e.g., smoking, eating, nebulizer).
4. The timing of the possession in relation to a harvest (patient may be storing marijuana).
5. Whether the marijuana is being cultivated indoors or outdoors, the climate, etc.

(c) Before proceeding with enforcement related to collective gardens or dispensaries, officers should consider conferring with a supervisor or other member with special knowledge in this area and/or appropriate legal counsel. Licensing, zoning and other related issues can be complex. Patients, primary caregivers and cardholders who collectively or cooperatively cultivate marijuana for medical purposes are provided a defense under MMP (Health & Safety Code § 11362.775).

(d) Investigating members should not order a patient to destroy marijuana plants under threat of arrest.

452.3.5 EXCEPTIONS

This policy does not apply to, and officers should consider taking enforcement action for the following:

(a) Persons who engage in illegal conduct that endangers others, such as driving under the influence of marijuana in violation of the Vehicle Code (Health and Safety Code § 11362.5).

(b) Marijuana possession in jails or other correctional facilities that prohibit such possession (Health and Safety Code § 11362.785).

(c) Smoking marijuana (Health and Safety Code § 11362.79):

1. In any place where smoking is prohibited by law.
2. In or within 1,000 feet of the grounds of a school, recreation center or youth center, unless the medical use occurs within a residence.
3. On a school bus.
4. While in a motor vehicle that is being operated.
5. While operating a boat.

(d) Use of marijuana by a person on probation or parole, or on bail and use is prohibited by the terms of release (Health and Safety Code § 11362.795).

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452.4 FEDERAL LAW ENFORCEMENT

Officers should provide information regarding a marijuana investigation to federal law enforcement authorities when it is requested by federal law enforcement authorities or whenever the officer believes those authorities would have a particular interest in the information.

452.5 PROPERTY SECTION SUPERVISOR RESPONSIBILITIES

The Property Section Supervisor should ensure that marijuana, drug paraphernalia or other related property seized from a person engaged or assisting in the use of medical marijuana is not destroyed pending any charges and without a court order. The Property Section Supervisor is not responsible for caring for live marijuana plants.

Upon the prosecutor's decision to forgo prosecution, or the dismissal of charges or an acquittal, the Property Section Supervisor should, as soon as practicable, return to the person from whom it was seized any useable medical marijuana, plants, drug paraphernalia or other related property.

The Property Section Supervisor may release marijuana to federal law enforcement authorities upon presentation of a valid court order or by a written order of the Criminal Investigations Section Supervisor.

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Aggressive Panhandling

453.1 PURPOSE AND SCOPE

The purpose of this policy is to provide strategies and restrictions in order to regulate aggressive panhandling, and to create public awareness around the social and safety concerns in an endeavor to improve the negative impact surrounding aggressive panhandling activities.

453.2 POLICY

The practice of aggressive panhandling has been identified as a significant social and safety concern. Whereas public awareness and outreach programs to promote alternative income generating or support options are available for aggressive panhandlers, departmental policies regulating aggressive panhandling is a required part of this coordinated approach to ameliorate the negative impact of aggressive panhandling activities on BART District property

453.3 DEFINITIONS

Panhandling - The personal, spoken, written or gestural direct solicitation by a person of gratuitous donations of money, food or goods of any kind from any member of the public.

Aggressive Panhandling - The solicitation of donations in an insistent, suggestive, intimidating or intrusive manner.

Accosting - Approaching and/or stopping somebody in order to speak to that person, especially in an aggressive, insistent, or suggestive way.

453.4 ELEMENTS OF AGGRESSIVE PANHANDLING

Panhandling for gratuitous donations is legal under the U.S. Constitution's First Amendment. However, aggressive panhandling is illegal.

California Penal Code 647 (c) states: "anyone who accosts other persons in any public place or in any place open to the public for the purpose of begging or soliciting alms is guilty of disorderly conduct (aggressive panhandling), a misdemeanor."

Elements of aggressive panhandling include:

- Soliciting from customers at or near ATM or transit ticket machines.
- Extending the head and both arms, or even the hand, into a car window to solicit.
- Intimidating or obstructing vehicular traffic to solicit.
- Soliciting in a loud voice, often accompanied with wild gesticulations.
- The use of insults, profanity, or veiled threats to solicit.
- Refusing to take "No" for an answer or following an individual to solicit.
- Demanding more money after a donation has been given to solicit.

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- The invasion of personal space, cornering, blocking or inappropriate touching of others to solicit.
- A "team" of one or more beggars approaching an individual at once, often surrounding the person to solicit.
- "Camping out" in a spot where begging negatively influences business (such as in front of fare gates, rest rooms, or ticket machines) with the hope that people will give money to make the beggar go away.
- The use of sales pitch techniques and appeals to emotion to solicit.
- Using false or misleading solicitations.

453.5 PROCEDURES

An officer always has the right to approach any individual including a panhandler, to allay any suspicions an officer may have about the individual and ascertain that no criminal activity is occurring.

When encountering an aggressive panhandler where the continued freedom of the individual would not result in a breach of the peace or a more serious crime, police officers are encouraged to utilize referrals to other appropriate social service providers, in lieu of physical arrest. The discretion to make a physical arrest of a person determined to be an aggressive panhandler shall be the responsibility of the individual officer.

453.5.1 PERSONAL PROPERTY

The personal property of all aggressive panhandlers shall be respected. In no event shall any officer destroy any personal property known to belong to an aggressive panhandler, or readily recognizable as property of an aggressive panhandler unless it is contaminated or otherwise poses a health hazard to an officer or to members of the public.

All property of the arrested person should be turned over to detention personnel at the jail, stored for safe keeping or released per the arrested person's request to a third party. The arrested person's property may be handled by utilizing any combination of the previously listed options. In the event, the jail will not accept the arrested persons property, a property receipt should be issued by the arresting officer for the property that will be stored for safe keeping.

When possible the officer should inform the arrested person of the procedure to pick-up stored property. The arrested person should call (510) 464-7037 to set a pick-up appointment with the evidence clerk. They will also need to bring their property receipt and identification to have the property released. All property kept for safe keeping will be destroyed after 60 days.

The officer shall document in the narrative of his report the disposition of the arrested person's property.

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453.5.2 REPORTING

Officers having interactions and or contacts with persons determined to be an aggressive panhandler as a result of self initiated contact or as a result of a citizen complaint shall contact dispatch with the disposition of the incident.

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Bicycle Patrol Unit

454.1 PURPOSE AND SCOPE

The 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.

454.2 POLICY

Patrol bicycles may be used for regular patrol duty, 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 during the day, according to Department needs and as staffing levels allow. Bicycles shall not be ridden in the rain. They will not be ridden between BART stations without the approval of the Watch Commander

Requests for specific deployment of bicycle patrol officers shall be coordinated through the Bicycle Patrol Unit supervisor or the Watch Commander.

454.3 SELECTION OF PERSONNEL

Interested sworn personnel and Community Service Officers, who are off probation and not currently under discipline, shall submit a Memo of Interest to their sergeant. A copy will be forwarded to 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.

454.3.1 BICYCLE PATROL UNIT SUPERVISOR

The Bicycle Patrol Unit supervisor will be selected from the rank of sergeant by the Operations Bureau Deputy Chief or his/her designee.

The Bicycle Patrol Unit supervisor shall have responsibility for the following:

(a) Organizing bicycle patrol training.

(b) Inspecting and maintaining inventory of patrol bicycles and program equipment.

(c) Scheduling maintenance and repairs.

(d) Evaluating performance of bicycle officers.

(e) Coordinating activities with the Patrol Bureau.

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(f) Other activities as required to maintain the efficient operation of the Bicycle Patrol Unit.

454.4 TRAINING

Participants in the program must complete an initial Department approved bicycle-training course after acceptance into the program. Thereafter bicycle patrol officers should receive once 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.

454.5 UNIFORMS AND EQUIPMENT

Bicycles officers shall wear the departmentally approved uniform and safety equipment while operating the police bicycle. Safety equipment includes departmentally approved helmet, riding gloves, protective eyewear and approved footwear. Soft body armor/vest is required. Community Service Officers are not required to wear soft body armor/vests.

The bicycle uniform consists of the standard short sleeve class "A" Coolmax® uniform shirt with department approved badge and patches and black bicycle patrol pants or shorts with uniform appearance.

Optional equipment includes jacket in colder weather; turtleneck shirts are permitted when worn under the uniform shirt, radio head set and microphone.

Bicycle officers and CSOs shall carry the same equipment on the bicycle patrol duty belt as they would on a regular patrol assignment.

Officers and CSOs will be responsible for obtaining necessary forms, citation books and other needed equipment to keep available while on bike patrol.

454.6 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). The Community Service Officers will be issued the same bicycles but, without the emergency lighting.

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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.

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 ridden by sworn personnel 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). Officers shall promptly report any damage to the bicycle and note it on the Damage Control Card for the bike.

If a needed repair is beyond the ability of the bicycle officer, a To/From memo will be completed and forwarded to the program supervisor for repair by an approved technician.

Each bicycle will have scheduled maintenance once 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.

Officers and CSOs 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.

Officers and CSOs can purchase their own bikes for patrol use. The bicycles must be approved by the BPU Lieutenant prior to purchase. Officers purchasing their own bikes shall be responsible for all maintenance, damage or loss.

454.7 OFFICER RESPONSIBILITY

Officers and CSOs must operate the bicycle in compliance with the vehicle code under normal operation. Officers may not operate the bicycle hours of darkness.

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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CSOs are not exempt from the rules of the road at any time.

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Animals On District Trackways

455.1 PURPOSE AND SCOPE

The purpose of this directive is to establish procedures for the safe removal of live, injured or dead animals from District trackways.

455.2 DEFINITION

Trackway - The portion of the BART system within protective fencing, tunnels, tubes, subways, stations or aerial structures, wherein trains operate.

455.3 PROCEDURE

When assigned to a call of a live, injured or dead animal on the trackway, the responding officer will take the following appropriate action:

(a) **Notification:** The animal control services department in that jurisdiction will be requested to respond to the reported animal's location. If an animal control officer responds, the BART Police Department officer shall accompany the animal control officer at all times while in the trackway. The BART Police Department officer shall apprise the animal control officer of all dangers within the trackway area (i.e., third rail, train traffic, etc.).

(b) **Live Animals:** If an animal is interfering with mainline train traffic, immediate attempts should be made to clear the animal from the trackway with or without the assistance of an animal control officer. If repeated attempts have failed to accomplish the safe and timely removal of the animal from the trackway, the BART Police Department officer shall contact a supervisor who will determine if the animal should be dispatched.

1. If the animal is not interfering with mainline train traffic, attempts should be made to first clear the animal from the trackway, or capture the animal. If repeated attempts fail to accomplish the safe and timely removal of the animal from the trackway, the officer shall contact a supervisor who will determine if dispatching the animal is warranted.

(c) **Injured Animals:** Injured animals shall be treated in the same manner as live animals. All officers should be aware that any injured animal is a potential risk and may turn vicious without warning. Injured animals actually on the tracks or near the third rail should be dispatched prior to removal to insure the safety of the BART Police Department officer or the animal control officer.

(d) **Dead Animals:** For any animal removal officers will be responsible in evaluating that the conditions are safe. They shall also evaluate whether the dead animal is to large, heavy or in a condition which will allow for its easy and clean removal.

1. Officers assigned to accompany animal control officers may, with the approval of a supervisor, assist in the removing of the dead animals from the trackway to a safe area.

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2. In the event the removal of a dead animal is requested during non-business hours of the animal control services department, the BART officer may, with the approval of a supervisor, move the dead animal to a safe area for later animal control removal.

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Delay of Revenue Trains

457.1 PURPOSE AND SCOPE

To provide guidelines for the holding of revenue trains when police intervention is required.

457.2 POLICY

It is the policy of the Department that revenue train delays resulting from police action will be kept to the minimal level necessitated by the circumstances and in consideration of the District goals to achieve maximum train performance while maintaining patron safety.

457.3 PROCEDURE

(a) **Train Control:** The overall control of revenue train operations is the responsibility of the Operations Control Center manager.

(b) **Scene Control/Coordination:** BART Police Department personnel will adhere to the provisions of the Operations Rules and Procedures Manual and the BART Emergency Plan. Specifically, it is the responsibility of police personnel requesting any interruption of revenue train service to inform the Operations Control Center of all pertinent circumstances at the earliest possible time. In all life-threatening situations, the police officer at the scene shall inform the Operations Control Center of the circumstances and shall have complete control to accomplish the police function.

(c) **Considerations:** The following factors should be considered in any request to hold a revenue train for police action:

1. Patron safety and protection
2. Severity of the situation
3. Necessity for immediate versus delayed police action
4. Impact of the delay in operations during peak hours versus non-peak service
5. Alternatives to holding a train

(d) **Format:** Officers shall provide the Operations Control Center with the following information as part of any request to hold a train:

1. Reason for the request to hold
2. Station or mile post location
3. Track identifier
4. Train destination
5. Platform identifier where appropriate.

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(e) **Restoration of Service:** Officers shall avoid any delay in notifying the Operations Control Center to resume service. Any delay in the rapid resumption of revenue service must be agreed upon by the Operations Control Center manager and by the BART police watch commander or sergeant-in-charge.

1. Under no circumstances will revenue service be delayed beyond a reasonable period of time for situations that are routine and not life-threatening in nature.

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Foot Pursuit Policy

458.1 PURPOSE AND SCOPE

Foot pursuits are inherently dangerous and require common sense, sound tactics and heightened officer safety awareness. This policy sets forth guidelines to assist officers in making the decision to initiate or continue the pursuit of suspects on foot by balancing the objective of apprehending the suspect with the risk of potential injury to the officer, the public or the suspect.

458.1.1 POLICY

It is the policy of this department when deciding to initiate or continue a foot pursuit that officers must continuously balance the objective of apprehending the suspect with the risk and potential for injury to department personnel, the public or the suspect.

Officers are expected to act reasonably, based on the totality of the circumstances. Absent exigent circumstances, the safety of department personnel and the public should be the primary consideration when determining whether a foot pursuit should be initiated or continued. Officers must be mindful that immediate apprehension of a suspect is rarely more important than the safety of the public and department personnel.

458.2 DECISION TO PURSUE

Officers may be justified in initiating a foot pursuit of any individual the officer reasonably believes is about to engage in, is engaging in or has engaged in criminal activity. The decision to initiate or continue such a foot pursuit, however, must be continuously re-evaluated in light of the circumstances presented at the time.

Mere flight by a person who is not suspected of criminal activity shall not serve as the sole justification for engaging in an extended foot pursuit without the development of reasonable suspicion regarding the individual's involvement in criminal activity.

Deciding to initiate or continue a foot pursuit is a decision that an officer must make quickly and under unpredictable and dynamic circumstances. It is recognized that foot pursuits potentially place department personnel and the public at significant risk. Therefore, no officer or supervisor shall be criticized or disciplined for deciding not to engage in a foot pursuit because of the perceived risk involved.

If circumstances permit, surveillance and containment are generally the safest tactics for apprehending fleeing persons. In deciding whether to initiate or continue a foot pursuit, an officer should continuously consider reasonable alternatives to pursuit based upon the circumstances and resources available, such as the following:

(a) Containment of the area.

(b) Canine search.

(c) Saturation of the area with patrol personnel.

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(d) Aerial support.

(e) Apprehension at another time when the identity of the suspect is known or there is information available that would likely allow for later apprehension, and the need to immediately apprehend the suspect does not reasonably appear to outweigh the risk of continuing the pursuit.

458.2.1 PURSUIT INTO RIGHTS-OF-WAY

(a) **Pursuits by BART Officers:** Officers should use extreme caution when deciding whether to pursue a suspect into a District right-of-way, particularly if the suspect flees using the trackway or into an underground tunnel area. The danger posed by moving trains, switches and the electric third rail make such pursuits extremely hazardous and they should not be undertaken for minor offenses. In no case should an officer pursue a suspect onto a right-of-way until he/she has established contact with dispatch and ensured that trains are being held out of the affected area and, if reasonably necessary, that electrical power is shut off as well. Only then should an officer enter the right-of-way to pursue the suspect.

1. In these situations, priority should be given to positioning officers at the next logical exit point and intercepting the suspect, rather than pursuing along the right-of-way.

(b) **Pursuits by Other Agencies:** From time to time, officers from other agencies may pursue suspects into stations, or onto District rights-of-way. These pursuits are even more hazardous, as there is often no coordination between BART and the pursuing agency and the pursuing officers often have no ability to communicate with their own dispatch centers. If BART officers are in a position to assist another agency with the pursuit of a suspect who has fled into the BART system, officers should exercise the same caution and coordinate holding revenue trains and electrical power before allowing the other agency's officers to enter the right of way. A BART officer should accompany the other agency to assist with communication and coordination.

458.2.2 PURSUIT FOR MINOR OFFENSES

The decision to initiate or continue a foot pursuit for a minor offense, such as fare evasion, should be carefully considered by the officer(s) involved. While it is true that suspects detained for minor offenses often elect to flee because they are attempting to elude arrest for more serious crimes, officers must weigh the inherent hazards of a foot pursuit against the known seriousness of the crime at hand. Minor offenses which may not justify the risk of a foot pursuit, or the expenditure of significant resources in order to capture the suspect, infraction violations and non-violent misdemeanor offenses. Officers should also carefully weigh involving outside agencies in extended foot pursuits or area searches for minor violations.

Officers should make every effort however, to locate and apprehend those suspects reasonably believed to be involved in more serious criminal activity. Suspects known to have outstanding felony arrest warrants, as well as those suspects believed to have committed felony or violent misdemeanor offenses should be pursued as long as the pursuit can be accomplished with a

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reasonable degree of safety for the pursuing officers, the general public and the pursued suspect. These cases are also more likely to warrant the involvement of outside agencies, air support, the use of police canines and the resources required to establish a perimeter and to conduct a potentially lengthy area search.

Supervisors should carefully monitor extended foot pursuits for minor violations and direct the pursuit to be terminated if the risks of continued pursuit outweigh the likely benefit of continuing the pursuit.

458.3 GUIDELINES FOR FOOT PURSUIT

Unless the officer reasonably believes that exigent circumstances exist (e.g. a serious threat to the safety of personnel or members of the public), officers should consider alternatives to engaging in or continuing a foot pursuit under the following conditions:

(a) When directed by a supervisor to terminate the foot pursuit. Such an order shall be considered mandatory

(b) When the officer is acting alone.

(c) When two or more officers become separated, lose visual contact with one another, or obstacles separate them to the degree that they cannot immediately assist each other should a confrontation take place. In such circumstances, it is generally recommended that a single officer keep the suspect in sight from a safe distance and coordinate the containment effort.

(d) The officer is unsure of his/her location and direction of travel.

(e) When pursuing multiple suspects and the pursuing officers do not reasonably believe that they would be able to control the suspect should a confrontation occur.

(f) When the physical condition of the officers renders them incapable of controlling the suspect if apprehended.

(g) When the officer loses radio contact with the Communications Center or with backup officers.

(h) When the suspect enters a building, structure, confined space or a wooded or otherwise isolated area and there are insufficient officers to provide backup and containment. The primary officer should consider discontinuing the pursuit and coordinating containment pending the arrival of sufficient officers.

(i) The officer becomes aware of unanticipated or unforeseen circumstances that unreasonably increase the risk to officers or the public.

(j) The officer reasonably believes that the danger to the pursuing officers or public outweighs the objective of immediate apprehension.

(k) The officer loses possession of his/her firearm or other essential equipment.

(l) The officer or a third party is injured during the pursuit, requiring immediate assistance, and there are no other emergency personnel available to render assistance.

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(m) The suspect's location is no longer definitely known.

(n) The identity of the suspect is established or other information exists that will allow for the suspect's apprehension at a later time, and it reasonably appears that there is no immediate threat to department personnel or the public if the suspect is not immediately apprehended.

(o) The officer's ability to safely continue the pursuit is impaired by inclement weather, darkness or other conditions.

458.4 RESPONSIBILITIES IN FOOT PURSUITS

458.4.1 INITIATING OFFICER RESPONSIBILITIES

Unless relieved by another officer or a supervisor, the initiating officer shall be responsible for coordinating the progress of the pursuit. When acting alone and when practicable, the initiating officer should not attempt to overtake and confront the suspect but should attempt to keep the suspect in sight until sufficient officers are present to safely apprehend the suspect.

Early communication of available information from the involved officers is essential so that adequate resources can be coordinated and deployed to bring a foot pursuit to a safe conclusion. Officers initiating a foot pursuit should broadcast the following information as soon as it becomes practicable and available:

(a) Unit identifier

(b) Location and direction of travel

(c) Reason for the foot pursuit

(d) Number of suspects and description

(e) Whether the suspect is known or believed to be armed

Officers should be mindful that radio transmissions made while running may be difficult to understand and may need to be repeated.

Absent extenuating circumstances, any officer unable to promptly and effectively broadcast this information should terminate the pursuit. If the foot pursuit is discontinued for any reason, immediate efforts for containment should be established and alternatives considered based upon the circumstances and available resources.

When a foot pursuit terminates, the officer will notify the Communications Center of his/her location and the status of the pursuit termination (e.g., suspect in custody, lost sight of suspect), and will direct further actions as reasonably appear necessary.

458.4.2 ASSISTING OFFICER RESPONSIBILITIES

Whenever any officer announces that he/she is engaged in a foot pursuit, all other officers should minimize non-essential radio traffic to permit the involved officers maximum access to the radio frequency.

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Any officer who is in a position to intercept a fleeing suspect or who can assist the primary officer with the apprehension of the suspect, shall act reasonably and in accordance with department policy, based upon available information and his/her own observations.

458.4.3 SUPERVISOR RESPONSIBILITY

Upon becoming aware of a foot pursuit, the supervisor shall make every reasonable effort to ascertain sufficient information to direct responding resources and to take command, control and coordination of the foot pursuit. The supervisor should respond to the area whenever possible; the supervisor does not, however, need not be physically present to exercise control over the pursuit. The supervisor shall continuously assess the situation in order to ensure the foot pursuit is conducted within established department guidelines.

The supervisor shall terminate the foot pursuit when the danger to pursuing officers or the public appears to unreasonably outweigh the objective of immediate apprehension of the suspect.

Upon apprehension of the suspect, the supervisor shall promptly proceed to the termination point to direct the post-pursuit activity.

458.4.4 THE COMMUNICATIONS CENTER RESPONSIBILITIES

Upon being notified or becoming aware that a foot pursuit is in progress, communication personnel shall, as soon as practicable, notify the field supervisor and provide available information. the Communications Center personnel are also responsible for the following:

(a) Clear the radio channel of non-emergency traffic.

(b) Repeat the transmissions of the pursuing officer as needed.

(c) Relay all pertinent information to responding personnel.

(d) Contact additional resources as directed by a supervisor.

(e) Coordinate response of additional resources to assist with the foot pursuit.

458.5 REPORTING

The initiating officer shall complete the appropriate crime/arrest reports documenting, at minimum, the following:

(a) The reason for initiating the foot pursuit.

(b) The identity of involved personnel.

(c) The course and approximate distance of the pursuit.

(d) Whether a suspect was apprehended as well as the means and methods used.

    1. Any use of force shall be reported and documented in compliance with the Department Use of Force Policy 300.

(e) Any injuries or property damage.

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Assisting officers taking an active role in the apprehension of the suspect shall complete supplemental reports as necessary or as directed.

In any case in which a suspect is not apprehended and there is insufficient information to warrant further investigation, a supervisor may authorize that the initiating officer need not complete a formal report.

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Tactical Team & Crowd Control

459.1 PURPOSE AND SCOPE

The primary unit within the department responsible for crowd management and crowd control operations is the Tactical Team. The Tactical Team will be commanded by a lieutenant and will be made up of sufficient supervisors and officers to enable the team to effectively respond to crowd events that impact the BART system. Team members will receive regular training in crowd management and crowd control techniques, legal issues and integrated team operations.

This department's policy regarding crowd management and crowd control is to apply the appropriate level of direction and control to protect life, property, system facilities and maintain public peace and order and to uphold the constitutional rights of free speech and assembly. This should be accomplished using the minimal amount of physical force and authority reasonably required to address crowd management and crowd control issues.

459.2 DEFINITIONS

Crowd Management: Is defined as techniques used to manage lawful public assemblies before, during and after the event for the purpose of maintaining the event's lawful status and assisting in the efficient movement of patrons through the system. This can be accomplished in part through coordination with event planners and group leaders, coordination with allied agencies and by consulting after-action reports from prior events.

Crowd Control: Is defined as techniques used to address unlawful public assemblies, including a highly visible police presence, crowd containment, dispersal tactics and arrest procedures.

Expressive Activities: Include all forms of speech and expressive conduct used to convey ideas and/or information, to express grievances or to otherwise communicate with others, and includes both verbal and non-verbal expression. Common expressive activities include, but are not limited to: speeches, demonstrations, vigils, picketing, distribution of literature, holding of banners or signs, use of puppets to convey a message, street theater and other artistic forms of expression. These activities involve the freedoms of speech, association and assembly and the right to petition the government as guaranteed by the First Amendment of the United States Constitution and Article 1, Sections 2 & 3 of the California Constitution.

Demonstration/Civil Disturbance/Protest/March: Are generic terms which include a wide range of expressive activities which require, or may require, a police response. They include, but are not limited to: marches, protests, student walk-outs, assemblies and sit-ins. Such events and activities generally attract a crowd of persons, including participants, onlookers, observers, media and other persons who may disagree with the point of view being expressed.

Crowd Event: Includes all crowd situations that impact the District, including sporting events, festivals, concerts, celebratory crowds and other large gatherings that are unrelated to the expression of a political, social or ideological point of view.

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Grenadier: Is a sworn officer trained in the use of the SIMS launcher and the deployment of crowd control chemical agents.

Squad/Team: Are terms used to describe a tactical unit, usually comprised of 4 - 6 officers and a sergeant.

Platoon: Is a term used to describe a tactical unit comprised of multiple squads, normally commanded by a lieutenant.

459.2.1 GENERAL PRINCIPLES

- All persons have the right to march, demonstrate, protest, rally or perform other activities protected by the First Amendment of the United States Constitution and California Constitution. The right to carry out First Amendment activities comes with the responsibility to **not** abuse or violate the civil and property rights of others. The responsibility of law enforcement is to protect the lives and property of all people. The government may impose reasonable and narrowly tailored restrictions on the time, place and manner of conducting these First Amendment activities. However, any limitations or restrictions placed on demonstrations or other First Amendment activities must be justified by the requirements of maintaining public safety, public health or safe access/egress, and should restrict no more speech than necessary to further these substantial government interests. Officers must not allow themselves to be affected by the content of the opinions being expressed, nor by the race, gender, sexual orientation, physical disabilities, appearance or affiliation of anyone exercising his/her lawful rights.
- The District will, upon application to the Department of Media and Public Affairs, consider issuing permits to groups wishing to conduct expressive activities. These permits contain provisions to maintain public safety and safe access to the system. Expressive activity must be conducted in the free areas of the BART system and may not impede access to station entrances/exits, ticket machines, fare gates or patron/customer walkways. Groups are permitted to pass out informational material, display signs, banners and like materials, engage patrons in conversation, solicit signatures, accept monetary donations and sell ideological materials such as books, clothing and other materials relating to the group's message/beliefs. Those engaged in expressive activity may not use amplified sound equipment, nor may they sell materials unrelated to their cause.
- The primary purpose of the San Francisco Bay Area Rapid Transit District (BART) is to provide, safe, secure, efficient, reliable, and clean transportation services to its passengers. In furtherance of its function as a provider of public transportation, the District intends that its property and facilities be used for public transit related activities. The District's transportation interests include maintaining and ensuring safe and secure transit properties consistent with its security readiness policies and procedures; preventing delays and inconvenience to passengers by minimizing congestion and expediting their entering and exiting BART Stations and their boarding, transferring, and de-boarding of BART trains; and reducing litter pick-up and other maintenance and administrative expenses so as to maximize public transit

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services. To prevent interference and obstruction with the District's primary transportation responsibilities and to protect its facilities, while at the same time accommodating expressive activities that are constitutionally protected by the First Amendment to the United States Constitution and the Liberty of Speech Clause of the California Constitution (expressive activity), the District has made available certain areas of its property for expressive activity and has instituted the following Rules. The rules of the San Francisco Bay Area Rapid Transit District Pertaining to the use of District facilities for expressive activities can be located at: http://www.bart.gov/about/business/permits/eapermits.aspx

- Despite the District's desire that groups obtain an expressive activity permit prior to conducting their activity, there is no legal remedy available to officers if groups do not, or will not, obtain such permits. Absent a violation of a criminal code (e.g. Penal, Vehicle or Municipal Codes), groups and individuals will be allowed to conduct expressive, or First Amendment, activities within the free areas of the system whether or not they possess a permit issued by the District. Expressive Activity permit rules and applications may be obtained for last minute, non-permitted events through the BART Police Department's Watch Commander office at 510-464-7020. Organizers should contact this number and have an available fax number or email account where the permit rules and application can be sent. A return fax and email will be provided by the on-duty Watch Commander.
- The Incident Command System will be used for managing crowds and acts of civil disobedience.
- Ideally, the Incident Commander at a crowd event will be the Tactical Team commander or a patrol lieutenant. However, there may be situations where a sergeant is designated as Incident Commander, particularly at spontaneous events. Decisions about crowd dispersal, general strategy for crowd containment or redirection, multiple simultaneous arrests, planned individual arrests or planned use of force should be made at the level of the Incident Commander or above. If such decisions are made by higher ranking off-site BPD officials (e.g., watch commander, Operations Bureau Deputy Chief or the Chief), the Incident Commander should first be consulted about the situation in the field and the potential impact of these decisions before they are implemented. All such decisions should be documented in writing, noting the time, identity of the official making the decision and the precise decision and directions given. The Incident Commander, or his/her designee should make field notes of such decisions as soon as possible. Such decisions and orders should then be documented in a supplemental police report. This does not preclude actions consistent with the orders of the Incident Commander taken by individual Deputy Chiefs, supervisors or officers in order to defend themselves or others from imminent danger.
- The on-duty watch commander and Operations Bureau Deputy Chief should be notified as soon as possible of large or potentially disruptive demonstrations or crowd events.
- Officers should, whenever possible, follow the principle of establishing and maintaining communications with the demonstration planners. Incident commanders assigned to these incidents should facilitate the involvement of event planners/organizers and attempt to gain

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their cooperation regarding the activities planned, without regard to whether a permit has been applied for or issued. When communication is established, the Incident Commander should attempt to maintain regular contact with the group's representative in order to reduce potential disruptions.

- Some groups may refuse to cooperate with this department and may refuse to communicate. Other groups may not have any defined leaders. However, the Incident Commander should attempt to establish liaison with each protest group as early in the event as possible, continuing until the event terminates, even if enforcement actions commence.
- Spontaneous demonstrations or crowd events, which occur without prior planning and/or without prior notice to the police, present less opportunity for police planning and prevention efforts. Nonetheless, the same principles concerning crowd management, crowd control, crowd dispersal and police responses to violence and disorder apply to spontaneous events as to planned demonstrations. Incident Commanders should involve representatives of demonstration groups during planning and responding to both planned and spontaneous events, whenever possible.
- Officers should maintain a professional demeanor, and remain neutral in word and deed, despite unlawful or anti-social behavior on the part of crowd members. Unprofessional police behavior can inflame a tense situation and make control efforts more difficult and dangerous. Strong supervision and command are essential to maintaining a unified, measured and effective police response. A response incorporating strong leadership and based on teamwork is crucial to maintaining control and safety for officers and the public. Impulsive or independent actions by officers should be avoided.
- When possible, before and during crowd events, some officers should be deployed to the best available vantage points in order to observe and report crowd actions and movements.
- Lines of containment/control, using physical or visual barriers (interlocking metal barricades, cones, yellow tape, etc...), should be established, especially in events that involve protesters with opposing views. Whenever possible, hostile factions should be separated by physical barriers.
- Considering the type of crowd expected to be involved is an important factor in responding properly to the crowd's behavior. Crowds may vary from cooperative or celebratory, to non-compliant and hostile or combative. Organized demonstrations in which some engage in coordinated non-violent civil disobedience should be distinguished from crowds in which substantial numbers of people are engaged in other types of unlawful acts.
- Tactics employed by demonstrators involved in civil disturbances frequently include efforts to draw the police and other public officials into responses likely to produce violence and injury to participants and thus garner support for their cause. It is therefore incumbent upon officers to resolve disruptive situations in a manner which will minimize the potential for violent confrontations by performing their assigned tasks within the framework of this policy.

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459.2.2 POLICING THE CROWD

Sufficient resources to make multiple, simultaneous arrests should be available at demonstrations where such arrests are a reasonable possibility. However, this must be balanced against the fact that a large and visible police presence may have a chilling effect on the lawful exercise of free speech rights, or may inflame the crowd. Where additional resources are needed, consideration should be given to staging a mobile reserve force of officers in a location that is nearby but not readily visible to the crowd. When possible, officers should be at their posts well in advance of arriving participants. Officers should be positioned at a distance that allows a timely response, but avoids the perception of intimidation.

Officer should work in squads or platoons when policing a demonstration, and should not enter or engage the crowd alone. Officers should wear their designated Tactical Team uniform when performing crowd duties. The uniform should bear the officer's name or identification number, as required by 830.10 PC. Tactical Team officers should also affix their identification numbers to the outside of their helmets.

Crowd control and crowd dispersal, as well as a show of force in crowd control situations, should be accomplished whenever possible using Tactical Team personnel, rather than on-duty patrol officers.

It is important to recognize that all members of a crowd of demonstrators are not the same. Not all crowd situations involve civil disobedience or violence. Law enforcement's responsibility is to objectively discern at what point a demonstration leaves the realm of legal protest and becomes an abridgment of the rights of others. Even when some members of a crowd engage in violence or destruction of property, there will be other members of the crowd who neither condone nor participate in such acts. However, once some members of a crowd become violent, the situation often becomes chaotic and many individuals in the crowd who do not want to participate in the violent or destructive acts may be blocked from leaving the scene by the sheer size of the crowd, or because they are afraid they will move into a position of increased danger. This does not mean that officers cannot take enforcement action against the crowd as permitted under this policy, but officers should seek to minimize the risk that force and arrests may be directed at innocent persons.

Officers should avoid negative verbal engagement with members of the crowd. Officers should not argue or otherwise engage members of the crowd in a debate regarding the political, ideological or social views being expressed by the crowd. Verbal abuse against officers, by itself, does not constitute a reason for detention or arrest, or for any use of force against any individual member of the crowd. Crowd members whose behavior escalates from simple verbal abuse or insults to behavior which meets the elements of criminal threats against an officer or other person (69 or 422 PC) should be identified and detained/arrested for the criminal violation as soon as that can be accomplished safely and in a coordinated fashion, at the direction of a supervisor.

Officers in non-violent crowd situations should not display or brandish weapons (firearm, SIMS, TASER, baton) before a dispersal order is given or other enforcement action is being implemented, except as delineated in this policy.

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Officers should not be sent into an obviously hostile crowd solely for the purpose of communication. Officers should not penetrate a crowd for an individual arrest unless the targeted individual is involved in serious criminal conduct and the decision to move into the crowd is made by a supervisor and adequately coordinated with the rest of the team.

The Incident Commander and supervisors should make every effort to ensure that the police mission is accomplished as safely, effectively and unobtrusively as possible, with the highest regard for the human dignity and liberty of all persons, and with minimal reliance on the use of physical force and authority. The use of force shall be restricted to circumstances authorized by law and to the degree reasonably necessary in light of the circumstances confronting officers. This does not preclude police officers from taking appropriate action to direct crowd and vehicular movement, enforce ordinances and statutes and employ the physical force necessary to maintain the safety of the crowd, the general public, law enforcement personnel and other emergency personnel.

459.2.3 RESPONSES TO CROWD SITUATIONS

(a) **Spontaneous Event or Incident:**

1. The first officer or other police employee at the scene of a civil disturbance should observe the situation from a distance and evaluate it carefully before taking action. The employee should notify a supervisor as soon as possible.
2. A supervisor and, if practicable, the watch commander, should respond to the scene of spontaneous events and take command of the incident as Incident Commander, until relieved by a ranking officer. The Incident Commander should declare over the police radio that he/she has assumed command of the incident. A command post should be established as soon as possible.
3. An immediate assessment of the situation is essential for effective police response. The Incident Commander must ascertain the following information as quickly as possible:
    (a) The location and type of event.
    (b) Are a significant number of the crowd participants behaving unlawfully?
    (c) First Amendment activities will be evaluated by the Incident Commander to determine the lawfulness of the actions taking place. Specifically, actions and speech protected by the First Amendment include such things as rallies, protests, picketing, marches, parades and leafleting. Actions or behavior involving trespass, destruction of property, disruption of transportation, unlawful use of amplification devices, assaults and disturbances of the peace are not protected by the First Amendment.
    (d) Are there a limited number of specific individuals engaged in unlawful behavior?

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(e) Is there a likelihood that the unlawful conduct will spread to other crowd participants (mimicking)?

(f) Are there immediate threats to the safety of the public and/or police officers?

(g) Structures or vehicle(s) involved.

(h) The size of the involved area.

(i) The potential for disruption to normal revenue train service.

(j) The number of additional officers and police resources needed as well as requirements for specialized units (Tactical Team, Special Weapons and Tactics, Hostage Negotiation Team).

(k) The manner of response for additional units (Code 2 or 3).

(l) Identification of a staging area for arriving resources and the location of the command post.

(m) Ingress and egress routes.

(n) Potential need for additional outside resources (paramedic, fire department, Power and Way, mutual aid requests, etc.).

(b) **Planned Event Involving Potentially Large Crowds:**

(a) Upon notification of a large, planned event, the Tactical Team commander or designee should develop an operations plan. Operations plans for large events requiring the redeployment of personnel from regular assignments should be approved by the Operations Bureau Deputy Chief. The Incident Commander of planned events is responsible for the overall coordination of the event, as well as crowd control and management.

(b) The following factors should be considered in developing the operations plan for a large crowd event, including, but not limited to:

(a) What type of event is to occur (protest, sporting event, concert, etc.)

(b) Who is organizing the event? What is their past record of conduct (peaceful, cooperative, violent, etc.)? If the event is recurring, past operations orders and after-action reports should be reviewed to assist in developing a response.

(c) What is the potential for counter-demonstrations?

(d) Will the event involve the use or sales of alcohol at the hosting venue, or the potential for abuse of other intoxicants?

(e) Where is the event going to occur? Consider size, location, ingress and egress routes.

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(f) What are the optimal sites for a command post, staging area, rest area, etc.?

(g) Has the group requested, or been granted an Expressive Activity Permit?

(h) Have other agencies/departments been notified and included in the planning process (Transportation, Operations, allied police agencies)?

(i) Will the Emergency Operations Center or mutual aid be required?

(j) Is it possible or appropriate to coordinate with the group organizers and explain the department's mission, preparation and potential responses? Information considered sensitive should not be released to group organizers if it will jeopardize the safety or effectiveness of police personnel.

(k) Have the proper number of officers been scheduled to safely handle the event? Should a reserve or on-call contingent be made available?

(l) Has an enforcement strategy been formulated and communicated to affected personnel?

(c) The Tactical Team commander is responsible to:

(a) Coordinate with affected specialized units, departments and allied agencies to prepare and coordinate the development of an operational plan that details assignments, traffic and crowd flow, communications and tactics.

(b) Prepare the written operations order, using the five section SMEAC format (Situation, Mission, Execution, Administration, Command & Control).

(c) Coordinate inspection of the protest/event site prior the event, to locate any pre-positioned equipment staged by demonstrators. All available intelligence information relating to the group's identity, history and purpose should also be gathered to assist in the planning process.

(d) Ensure that appropriate equipment and supplies are available.

(e) Ensure that a video operator and required equipment are available.

(f) Establish protocols for and procedures for processing of arrestees and the collection of evidence.

(g) Personnel should be briefed on the operations plan and their particular assignments before deployment. Specific instructions covering topics such as applicable laws, community concerns, appropriate enforcement actions, chain of command, tactics, traffic patterns, intelligence, etc., should be clearly presented to all personnel and all questions and concerns answered.

(c) **Special Events at Coliseum Complex:**

1. The Oakland Coliseum Station is frequently impacted by special events being held at the Coliseum Complex (the Stadium and Arena). During events at the

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Coliseum Complex, the department's primary responsibility is to ensure the safe and expeditious movement of people arriving and departing these events, as well as to deter lawlessness. By mutual agreement between involved agencies (BART PD, Oakland PD and the Alameda County Sheriff's Office), this department is responsible for policing the BART station, station parking lots, the sidewalk adjacent to the station on the north side of San Leandro Street and the pedestrian bridge connecting the station and the Coliseum Complex, to the south pedestrian gate where the walkway connects to the stadium itself.

2. Depending on the size of the anticipated crowd and the type of event being held, the Operations Bureau Deputy Chief, or his/her designee, will determine whether the Tactical Team will be assigned to provide crowd control, or whether the event will be staffed by patrol and/or special event officers. The following staffing guidelines may apply:

   (a) Projected crowd events of 10,000 to 20,000 recommended staffing of a minimum of two officers.

   (b) Projected crowd events of 20,000 to 40,000 recommended staffing of a minimum of four officers and one sergeant.

   (c) Projected crowd events exceeding 40,000 recommended staffing of six to eight officers and one or two sergeants.

3. For special events with a heightened potential for disruptive behavior, the Operations Bureau Deputy Chief may determine whether to staff the event with the Tactical Team or with the number of special event officers deemed appropriate, regardless of the expected crowd size.

4. Unless authorized by a supervisor assigned to the special event, officers working special event overtime for Coliseum events will report to the Zone 1 squad room on the date and time posted to receive their assignments prior to reporting to the Coliseum or other location. Upon completion of the event and dispersal of the crowd, only a supervisor assigned to the event may release officers from their fixed-post assignments and authorize their return to Lake Merritt or another location.

5. While performing crowd management/crowd control duties at Coliseum events, if staffing permits, at least two officers should be assigned to the platform as patrons arrive for the event. Once the platform clears and large numbers of patrons are no longer arriving, these officers may be reassigned to other locations in the interior or perimeter of the station. The supervisor(s) responsible for the event should assign available officers to cover as many of the following locations as possible, in descending priority order:

   - Fare gates
   - Free area

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- Pedestrian tunnel
- Pedestrian walkway
- Mobile patrol of station parking lots

6. All rest breaks, including meals, if applicable, should be coordinated by the supervisor(s) in charge of the event. During major events, at least two officers should remain at the station at all times.
7. Unless assigned, or handling a call for service or detaining multiple suspects, officers should not congregate in public view in groups of three or more. Roving patrols should be maintained on the walkway, in the pedestrian tunnel and in the parking lots when staffing permits. Any personnel assigned to a Coliseum event detail may be reassigned to other duties, including beat coverage, prisoner transport, or train patrol.
8. As post-event crowds return to the station, officers should patrol platforms, monitor escalators, elevators and other areas of the station as assigned. If available, officers should be assigned to the top and bottom of operating escalators in order to regulate crowd movement and prevent mishaps. If necessary, officers should stop ascending riders until the platform clears sufficiently to allow more patrons to safely disembark the escalator at platform level.
9. If available, a mobile officer or beat officer should be assigned to patrol the parking lots. A supervisor may assist with any of the aforementioned duties and will coordinate with Transportation supervisors throughout the event.

(d) **Special Event Sergeant's Duties:**

(a) Ensure all personnel are given assignments and perform their assigned duties.

(b) Ensure officers are at their posts at least one hour prior to the start of the event and at least thirty minutes before the anticipated end of the event, or when significant crowds begin returning to the station.

(c) Coordinate with Transportation personnel to monitor escalator usage and platform crowding to ensure patron safety.

(d) Coordinate movement of patrons through fare gates to the platform.

(e) Prevent intoxicated or unruly patrons from entering the paid area.

(f) Supervise officers assigned to the event and direct law enforcement efforts.

(g) Assign officers to handle calls for service at the Coliseum Station during the event.

459.2.4 USE OF FORCE IN CROWD CONTROL/MANAGEMENT SITUATIONS

When dealing with crowds and civil disobedience situations, law enforcement must be a disciplined and well-organized control force. The decisions to use force and the force options that may be

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applied in response to these incidents range from officer presence to deadly force. Peace officers need not use the least intrusive force option, but only that force which is objectively reasonable under the totality of the circumstances.

All uses of force by sworn officers are governed by the department's use of force policies (300, 304, 308 & 309) and applicable federal and state laws. Nothing about a crowd control situation eliminates or changes any of the constraints or policies governing the use of lethal or less-lethal force. Officers must be able to provide clear, detailed, articulable facts that would reasonably justify any use of force against a particular individual. Uses of force during a crowd control situation shall be treated as any other use of force and reported using the normal reporting procedures. Officers are required to provide appropriate first aid following any use of force.

(a) **Canines:** Police canines shall not be used for crowd control, crowd containment or crowd dispersal.

(b) **Fire Hoses:** Fire hoses shall not be used for crowd control, crowd containment or crowd dispersal.

(c) **Lethal Force:** Lethal force may only be used against an individual to protect an officer or another person from the imminent threat of death or great bodily injury, or to stop a violent fleeing felon who presents the imminent threat of death or great bodily injury to an officer or other person if allowed to escape. Officers must be particularly mindful of the potential hazards inherent in using lethal force, particularly firearms, in a crowd control situation. The proximity of other persons to the suspect presenting the threat, as well as the movement of the suspect and onlookers, greatly increases the possibility that uninvolved persons may be injured or killed in any use of lethal force during a crowd control event. See Policy 300 for further details regarding the use of lethal force.

(d) **Less-lethal Force:**

1. **SIMS:** The 40mm Specialty Impact Munitions System (SIMS) launcher is capable of firing a number of less-lethal projectiles which are applicable to crowd control incidents.

    (a) Impact (foam baton & marking round) projectiles: SIMS impact rounds are direct-fire projectiles that should only be used to control or subdue a specific individual who is engaging in conduct that poses an imminent threat of injury to officers or a member of the public, through the use of pain compliance. Impact projectiles shall not be used in a non-directional, non-target specific manner, or simply in an attempt to control or disperse a crowd. Impact projectiles should not be used if they can not be targeted without unduly endangering other crowd members or bystanders. Impact projectiles shall not be used indiscriminately against a crowd or group of persons, even if some members of the crowd are violent or disruptive.

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(b) Only those sworn officers who have received approved training may use SIMS. Impact rounds should never be used against a restrained person. Officers should avoid targeting the suspect's head, neck, spine and groin when possible. Officers should only deploy the SIMS during a crowd event at the direction of a supervisor. If practicable, an audible warning should be given before deployment of SIMS. See Policy 308 for further details regarding the use of SIMS.

(c) .60 Sting Ball Cartridge: The .60 caliber sting ball cartridge fires approximately twenty-four .60 caliber rubber balls and is designed to be fired into the ground in front of a crowd in order to move or stop large numbers of violent or disruptive people. The balls ricochet off the ground and are intended to strike members of the crowd in the lower extremities, in a non-target specific manner. This projectile may only be employed at the direction of the Incident Commander.

2. **TASER:** The TASER electronic control device should only be used against a specific individual who is engaging in violent or disruptive conduct that presents an imminent threat of injury to officers or a member of the public. Use of the TASER is governed by Policy 309. The TASER should not be used indiscriminately for crowd management, crowd control or crowd dispersal. Only sworn officers trained in the use of the TASER shall employ the weapon.

3. **Impact Weapons:** The use of impact weapons is governed by Policy 308. Officers may deploy authorized police impact weapons (long baton, standard baton, short baton) in order to control or arrest a specific individual who is engaging in violent or disruptive conduct that presents an imminent threat of injury to officers or a member of the public. Batons should not be used for crowd control, crowd containment or crowd dispersal, except as specified below:

(a) Batons may be visibly displayed and held in a ready position during squad or platoon formations. When reasonably necessary for the protection of the officers or to disperse individuals in the crowd who are engaging in conduct that poses a clear and present danger of imminent violence, batons may be used in a pushing or jabbing motion. Baton jabs should not be used indiscriminately against a crowd or group of persons, but only against individuals who are physically aggressive or actively resisting arrest. Baton jabs should not be used in a crowd control situation against an individual who is physically unable to disperse or move because of the press of the crowd or some other fixed obstacle. Officers should not intentionally strike a person with a baton to the head, neck, throat, kidneys, spine or groin, except when a person's conduct is creating an imminent threat of serious bodily injury or death to an officer or other person and the application of lethal force would be reasonable. Batons should not be used against a person who is handcuffed.

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4. **Chemical Agents:** Crowd control agents are those chemical agents designed and intended to move or stop large numbers of individuals engaged in serious unlawful activity. Crowd control agents, properly deployed by trained officers, are intended to cause temporary discomfort. The application of crowd control agents, including oleoresin capsicum (OC), has proven effective in a wide variety of civil disobedience situations. Use of crowd control chemical agents during a crowd event may be reasonable depending on the totality of the circumstances. Chemical agents can produce serious injuries through inhalation of the chemical or by exposure to hot projectiles. Thus, crowd control chemical agents should only be used when other means, such as multiple simultaneous arrests have failed or are impractical. Authorized chemical agents (OC and CS gas) are delivered in several ways and may be utilized when reasonably necessary, at the direction of the Incident Commander, in crowd control situations, as follows:

   (a) Hand held OC spray or foggers (individual OC spray or MK-9 aerosol projector) may be used to overcome active resistance and take criminal suspects into custody. They should not be used indiscriminately against a crowd or group of persons, but only against specific individuals who are engaged in serious unlawful conduct or who are actively resisting arrest. The use of OC spray is governed by Policy 308.

   (b) CS gas may be delivered by grenadier officers by means of hand thrown grenades or projectiles launched from the SIMS launcher. These delivery systems emit the chemical agent diffusely, without targeting a specific individual or individuals. Authorized CS delivery systems are the hand grenade and the 40 mm SKAT shell. These delivery systems are pyrotechnic in nature and a spotter should be available to ensure no grenades or canisters land on roof tops or others areas of fire concern.

   (c) Officers should use the minimum amount of chemical agent necessary to obtain compliance. Indirect delivery (grenade and/or SKAT shell) shall not be used in demonstrations or crowd events without the approval of the Incident Commander or command-level officer.

   (d) Chemical agents should not be used for crowd control or dispersal without first giving an audible warning of their imminent use, and reasonable time to disperse, to the crowd, media and other observers, as well as all law enforcement personnel present at the scene.

   (e) If the use of chemical agents is contemplated, medical personnel should be called as near to the scene as possible prior to its use and provision should be made for decontamination and medical screening for those persons affected by the chemical agent.

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(f) Factors that need to be considered in the deployment of crowd control chemical agents include:

1. The type of crowd and crowd actions
2. What violations of the law have been committed
3. Delivery methods available
4. Wind direction
5. Physical location/terrain consideration
6. Cross-contamination problems
7. Mobility of protesters (suspects)
8. Types of agents available
9. Availability of protective devices for involved officers
10. Decontamination
11. The potential exposure to children, elderly and disabled members of the crowd

(g) Because of the confined spaces and the likelihood of affecting persons uninvolved in criminal activity, CS should only be used outdoors and should not be deployed inside stations or on board trains. OC may be used inside stations or on board trains.

(h) This policy does not apply to the tactical use of chemical agents by members of the SWAT team engaged in SWAT missions.

5. **Smoke:** Saf-Smoke white smoke grenades may be deployed at the direction of the Incident Commander. Smoke may be used to screen the movement of officers, or as a distraction to focus the crowd's attention away from law enforcement activities. Smoke may also be used as a carrying agent multiplier for smaller CS munitions.

(a) Smoke grenades should not be used indoors, inside stations or on trains, due to their fire-producing capabilities.

459.3 CIVIL DISOBEDIENCE

Arrests will sometimes have to be made because of a demonstrator's non-violent but nevertheless illegal conduct; for example, illegal obstruction of a street or a building entrance or right of way. In such situations the supervisor of the event will decide if such arrests are to be made. Before any such arrest is made, demonstrators will be warned that they must move or risk arrest and they must be given a reasonable amount of time to comply. Those who deliberately remain in violation of the law should be arrested when it can be accomplished safely. To the greatest extent

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possible, demonstrators in civil disobedience situations should be talked into compliance, rather than forcibly arrested.

Passively resisting arrestees (i.e., those who go limp) should be arrested by handcuffing and then moved by either verbal persuasion, control holds, pain compliance, lifting/carrying, the use of wheelchairs, etc., depending on the circumstances and the direction of the on-scene supervisor. Control holds and pain compliance should only be used if verbal persuasion fails. Pain compliance techniques must be reasonable and should cease once the arrestee complies with the officer's lawful orders. Planning for demonstrations where civil disobedience and/or passive resistance are a possibility should take into account the various arrest techniques for passive resisters.

In some cases, demonstrators may lock arms or use mechanical locks, metal sleeves, etc., to slow down the arrest process. Where such demonstrators have been advised that they will be subject to arrest if they choose to remain, and refuse to disperse, a member of the arrest team will individually inform each demonstrator that he or she is under arrest, prior to the application of any force to remove locking devices or to move the demonstrators. The officer should continue to give verbal directions to give the arrestee a chance to comply before force is used to unlock arms, or implements are used to remove lock boxes. Arrestees should also be informed that the removal of locking devices may cause them injury.

459.4 ARRESTS

When arrests are necessary, the Incident Commander should attempt to ensure that sufficient numbers of police officers are present to safely effect the arrests. When mass arrests are contemplated in advance, and it is impractical for arrestees to be cited at the scene, pre-arrangement of transportation should be made.

The Incident Commander should make the decision to engage in selective individual arrests or multiple simultaneous arrests as a crowd control technique, with consideration given to the likelihood that police action will improve the situation relative to taking no action; the seriousness of the offense(s) as opposed to the potential for the arrest to escalate violence or unlawful activity by demonstrators; whether individual or mass arrests will be more effective in ending the criminal activity at issue; whether clear and secure escape routes have been established for the crowd and the police; whether communication has been established with crowd representatives; what contingency plans are available; and what types of force can be used in effecting the arrests if necessary.

Each individual must be arrested based on probable cause. Individuals may not be arrested based solely on their association with a crowd in which unlawful activity has occurred. This means that the arresting officer must have objective facts, based on his/her own knowledge, or information given to him/her by other officers, sufficient to believe that the individual to be arrested committed the offense. Thus, the only proper basis for a multiple simultaneous arrest of all the individuals at a demonstration is failure to disperse (409 PC), where the dispersal was properly ordered based on the existence of an unlawful assembly and where adequate notice and opportunity to disperse had been given. Any evidence items at the scene should be recovered and preserved when possible.

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Officers should restrain arrestees using either handcuffs or plastic flex-cuffs. A sufficient number of flex-cuff cutters should be available to remove these restraints when necessary. Officers should be aware that flex-cuffs may tighten on an arrestee's arms if the arrestee's hands swell or move, or simply in reaction to pain from the cuffs themselves. The officer applying the flex-cuffs should write his/her badge number on the cuffs in indelible marker when they are used. If an arrestee complains of pain from overly tight flex-cuffs, the officer receiving the complaint should examine the cuffs to ensure a proper fit.

A photograph or video recording of each arrestee, together with the officer making the arrest, should be made to assist in accurately documenting the arrest in a police report. This image will memorialize the identity and condition of the arrestee at the time of the arrest, as well as the identity of the arresting officer.

It is imperative that officers maintain continuity and accountability of arrestees from the arrest site (crime scene) through the booking process. Many cases are lost due to the inability to match up the arresting officer to the arrestee. The arrest report should articulate each arrestee's specific criminal act(s). This will aid in criminal prosecution and the reduction of civil liability.

459.5 CITE & RELEASE PROCEDURE

Individuals arrested for misdemeanor offenses should be cited and released in compliance with 853.6 PC and existing department policy. Where it is impractical to cite arrestees at or near the site of the demonstration because of substantial risk that this would allow the unlawful activity to continue, arrestees should be transported to the nearest police facility for the duration of the cite and release process.

The only reasons for not releasing a person arrested for a misdemeanor are as follows:

- The arrestee was so intoxicated that he/she posed a danger to himself/herself or others
- The arrestee required medical examination or care or was otherwise unable to care for his/her own safety
- The arrestee was arrested under one or more of the circumstances listed in 40302 and 40303 VC
- There were one or more outstanding warrants for the arrestee
- The arrestee could not provide satisfactory identification
- The prosecution of the offense for which the person was arrested, or the prosecution of other offenses, would be jeopardized by immediate release
- There was a reasonable likelihood that the offense(s) would continue or resume, or that the safety of persons or property would be imminently endangered by release of the arrestee
- The arrestee demanded to be taken before a magistrate or refused to sign the notice to appear

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- There was reason to believe the arrestee would not appear at the time and place specified on the notice to appear. The basis for this determination must be specifically stated.

An officer seeking to book a misdemeanor arrestee into jail must have an articulable basis to believe that one or more of the specified statutory exceptions to mandatory cite and release applies to that individual. This basis must be documented in the police report. The mere fact that further demonstrations are likely to be held in the near future is not a proper basis to conclude that the offense is likely to continue or resume. There must be an articulable objective basis to believe that if cited out, those specific arrestees would continue the same illegal activity for which they were arrested.

459.6 DOCUMENTATION

At the direction of the Incident Commander, crowd events may be videotaped or photographed. Individuals should not be singled out for photographing or recording simply because they appear to be leaders, organizers or speakers. Unless they provide evidence of criminal activity, videos or photographs of demonstrations should not be disseminated outside the department. If videos or photographs are shared with another law enforcement agency, a record should be created and maintained noting the date and recipient of the information.

If there are no pending criminal prosecutions arising from the demonstration, or if the video recording or photographing is not relevant to an internal affairs or citizen complaint investigation or proceedings, or to civil litigation arising from police conduct at the demonstration, the video recording and/or photographs may be destroyed in accordance with department procedures. This shall not prohibit the department from retaining such images and recordings for training purposes.

Any arrests or citations arising from a crowd event should be documented using the normal department reporting methods. In the event that the Incident Commander determines a crowd event has become an unlawful assembly, and a dispersal order is given, this should be documented on a CR-1 crime report, using 409 PC as the violation, even if no other violations or arrests result from the event. This report should include the following: the circumstances leading the Incident Commander to determine the assembly was unlawful, the time, method and contents of the dispersal order and who gave it, the amount of time given for the crowd to disperse and the results of the order.

459.7 THE MEDIA & PUBLIC INFORMATION

Department members assigned to the scene of a demonstration will cooperate with the media, whether writer, photographer, radio or television personnel. News media representatives have a constitutional right to cover demonstrations, as long as they do not violate the law.

Those with a right to cover or photograph demonstrations are not limited to representatives of major newspapers, radio or television stations. Persons who represent small newspapers or magazines, free-lancers and other citizens are also entitled to take notes or photographs. Although the press has no special right as a matter of law to be present if an unlawful assembly is

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declared, officers should attempt to discriminate between non-obstructing members of the press and voluntary participants in the unlawful assembly.

Section 409.5 PC authorizes officers to close disaster scenes such as earthquakes or fires to the public. Subsection (d) however, allows duly authorized representatives of any news service, newspaper, or radio or television station or network to enter closed areas. Areas determined to be part of a crime scene shall be closed to both the public and the press.

Officer should recognize media credentials issued by police agencies or the media representative's employer as valid identification establishing the person as a member of the press.

Self-identified legal observers and crowd monitors do not have the same legal status as the professional media and are therefore subject to the same laws and orders as any other person or citizen. These persons must comply with all dispersal orders. A supervisor may allow a person who self-identifies as a legal observer or crowd monitor to remain in an area after a dispersal order if circumstances permit and the person's presence would not unduly interfere with enforcement action.

Upon request, the Incident Commander or a supervisor may inform the media, legal observers, crowd monitors, police liaison or organizers with information as to the nature of any criminal charges, the location where arrestees are being taken and whether they will be cited out or booked at a custodial facility. Legal observers, crowd monitors, police liaison and organizers should not be targeted for dispersal or enforcement action because of their status.

459.8 ONLOOKERS AT THE SCENE OF A DEMONSTRATION

Onlookers should be permitted to observe and overhear conversations in detention or arrest situations in public areas when it is reasonable to do so. Onlookers may remain in the vicinity as long as the presence of these persons does not interfere with the officers' duties or create a safety concern for the officer, the person detained or onlookers.

Onlookers have the right to record the incident, and the recording device (camera, video camera, tape recorder, cellular phone, and any tape, film or other storage media) cannot be seized by an officer except under the authority of a search warrant. If the immediate circumstances lead the officer to believe that the recording contains crucial evidence, the officer may ask the citizen to voluntarily surrender the recording material. If the citizen refuses to give consent for the seizing of the recording material and there is a possibility of criminal prosecution or civil liability for the District or its employees arising out of the incident, the officer should ask for the name, address and telephone number of the onlooker who records the incident. If the onlooker refuses to provide identification, the officer should obtain any available information at the time that will allow investigators to identify the onlooker and obtain a search warrant for the recorded materials.

Onlookers must maintain a reasonable distance when monitoring police activities, depending on the circumstances. Onlookers are allowed to approach within hearing distance provided that control of the situation can be maintained by the officer. Onlookers who are clearly at a reasonable distance will not be subject to a "move-on" order or threatened with arrest.

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The sensitive nature of these situations requires that officers make every attempt to diplomatically resolve conflicts involving onlookers. Depending on the stability of the situation, officers will advise onlookers of their legal rights and limitations under this policy. If an onlooker continues to create a disturbance, a supervisor should be called to resolve the conflict. All highly sensitive incidents will be reported as soon as possible to a supervisor and documented on a police report.

Nothing in this section is meant to restrict an officer from arresting any person who willfully resists, delays or obstructs any peace officer from discharging his or her duties according to the provisions of 148 PC. Nor does this section restrict an officer from arresting any person who willfully commits a trespass as defined in 602 PC.

459.9 ORDER TO DISPERSE

The definition of an unlawful assembly has been set forth in 407 PC and interpreted by court decisions. The terms "boisterous" and "tumultuous" as written in 407 PC have been interpreted by the courts as conduct that poses a clear and present danger of imminent violence, or when the demonstration or crowd event is for the purpose of committing a criminal act. The police may not disperse a demonstration or crowd event before demonstrators have acted illegally or before the demonstrators pose a clear and present danger of imminent violence.

The mere failure to obtain a permit is not a sufficient basis to declare an assembly unlawful. The fact that some of the demonstrators or organizing groups have engaged in violent or unlawful acts in the past is not grounds for declaring an assembly unlawful. The police may not disperse a demonstration or crowd event without first validly declaring it an unlawful assembly under state law.

Once a determination has been made that an assembly is unlawful, the crowd should be given an opportunity to disperse rather than face arrest. The intent of a dispersal order is to permanently disperse a crowd, not to merely relocate the problem. It should be made clear that the crowd is expected to immediately leave the area and include a warning that force may be used which could result in serious injury. A dispersal order must be given before a person can be guilty of remaining at a place of a riot, rout or unlawful assembly. In order to give a valid dispersal order, a supervisor should go as near as the crowd as is safe, and using adequate amplification devices, make an audible statement in the following form:

"I am (rank/name), a peace officer for the Bay Area Rapid Transit District. I hereby declare this to be an unlawful assembly, and in the name of the People of the State of California, command all those assembled at (specific location) to immediately disperse, which means to break up this assembly. If you do not do so, you may be arrested or subject to other police action. Other police action could include the use of force which may inflict pain or result in serious injury. Penal Code Section 409 prohibits remaining at an unlawful assembly. If you remain in the area just described, regardless of your purpose, you will be in violation of penal Section 409. The following routes of dispersal are available (provide routes). You have (reasonable amount of time) minutes to disperse."

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The dispersal order should be given at least three times, from multiple locations. If possible, officers should be posted at the outside edge of the crowd to ensure that the order can be clearly heard by those on the outskirts of the crowd. If necessary, the order should also be given in other languages to ensure that demonstrators understand the order. If possible, the dispersal orders should be recorded by audio/video recorders from locations on the outer edge of the crowd in order to document that the dispersal order was audible to crowd members.

Dispersal orders should not be given until control forces are in position to support crowd movement and sufficient officers are available to make multiple simultaneous arrests, if necessary.

459.10 TRAINING

All Tactical Team members and supervisors should train as a group at least twice a year, in order to maintain proficiency in crowd control techniques, crowd management principles, defensive tactics, less-lethal weapons, team operations and legal issues. The Tactical Team commander is responsible for ensuring that team members receive adequate initial and refresher training while members are assigned to the Tactical Team.

The below listed training is from the Departments Training Plan. The Training Plan can be located in the G/drive.

Essential Tactical Team training - Tactical team training, crowd management update.

459.11 TEAM MEMBERS

The department should ensure that enough officers are assigned to the Tactical Team to provide a sufficient reserve of trained officers to respond to any reasonably foreseeable crowd situation. Additional members will be selected from interested officers in the event that a larger team is required. Members will be selected by means of an interview panel, composed of a supervisor and at least two current team members.

Officers completing at least one year of satisfactory service with the Tactical Team will receive credit for a patrol special assignment toward Master Officer.

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Critical Asset Patrol Program

460.1 PURPOSE AND SCOPE

This policy shall outline the BART District's "Critical Asset Corridor", the responsibilities of the Critical Asset Patrol (CAP) team, establish the minimum qualifications for the position of CAP personnel, and establish the procedures for the selection, testing, qualifying and retention of CAP personnel.

460.2 OBJECTIVE

The Bay Area Rapid Transit District was given a grant by the United States Department of Homeland Security under the Transit Security Grant Program for security enhancements to the District's "Critical Asset Corridor". The critical asset corridor is the most traveled underground stations, and under tubes and tunnels within BART properties. They include:

- The Trans Bay Tube (TBT), 3.7 miles of underwater track way connecting Oakland to San Francisco
- San Francisco Transition Structure (SFTS), major connecting point of the TBT to San Francisco
- Oakland Transition Structure (OTS), major connecting point of the TBT to Oakland
- Operations Control Center (OCC), heartbeat of the computer system that operates the Bay Area Rapid Transit at the Lake Merritt Station
- Berkeley Hills Tunnel (BHT), connects critical asset corridor in Oakland to Orinda and seven of ten BART stations located in Contra Costa County
- The Coliseum, Fruitvale, Lake Merritt, 12th Street, 19th Street, MacArthur, Oakland West, Orinda, Embarcadero, Montgomery Street, Powell Street, and Civic Center stations

The objective of the Critical Asset Patrol (CAP) team is to provide high visibility, uniformed law-enforcement presence (primarily on trains) within the critical asset corridor. CAP team personnel must be proactive and alert to preventing incidents of significant security concerns, focusing on crimes against persons and destruction of District properties. The CAP team may participate in joint deployment assignments within the District involving the Transportation Administration's Visible Intermodal Prevention and Response (VIPR) teams, made up of sworn Federal Air Marshals (FAMs).

460.2.1 COMPLIANCE WITH FUNDING OPPORTUNITY ANNOUNCEMENT

All allocations and use of funds under this grant shall be in accordance with the Funding Opportunity Announcement. The BART Police Department must ensure that Federal funds for the Critical Asset Patrol team do not replace (supplant) funds that have been budgeted for the same purpose through non-Federal sources. The department may be required to demonstrate and document to the United States Department of Homeland Security that a reduction in non-Federal resources occurred for reasons other than the receipt of Federal funds.

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460.3 PHILOSOPHY

The presence of highly visible uniformed officers with the critical asset corridor represents BART's commitment to be as vigilant and progressive as possible to deter and mitigate in the event of an act of terrorism. This would result in a high level impact that would be apparent through the highly visible deployment of the CAP team within the corridor. The CAP team will further enhance BART's immediate response to the threat or act of terrorism by responding to suspicious and unusual behaviors within the critical asset corridor.

460.4 TRAINING

It shall be the goal of this department to administer continuous professional training from California POST or Department of Homeland Security approved courses that will provide for professional growth and continued development of CAP personnel. By doing so, the department will ensure its CAP personnel possess the knowledge and skills necessary to provide a professional level of service that meets the needs of the community.

CAP team personnel are Terrorism Liaison Officers who may provide anti-terrorism training on surveillance, planning, rehearsal for mobilization activities, and the sharing of terrorism intelligence with District employees and allied agencies.

460.5 CAP PROGRAM PERSONNEL

460.5.1 CAP COORDINATOR

The CAP program coordinator shall be selected from the rank of Lieutenant by the Chief of Police or his/her designee, and shall possess a POST Management Certificate. The coordinator of the CAP team will be responsible for managing the CAP program

460.5.2 CAP SERGEANT

The CAP sergeant shall be selected from the rank of sergeant by the Chief of Police or his/her designee, and shall possess a POST Supervisory Certificate. The CAP program sergeant will be responsible for:

(a) Grant compliance and monitoring of CAP team personnel.

(b) Conducting CAP team meetings.

(c) Ensuring CAP team personnel performance evaluations are completed.

(d) Developing ongoing training for CAP team personnel.

460.5.3 CAP OFFICERS

CAP team officers shall be selected by the Chief of Police or his/her designee.

(a) All CAP officers shall report directly to and utilize their assigned CAP sergeant as the first step in their chain of command.

(b) Unless supervisor approval is given in advance, all officers shall attend daily line up briefing during work days at the assigned times.

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(c) When using the BAP timekeeping system, officers will enter “79HN000-Final Design” when arriving to work on regular days.

(d) Work day and shift hours for personnel shall be deployed at the supervisor’s discretion.

460.6 CRITICAL ASSET CORRIDOR ASSIGNMENTS

Officers will use individual unit identifiers for their call sign, and, absent any prior duties assigned by a supervisor, will assume a high visibility police presence within the critical asset corridor that present the highest risk of threat to our patrons, employees, and the BART system. Sergeants and officers shall radio their status changes to dispatch.

Officers will normally patrol beats as solo units. Field training officers with trainees will be considered a two officer unit. Officers working on both A-Platoon and B-Platoon shall take their lunch breaks on their assigned beats. Each officer shall conduct security inspections at both the Oakland and San Francisco Transitional Structures during their shift. The documentation of each security inspection shall be transmitted over the air to dispatch, and shall also be included in the officers’ daily activity log.

460.7 ANCILLARY ASSIGNMENTS

Additional CAP team assignments will be made at the discretion of the Chief of Police or his/her designee.

460.7.1 MANDATORY EMERGENCY STAFFING

Due to emergency staffing needs, CAP personnel may be required to fill immediate patrol vacancies within the critical asset corridor. Mandatory emergency staffing shall be considered any unpredictable required job assignment or duty deemed necessary to be performed immediately in order to accomplish a department task. Such staffing may be declared by any supervisor when an immediate vacancy occurs in patrol.

“Immediate vacancy” shall be defined as any patrol vacancy due to absence, injury, or sudden withdrawal from duty by a current patrol sergeant or officer 45 minutes prior to the beginning of the absent sergeant or officer’s shift. In all other cases, the supervisor may staff the immediate vacancy with non-CAP team patrol personnel (i.e. patrol officer, K-9 officer, or officer in a special assignment) prior to assigning any CAP personnel.

460.8 VEHICLES

The following rules will apply to the use of the CAP Team/Command Staff Sports Utility Vehicle (SUV):

(a) Except as outlined below, CAP Team members and Command Staff are primarily authorized to utilize the Departmental SUVs.

(b) SUVs are to be parked in the MTC parking lot.

(c) All vehicle keys shall be checked in/out through the on-duty Watch Commander. If the Watch Commander is not available, then contact an on-duty Lieutenant.

(d) The SUVs shall be returned in a cleaned condition and fully fueled.

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(e) Use of the SUVs outside of normal parameters (i.e. special assignments and events) shall be cleared through the Watch Commander.

460.9 SELECTION PROCESS

The purpose of the selection process is to provide a fair and impartial procedure for selecting personnel for CAP team assignments. The selection process shall be conducted in accordance with Department Policy #1028 - Special Assignments, Non-Patrol and Specialized Job Assignments.

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Defensive Tactics/Impact Weapons Program

461.1 PURPOSE AND SCOPE

The defensive tactics/impact weapons program is intended to provide a standardized program to equip police officers and revenue protection guards with the technical and communication skills necessary in the areas of weaponless defense, impact weapons, and the mechanics of arrest.

This policy shall establish the procedures for the selection, testing, qualifying, retention, and re-admission of defensive tactics/impact weapons instructors. This policy also establishes procedures for training qualification and remediation procedures for officers and revenue protection guards.

The Chief of Police or his designee shall approve all department defensive tactics/impact weapons training before they are acquired and utilized by any member of this department.

461.2 DEFENSIVE TACTICS/IMPACT WEAPONS INSTRUCTOR

The defensive tactics/impact weapons instructor is an experienced officer trained in the art of supervising, training and evaluating police officers and revenue protection guards in the application of weaponless defense, impact weapons, and the mechanics of arrest.

461.2.1 SELECTION PROCESS

Defensive tactics/impact weapons instructors will be selected based on the following requirements:

- Minimum of two years non-probationary patrol experience, including at least one non-probationary year as a BART police officer
- Possess a POST Basic certificate
- Immediate supervisor's recommendation
- Satisfactory performance evaluations, and an attendance record that complies with department guidelines
- Pass an internal oral interview selection process

A defensive tactics/impact weapons instructors selection committee shall be established, and this committee shall be composed of the following personnel who shall convene for the purposes of screening and selecting qualified applicants for defensive tactics instructor:

- Defensive tactics/impact weapons program coordinator
- Defensive tactics/impact weapons program sergeant
- Defensive tactics/impact weapons instructor selected by the BPOA

The selection process for defensive tactics/impact weapons instructor shall be as follows:

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(a) Upon notification of memorandums of interest being accepted for defensive tactics/impact weapons instructor, all interested officers meeting the minimum qualifications listed shall submit memorandums of interest to the defensive tactics/impact weapons program coordinator via the chain of command.

(b) It will be the responsibility of the applicant's immediate supervisor to prepare a written recommendation as to the applicant's suitability for the defensive tactics/impact weapons instructor position. Additionally, all supervisor's written recommendations will include comments on attendance, discipline, skills related to the assignment, EDR file review, and ensure compliance with established minimum qualifications.

(c) All qualified applicants will be invited to participate in a oral interview to be administered by the defensive tactics/impact weapons program staff.

(d) The oral interview will be scored by the defensive tactics/impact weapons program staff. A score of 75% or higher is required to pass. Those passing will comprise an eligibility pool.

Unless otherwise stated, a pool of five shall be established. An exception could be a one-time selection for a given period. The rest of the candidates will be ranked numerically. When one person is selected from the pool, the person ranked number one moves into the pool.

If fewer than five persons are eligible to be placed in the pool, the pool will consist of those persons who are eligible (Example: only three people achieve a score of 75%. There will be a pool of three, with zero persons ranked numerically).

The final selection for defensive tactics/impact weapons instructor will be made by the Chief of Police. A bulletin will be issued announcing the selections and candidates in the eligibility pool. The pool will remain in effect for eighteen (18) months from the date of the bulletin, but may be extended by the Chief of Police.

461.2.2 TRAINING

An officer selected as a defensive tactics/impact weapons instructor shall successfully complete a POST certified 80-hour defensive tactics instructor course, and a POST certified 80 hour impact weapons instructor course prior to being assigned as an instructor.

All instructors must complete updated (re-certification) courses for defensive tactics and impact weapons every three (3) years.

461.3 DEFENSIVE TACTICS/IMPACT WEAPONS PROGRAM COORDINATOR

The defensive tactics/impact weapons program coordinator will be selected from the rank of lieutenant by the Operations Bureau Deputy Chief or his/her designee, and shall possess a POST Supervisory Certificate.

The defensive tactics/impact weapons program coordinator shall have the overall responsibility for, but not be limited to the following:

- Conduct regular defensive tactics/impact weapons instructor meetings.

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- Monitor and direct overall defensive tactics/impact weapons program.
- Maintain liaison with other agency's defensive tactics/impact weapons coordinators.
- Develop ongoing training for defensive tactics/impact weapons instructors.

The below listed training is from the Department' Training Plan and is either mandatory, essential or desirable.

Essential tactical coordinator - Defensive tactics instructor, defensive tactics instructor update.

461.3.1 DEFENSIVE TACTICS/IMPACT WEAPONS PROGRAM SUPERVISORS

The Patrol Bureau Deputy Chief, or his/her designee, will appoint a sufficient number of defensive tactics/impact weapons supervisors to effectively monitor the defensive tactics/impact weapons program. These supervisors will be selected from the rank of sergeant, and shall possess a POST Supervisory Certificate. These supervisors will have performed duties as defensive tactics/impact weapons instructor during their careers, and will be well versed in the intricacies of the defensive tactics/impact weapons program.

Defensive tactics/impact weapons supervisors will be responsible for the following:

- Scheduling instructors for upcoming training dates.
- Maintaining regular contact with assigned instructors to provide assistance where necessary.
- Monitoring individual defensive tactics/impact weapons instructor's performance.

The below listed training is from the Department's Training Plan and is either mandatory, essential or desirable.

Essential defensive tactics/impact weapons supervisor training - Defensive tactics/impact weapons instructor, defensive tactics/impact weapons instructor update.

461.4 RETENTION

Defensive tactics/impact weapons instructors shall perform their duties in strict accordance to departmental policies, and shall only teach the material presented in the current course outline approved by the defensive tactics/impact weapons coordinator.

Instructors may be removed from the defensive tactics/impact weapons program by either the defensive tactics/impact weapons coordinator or Chief of Police if an instructor:

- Fails to adhere to the rules and regulations of this policy
- Fails to perform the require tasks of the current course outline satisfactorily
- Engages in unlawful or unprofessional behavior
- Demonstrates a pattern of unsafe or unacceptable police practices
- Is a principal in any departmental disciplinary action which results in a sustained finding

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- Voluntarily withdraws from the program

The length of the defensive tactics/impact weapons instructor's assignment shall be at the discretion of the Chief of Police. Any defensive tactics/impact weapons instructor wishing to withdraw from the program voluntarily should submit a memorandum, via the chain of command, directed to the Operations Bureau Deputy Chief.

461.4.1 RE-ADMISSION

Those instructors withdrawing voluntarily from the program may be readmitted when new openings occur by going through the selection process again. The defensive tactics/impact weapons program staff will make a recommendation as to whether to reinstate the instructor. The final determination will rest with the Operations Bureau Deputy Chief.

461.5 DEFENSIVE TACTICS/IMPACT WEAPONS TRAINING QUALIFICATION

The defensive tactics/impact weapons staff shall provide all sworn and revenue protection officers with yearly training designed to enhance skills and improve proficiency in the areas of the use of force and control devices techniques.

The defensive tactics/impact weapons coordinator, with approval of the Chief of Police, shall establish acceptable levels of proficiency in the use of defensive tactics and impact weapons training. Defensive tactics/impact weapons training qualification may be changed and modified in an effort to increase the proficiency of personnel training in defensive tactics and impact weapons.

Qualification and training records shall be forwarded to the Personnel & Training Bureau. The Operations and Support Services Deputy Chiefs, or their designees, are to ensure that all sworn personnel and/or revenue protection guards under their respective commands qualify in accordance with this policy.

461.5.1 FAILURE TO QUALIFY

Any sworn police officer or revenue protection guard who does not strictly adhere to the requests or instructions of the instructors will not be allowed to participate in training.

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

Personnel who fail to qualify shall be allowed a minimum of one additional opportunity to qualify during that training day. Those personnel who are still unable to qualify may receive additional defensive tactics training that day if training time and a sufficient number of defensive tactics staff are available.

In situations involving personnel who are unable to qualify by the end of their scheduled shift or the conclusion of the training day (whichever comes first), the on-site defensive tactics supervisor shall, as soon as practicable, notify the employee's immediate supervisor or the on-duty Watch Commander of the failure to qualify. The department's Progressive Discipline System will be implemented to include no less than a letter of discussion.

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The defensive tactics/impact weapons coordinator or designee shall arrange for a 4-hour remedial defensive tactics or impact weapons training session as soon as practical for the non-qualifying personnel. Personnel who are unable to qualify by the conclusion of the first remedial training session shall be scheduled to attend a second 4-hour remedial training session. Personnel will progress to the next level in the Progressive Discipline System, not less than an a written reprimand.

Personnel who are unable to qualify by the conclusion of the second remedial defensive tactics or impact weapons training session, shall be assigned to an administrative position, and a third 4-hour training session will be scheduled. Progress to the next level in the Progressive Discipline System, not less than a pay step reduction.

Personnel that are unable to qualify by the conclusion of the third remedial defensive tactics or impact weapon training session, shall remain assigned to an administrative position. A final opportunity to qualify will be scheduled. Progress to the next level in the Progressive Discipline System, not less than suspension without pay.

Personnel who are unable to qualify by the conclusion of their fourth remedial defensive tactics or impact weapons training session, shall remain assigned to an administrative position. The member/employee shall be examined by a District medical doctor to ensure no medical condition exists that prevents the employee from qualifying.

If no medical condition exists, the member/employee will be subject to termination proceedings.

461.5.2 REMEDIAL TRAINING

Any employee who acts in a grossly unsafe manner or demonstrates dangerous and/or extremely poor decision-making skills in the deployment of and/or application of any use of force-related task, in the field or in training, may be required to attend mandatory remedial training prior to returning to full-duty status.

If in the opinion of the supervisor/primary instructor at the site of the training, the employee's actions/decision-making are so unsafe that if the employee were returned to full duty, the employee may be a safety hazard to him or herself, fellow employees, and/or the public, the supervisor/primary instructor shall recommend mandatory remedial training for the employee. The primary instructor shall contact the on-duty Watch Commander as soon as practicable and make the recommendation for mandatory remedial training.

If the request for mandatory remedial training is approved, the employee shall be removed from an on-duty patrol capacity and placed into a temporary administrative position until such time as that employee satisfactorily completes the mandatory remedial training.

Repeated failures to correct such deficiencies may result in implementation of the Progressive Discipline System. Nothing in this policy precludes the department from requiring an employee to successfully complete remedial training to correct lesser safety violations and/or marginal tactical decision-making skills, without the employee first being removed from full-duty status.

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Wrap Restraint

462.1 PURPOSE AND SCOPE

It is the policy of the BART Police Department to use objectively reasonable force and authority when making an arrest, preventing the escape of an offender, or overcoming resistance. The BART Police Department has approved the use of the WRAP within the guidelines provided.

This policy is intended to familiarize Department personnel with the WRAP and procedural guidelines for its use. The WRAP provides a safe and quick method of controlling and immobilizing a violent or potentially violent/combative subject who has been detained or taken into custody.

462.2 DESCRIPTION

The WRAP Restraint manufactured by Safe Restraints, Inc., was designed as a temporary restraining device. Used properly it can increase officer safety and reduce the risk of liability due to injuries and in-custody deaths. The WRAP immobilizes the body and restricts a subject's ability to kick or do harm to oneself or others. The WRAP minimizes the time required to secure a person safely, restrains the subject in an upright position, and has the subject prepared for transportation or movement.

462.3 GUIDELINES FOR THE USE OF THE WRAP

Subjects should NOT be left unmonitored. The WRAP can be used prior to or after a violent/ combative subject is controlled using approved departmental methods. As with any restraint device, do not assume the WRAP is escape proof.

The WRAP should be considered for use under the following situations:

(a) When pre - assaultive, violent, or combative behavior is indicated

(b) To immobilize a violent/combative subject

(c) To limit violent/combative subjects from causing injury to themselves or others

(d) To prevent violent/combative subjects from causing property damage by kicking

(e) To restrain a subject after a chemical spray or stunning device is used

(f) When conventional methods of restraint are not effective

(g) In transportation of violent/combative subjects

Once the subject is properly restrained in the WRAP, the subject should be placed on his/her side, or in a sitting position. This will increase the oxygen recovery rate and will reduce the incident of respiratory fatigue.

462.3.1 APPLICATION OF THE WRAP

The WRAP can be applied by one person, but for violent/combative subjects, two to four people should be used. Only qualified personnel who have received training in the use of the WRAP should use this restraining device. However, under exigent circumstances, those who are qualified

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to use the Wrap may direct personnel who are not trained in its application on a violent/combative subject.

462.3.2 SAFETY PRECAUTIONS

(a) The shoulder harness should never be tightened to the point that it interferes with the subject's ability to breathe

(b) The leg bands and shoulder harness must be checked frequently for tightness and re-tightened or loosened as necessary until the WRAP is removed

(c) If the restrained subject complains of or shows signs of breathing distress (shortness of breath, sudden calmness, a change in facial color, etc.), medical attention should be provided immediately

(d) The subject should NOT be left unmonitored

(e) Subjects should be placed in an upright sitting position or on their side as soon as possible to allow for respiratory recovery

(f) The WRAP is a temporary restraining device and is NOT escape proof

462.3.3 TRANSPORTATION

Movement of a restrained subject can be accomplished in two ways depending on their cooperation. The restrained subject can either be carried or allowed to stand and shuffle step to the destination. Officers shall observe the following procedures:

(a) To carry the restrained subject, it is recommended between two to four personnel should be used depending on the size and weight of the subject. Lift the subject under the arms and ankles. A "log lift" carrying technique may be used when moving the subject. Proper lifting techniques should be used to prevent injury to officers.

(b) As an alternative to lifting, the subject may be moved by means of a shuffle. If the subject is cooperative the lower WRAP leg band can be loosened to allow some leg movement below the knees without compromising security or safety. By loosening the tether to the shoulder harness, the subject can be brought to a standing position with the help of officers and then allowed to shuffle to or from a vehicle or holding cell. If this method is used, appropriate support must be given to the subject to prevent possible injury by falling.

Prior to vehicle transportation, re-check all belts to ensure that they are securely fastened. The use of a seat belt is required to limit movement and reduce the risk of injury to the subject. If needed, consider having an officer ride with the subject to ensure all straps remain tight and the subject has no medical problems. Re-checking the security of the WRAP and keeping the subject under constant observation should apply to any movement of the subject.

462.3.4 DOCUMENTATION

The AXON Flex MVR shall be activated in accordance with Departmental policy and during any incident in which the WRAP is being considered for use. Any time the restraint device is used, the circumstances requiring its use shall be documented in the related report(s). The officer should include the following in the report:

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(a) The reason and/ or justification for use

(b) The amount of time the suspect was restrained

(c) How the suspect was transported and the position of the suspect

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

(e) Information about the application and removal of the WRAP

(f) Any known or suspected drug use or other medical problems

(g) Documentation of continous activation of the AXON Flex MVR prior to, during, and after the use of the WRAP

A supervisor shall be responsible for conducting a use of force investigation and shall ensure that the Watch Commander is advised of the incident.

462.4 STORAGE AND RE-USE OF WRAP

It is important that the WRAP is immediately ready for use and prepared for storage in a way that prevents the loop fastening material on the bands from becoming dirty or entangled. This allows the WRAP to be quickly laid out next to the subject and applied without the confusion of having to untangle the bands. The WRAP shall be kept in the provided storage bag as follows:

(a) The WRAP shall be inspected for signs of wear or damage. If cleaning is necessary, a mild soapy solution may be used. Allow the WRAP to thoroughly air dry prior to storage

(b) Lay the WRAP on a flat surface with the leg band side up and detach the shoulder harness. Extend each of the leg bands out flat

(c) Individually fold each of the leg bands back onto itself so that the fold of the band protrudes an inch or two from the edge of the WRAP body

(d) Be sure the retaining "D" ring on the body of the WRAP and harness is open and ready for use

(e) Keeping the bands inside, roll the WRAP tightly towards the buckle and secure with the ankle strap and place in the storage bag

(f) Fully extend the harness buckles and tether. Attach buckles to its counterpart and roll the harness up and place it in the storage bag compartment

462.5 TRAINING

The Department shall provide certified training in the use of the WRAP restraint. Only those personnel who have successfully completed the training shall apply this restraining device and, under exigent circumstances, may direct personnel who are not trained in its application on a violent/ combative subject.

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Train Searches

463.1 PURPOSE AND SCOPE

To establish standardized guidelines for the search of revenue trains when required due to known or suspected criminal activity.

463.1.1 POLICY

It is the policy of the BART Police Department to minimize the risk to BART patrons and police officers when it is necessary to search a revenue train in the furtherance of protecting life, property and apprehending suspects.

Nothing in this policy precludes officers from responding directly to the location of a suspect or a disturbance on a train when that suspect or disturbance can be located without searching the entire train. Nothing in this policy precludes officers from employing different tactics to meet the unique needs of a rapidly evolving incident when such tactics would likely result in greater safety for patrons and officers.

463.1.2 DEFINITIONS

Hazardous Train Search: Searches which are conducted in response to reports of armed or violent criminal suspects on a train and situations where suspects have just used, or are threatening to use, a deadly weapon in a threatening manner to commit an act of violence. The major concern in such circumstances is to prevent a hostage-type situation.

Non-Hazardous Train Search: Searches which are conducted in response to reports of unarmed or non-violent criminal suspects on a train.

Robbery Apprehension Tracking System (RATS): An electronic tracking system utilized by the San Francisco, Oakland, Berkeley, and Hayward police departments to track tagged bait money surrendered in bank robberies, kidnappings, and other crimes where it is necessary to track the stolen money or property to apprehend the suspect(s). The system uses pocket detectors, hand-held and vehicle-mounted tracking units, and fixed-location remote receivers. Personnel shall note that all of the information regarding the RAT system is highly confidential, and is not to be discussed with the general public or the media.

Tag or Rat: An electronic transmitting device hidden in currency bundles or other trackable items, such as vehicles, jewelry, or briefcases.

Trap: Tag/rat deactivation device.

Pocket Detector: Close-range (up to 70 feet) tracking device.

Area-Wide Monitor: Monitor and grid map located at RAT-equipped police department communications centers which highlights the area of the tag's location.

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463.2 HAZARDOUS TRAIN SEARCH

Officers dispatched to reported incidents involving armed or violent suspects on board a revenue train shall be provided with all available information by dispatch, including the number of cars on the train, the arrival time of the incident train, and the description and location of the suspect(s) on the train.

The zone sergeant or watch commander has the responsibility for determining whether or not the incident warrants a hazardous train search.

Dispatch shall advise the BART Central supervisor of the situation and request that the incident train be held at the platform with the doors open.

At least three (3) officers should be dispatched to the scene whenever possible. Officers from outside agencies will be called when needed and should report to BART officers on the scene to be briefed on the search method to be used. Shotguns should not be taken to the platform when a large number of patrons is present.

Officers shall approach the platform using areas of cover and concealment whenever possible. If possible, responding officers may allow disembarking patrons to clear the train and platform area. If possible, platforms may be evacuated prior to initiation of the search. Evacuations are not mandatory, and officers may elect not to conduct evacuations in situations involving large crowds and limited resources for crowd control, or when there is an urgent need to locate suspects immediately or when tactics dictate a low-key approach without announcing the fact that police are present and searching for a suspect(s). Officers not directly involved in searching the train should maintain a station perimeter to prevent the escape of suspects with exiting passengers. In most cases, the perimeter should be maintained by allied agencies with BART officers searching the train.

Officers should take the following positions before beginning the search:

(a) Three officers inside the train who work together and are responsible for searching the interior of the train for suspects and evidence.

(b) One officer (when available) on the outside of the train who maintains long-cover for the exterior of the train in case the suspects exit the train while the search is in progress. This officer may utilize train doorways for concealment and should follow the officers searching the interior of the train.

(c) When available, additional officers may be deployed as a rear-guard element for the interior train search team or for the officer maintaining exterior security on the train. When a fifth officer is available, he/she should join the officer searching the exterior of the train. Officers shall advise dispatch when the incident train can be released for service.

The search may be started from whatever location on the train provides for the greatest tactical advantage in searching the train. When a search is started from the middle of a train, the search may either be divided between two teams moving in opposite directions or searched by one team that moves in one direction and then returns to search the remaining section of the train. In cases

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where one team performs a split-search of the train, consideration should be given to posting an officer to observe the portion of the train that has yet to be searched while the search team completes searching the first portion of the train.

In situations involving trains that are loaded to a capacity that prevents officers from moving along the interior of the train, officers may opt to search the train from the exterior using the windows to view the interior of the train. If a suspect is located, at least one officer should be posted to cover the suspect while additional officers move to apprehend the suspect inside the train.

Officers shall advise dispatch when the incident train can be released to resume service.

463.3 NON-HAZARDOUS TRAIN SEARCH

Officers dispatched to reported incidents involving unarmed and non-violent suspects on board a revenue train shall be provided with all available information by dispatch including the arrival time of the incident train, the number of cars in the train, and the description and location of the suspects on the train.

Dispatch shall advise the Operations Control Center (OCC) supervisor of the situation and request that the incident train be held at the platform with the doors closed.

The search may be started from whatever location on the train provides for the greatest tactical advantage in searching the train. When a search is started from the middle of a train, the search may either be divided between two teams moving in opposite directions or searched by one team that moves in one direction and then returns to search the remaining section of the train. In cases where one team performs a split-search of the train, consideration should be given to posting an officer to observe the portion of the train that has yet to be searched while the search team completes searching the first portion of the train.

In situations involving trains that are loaded to a capacity that prevents officers from moving along the interior of the train, officers may opt to search the train from the exterior using the windows to view the interior of the train. If a suspect is located, at least one officer should be posted to cover the suspect while additional officers move to apprehend the suspect inside the train.

Officers not directly involved in searching the train should maintain a station perimeter. In most cases, the perimeter should be maintained by officers from allied agencies with BART officers searching the train.

Officers shall advise dispatch when the incident train can be released to resume service.

Depending on the circumstances, non-hazardous train searches may be conducted on a moving train.

This procedure does not preclude having one officer search a train in a non-hazardous train search.

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463.4 RESPONDING TO ROBBERY APPREHENSION TRACKING (RAT) SYSTEM ALARMS

In the event of a bank robbery in San Francisco near any BART Station, the San Francisco Police Department (SFPD) will advise the BART Police Department of incident. If a tag is taken in the robbery, SFPD will check the Area-Wide Monitor and advise if it indicates the tag is on board a train as it enters the Transbay Tube, or if the tag passes through Balboa Park Station. SFPD will advise BART police dispatch of the location of tag within the District. BART officers will then respond to either West Oakland or a San Francisco BART station to intercept the incident train.

In the event of a bank robbery in Oakland, Berkeley, or Hayward near any BART Station, the involved police department will advise BART police dispatch of the incident. If a tag is taken in the robbery, the Oakland Police Department will check the Area-Wide Monitor and advise if it indicates the tag is on board a train as it enters the Transbay Tube, passes through the North Berkeley BART Station, or passes through the Rockridge BART Station. Oakland Police Department will advise BART Police dispatch of the location of the tag within the BART District and BART Police will respond to either Embarcadero, El Cerrito Plaza, or Orinda BART station to intercept the incident train.

In response to any Robbery Apprehension Tracking System alarm, officers will conduct a train search in accordance with the methods outlined in this directive.

Pocket detectors are kept in locked boxes in the station agent's booth of the West Oakland, El Cerrito Plaza, Orinda, and Embarcadero stations. At the Embarcadero station, it will be located at the station agent's booth near the Drumm Street exit. The lock boxes may be accessed with a BART police key and the pocket detectors will normally be stored with the 9 volt battery removed. The responding officers should place the battery into the unit and turn it on. Once activated, the unit will begin a self-test, buzzing for several seconds and then becoming silent if no tag is present. If a tag is present in the area, the buzzing will continue.

When there are sufficient personnel to conduct a safe search, officers should respond to the platform with the pocket detector to scan the train for the tag. OCC should immediately be advised of the alarm and requested to hold the train outside the station until officers reach the platform. The train should then be requested to proceed to the platform under manual control as the officer monitors for the tag to determine which car within the train consist contains the tag.

Officers must be alert to the possibility that the suspect(s) may discard the tag or that the initial reading on the pocket detector may be unclear. Therefore, the search must be performed only with cover officer(s) present and with constant alertness to all persons in the area.

If the incident train reaches the platform prior to the officer's arrival, the responding officers should use the pocket detector to search the train from the outside. If the detector indicates that a specific car may contain the tag, then an interior search should be conducted on that car.

If no tag signal is detected during the exterior search, an interior search should be performed with the pocket detector to confirm the finding. As with all searches, officers must remain alert for potential suspects exiting the train or posing a threat. Special emphasis must be placed on

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protecting the officer using the pocket detector since his/her attention will be focused on the pocket detector unit.

San Francisco, Oakland, Berkeley, or Hayward Police Departments will normally dispatch units to assist in any required train searches in response to the RAT alarm and to continue their investigation and/or arrest of the suspect(s). These officers will normally be equipped with more precise tracking equipment and should be utilized in the train search.

Once the tag is located, it should be deactivated as soon as possible by placing the bait money into the trap provided by the responding RAT-equipped police department.

At the conclusion of the search, all recovered bait money, RAT equipment (except for BART-stored pocket detectors), and suspect(s) shall be turned over to the RAT-equipped police agency investigating the bank robbery.

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Homeless Persons

467.1 PURPOSE AND SCOPE

The purpose of this policy is ensure that personnel are sensitive to the needs and rights of the homeless population, to establish procedures to guide police officers during casual and arrest situation contacts with the homeless, and to reaffirm that homelessness is not a crime.

467.2 POLICY

It is the policy of the BART Police Department for all officials and personnel to provide appropriate law enforcement services to the entire community while protecting the rights, dignity and personal property of the homeless by policy, rules, regulations and practices.

467.3 DEFINITIONS

Homeless Person - A homeless person is an individual who lacks housing because he/she cannot afford, pay for, or is otherwise unable to maintain regular, safe, and adequate housing. A homeless person may also have a primary day or night-time residency that is:

- A supervised publicly or privately operated shelter designed to provide temporary living accommodations;
- An institution that provides a temporary residence for individuals intended to be institutionalized;
- A public or private place not designed for use as a regular sleeping accommodation for human beings.

Basic criteria of a homeless individual is one who appears to need personal shelter, warmth and safety. This may include:

- Personal privacy, especially for sleeping;
- Safekeeping of bedding, clothing and possessions, which may have to be carried at all times;
- Hygiene and shaving complications;
- Obtaining, preparing and storing food in small quantities;
- Keeping contacts without a permanent location or mailing address.

Illegal Lodging - Under California Penal Code 647(e), anyone who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it is guilty of disorderly conduct, a misdemeanor.

Per *Black's Law Dictionary* and *The Civil Rights Legal Division Coalition on Homelessness*, a person is not lodging if he/she is just "hanging out" or "sleeping" for awhile. Lodging means that a person is establishing living accommodations or a place of temporary residence by staying in one place for an extended period of time (more than a few days). An example of this would be a person living out of a tent on District property for a period of time.

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467.4 PROCEDURE

(a) **Casual Contact:** At any time, and for any reason, police officers may approach a homeless person on BART District property who has not been observed engaging in any criminal conduct to advise him or her of shelters, services, or assistance which are currently available. The homeless person may or may not accept the advice, or may even walk away from the area. The rationale is to pro-actively provide referrals to the homeless.

1. Police officers may escort homeless persons off District property toward alternative locations for shelter, service, or assistance.
2. Police officers may transport homeless persons to any shelter, service, or assistance when the person accepts such referral. The homeless individual will be searched for weapons and/or contraband before being transported.
3. The officer shall generate a case number from dispatch with the facts of the incident, the referral and disposition.

(b) **Arrest Situations:** Arrests of all persons including those defined as homeless shall comply with California law, Municipal Ordinances, and Department policies and procedures.

1. If a police officer observes a homeless person(s) engaged in criminal activity, when practical and prudent to do so, an alternative to a physical arrest shall be used.
2. An officer always has the right to approach any individual including a homeless person, to allay any suspicions an officer may have about the individual and ascertain that no criminal activity is occurring.
3. When encountering a homeless person who has committed a misdemeanor law violation where the continued freedom of the individual would not result in a breach of the peace or a more serious crime, police officers are encouraged to utilize referral to homeless shelters or other appropriate social service provider, in lieu of physical arrest. It must be recognized that such referral is contingent on the voluntary agreement of the homeless person to accept such referral. The discretion to make a physical arrest of a person determined to be homeless for misdemeanor violations shall be the responsibility of the individual officer.

467.5 PERSONAL PROPERTY

The personal property of all homeless persons shall be respected. In no event shall any officer destroy any personal property known to belong to a homeless person, or readily recognizable as property of a homeless person unless it is contaminated or otherwise poses a health hazard to an officer or to members of the public. Officers are not responsible for taking custody of mattresses.

All property of the arrested person should be turned over to detention personnel at the jail. If the jail refuses to take the property it should be stored for safe keeping. All perishables should be dispensed of. If property is dirty it should be placed in a plastic bag prior to being stored.

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467.6 REPORTING

Officers having interactions and or contacts with persons determined to be homeless as a result of self initiated contact or as a result of a citizen complaint shall contact dispatch with the disposition of the contact.

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Strike Contingency Plan

469.1 PURPOSE AND SCOPE

In the event of a strike, all personnel are reminded that their role as police representatives is to maintain an impartial position, supporting both an individual's right to strike or lawfully protest, while also ensuring personal safety and the protection of property. All police managers will be provided with a copy of the operations order for the strike deployment; and shall review this plan and the order with their assigned personnel.

469.1.1 POLICY

When labor contracts for all bargaining units within the BART District (SEIU 1021, ATU 1555, and AFSCME) expire, negotiations are usually continuing during this time period with the hope that contract resolutions will soon be reached. In the event that contract resolutions are not reached with any or all of the bargaining groups, several options remain open. These options include the possibility that the contract may be extended by mutual agreement, the unions may initiate a strike, or a sixty-day cooling off period may be invoked by the governor's office, preventing any job actions during this time. Depending on the labor unions' decision, there is the possibility that the strike deadline may be delayed. If this occurs, the Department's strike deployment will be adjusted to begin at 2200 hrs the day before the strike date. All personnel will be advised of any updates in future bulletins.

It is anticipated that members of the BART Police Department (represented by the BPOA and BPMA) will not participate in any strike activity and these personnel will be available for service during any labor dispute.

469.2 DEPLOYMENT

BART Police personnel will be deployed two hours prior to any anticipated labor actions according to the attached deployment roster. This deployment will remain in effect until the conclusion of the labor action, or until modified by the Department's command staff. To the fullest extent possible, this deployment places all available personnel in uniformed patrol assignments.

The department's strike deployment includes modified shifts for all sworn members, dispatchers, CSOs, and RPGs. Schedules for dispatchers and RPGs will be prepared and distributed within those units. Schedules for sworn personnel and CSOs are attached to this bulletin. Most personnel in special assignments will be returned to uniformed-patrol functions during this strike deployment. Special-assignment personnel not listed on the attached deployment should contact their supervisor to determine their work hours and assignment. During this strike deployment, patrol shifts will be 12.5 hours in length, with one day off per week. The hours for the shifts will be:

Shift C - 18:00 - 06:30

Shift A - 06:00 - 18:30

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469.2.1 FIXED POSTS

Personnel will be assigned to fixed post positions at each of the District's four yards, the Oakland Shop, the Whipple Road Test Track, the San Francisco Vent and at the Lake Merritt Administration Building. These positions will normally require 2-4 personnel per location. A non-police "facility captain" will be designated for each facility by the department in charge of that location, with the name of that person available to the on-duty watch commander through the District's EOC/ Logistics Center (x7360). The line sergeant or designated officer at each of these locations should contact this facility captain at the beginning of each shift for an exchange of any necessary information and to confirm the person's identity in case there is a need for follow-up contact during the shift. Police personnel assigned at these fixed post locations should ensure the security of the facility's perimeter and monitor any picketing activity taking place.

Access to the San Francisco Vent will be severely restricted. There will be no access by District employees unless authorized by the watch commander.

During the first 24-48 hours of the system shut-down, trains will be stored on the pocket tracks outside of Pittsburg/Bay Point Station and Dublin/Pleasanton Station. At the end of revenue service at approximately 0130 hours on the night of a strike, a BART supervisor will physically check each of these stored trains. An officer will meet the supervisor at each of the stations at the end-of-revenue, and accompany him/her during the inspecting and auxing-off of these stored trains. When the inspection is complete, the supervisor will travel to Hayward Yard for additional duties and the officer should remain at the site to provide protection to these stored trains until sufficient resources are available to move them to yards. It is anticipated that these posts will be required for the first 24-48 hours of the system shut-down, and staffing adjustments should provide for this post. The assigned officer will determine the best surveillance positions, which may include the station's TM zone.

Yards, the Whipple Test Track, and other facilities will have gates specifically identified as "CONTRACTOR GATE". BART employees shall not use these gates to access facilities. The Contractor Gates are for the exclusive use of BART contractors and should not be picketed by striking employees. In the event these gates are picketed, the picket captain should be contacted and requested to remove the pickets. If this request fails to gain compliance, the pickets should be ordered to refrain from picketing this location. If the picketing continues, the violation should be reported to the on-duty watch commander so civil action can be initiated.

A list of contractors will be provided to the police department prior to June 30, 2009.

469.2.2 DISPATCH

The work schedule for all police dispatchers will be modified to ensure that at least three dispatchers are on duty in the dispatch center at all times.

469.2.3 COMMUNITY SERVICE OFFICERS

The work schedule for all CSOs will be modified to include 12.5-hour shifts with one day off per week. All CSOs will initially be assigned to work out of the Lake Merritt Administration building or various locations in the West Bay. A primary access control point staffed by CSOs will be

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maintained at the concourse entrance to LMA, and the four street-level stairwell and elevator access doors on 8th Street and 9th Street. A CSO will be also be posted at the top of the stairway at 8th and Oak Streets to control access at that point. One additional CSO will be assigned to patrol the MTC parking lot, Lot A, and the 7th Street parking lots. CSOs assigned to San Francisco will be assigned to monitor platforms of open stations, especially at Embarcadero Station.

Additional access control for the BART areas of the MTC building will also be staffed by CSOs. The required CSO positions in the MTC building include a 24 hour post on the lower level at the hallway by the parking lot doors. The post in the hallway should be positioned to allow observation of the hallway in front of the elevators and toward the tunnel. Authorization for entry to the MTC/ LMA buildings will be the yellow strike ID cards and a District ID card.

CSOs assigned to San Francisco will be assigned to monitor the platform of Embarcadero Station when the station is open. Intruder alarm and video system will be active. Personnel at these posts should be alert to individuals entering the platform from the elevator and make certain no one enters the TBT or accesses the emergency equipment in the tunnel area just south of Embarcadero Station.

(a) **Primary CSO posts will include:**

1. 8th and Oak Streets, Oakland
2. LMA concourse desk
3. MTC Tunnel - Check employee IDs and strike IDs at glass doors
4. Parking lots adjacent to LMA (Lot A), MTC
5. LMA 8th and 9th St. side doors (four street level stairwell and elevator access doors)
6. Embarcadero Platform
7. San Francisco joint use stations: MOS, PPS, CCS

469.3 REPORTING LOCATIONS

Reporting locations for officers and sergeants will remain at the current zone facilities and field offices throughout the zones. Personnel may also be assigned to report directly to maintenance yards. The anticipated deployment will include 18 vehicle beats and the deployment of officers at yards to include:

- **Zone 1 4 vehicle beats (5 officers, beat 10 doubled)**
  - 2 officers at Oakland Shops
- **Zone 2 R-Line: 3 vehicle beats (4 officers, beat 21 doubled)**
  - 3 officers at Richmond Yard
- **C-Line: 3 vehicle beats (4 officers, beat 27 doubled)**
  - 3 officers at Concord Yard

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- **Zone 3 4 vehicle beats (5 officers, beat 31 doubled)**
  - 3 officers at Hayward Yard
  - 2 officers at Whipple Road
- **Zone 4 4 vehicle beats '" (5 officers, beat 40 doubled)**
  - 1 officer at SFO fixed post
  - 1 officer at SF Vent
  - 3 officers at Colma Yard

Due to the parking constraints and downtown congestion, Zone 4 personnel who normally report to the Powell Street Station will report to the Daly City Police office during this strike deployment. This deployment will require a minimum of 41 officers per shift. Any additional officers may be deployed on sweeper trains, high-rail vehicles, or other necessary assignments throughout the District.

All CSOs will provide access control and building security to the LMA and MET buildings and patrolling employee-parking areas that serve LMA. CSOs will work 12.5-hour shifts with one day off per week, according to the attached schedule. Their hours will be the same as those listed for shifts A and C.

All uniformed personnel, except for K-9 handlers, shall report in Class B uniform. Officers in the Field Training Program will report according to the schedule of their assigned FTO.

All uniformed personnel, except for K-9 handlers, shall report in Class B uniform. Officers in the Field Training Program will report according to the schedule of their assigned FTO.

All discretionary time-off during the strike deployment period is canceled. In the event that this deployment is not utilized, previously granted discretionary time off will be reinstated. Annual guaranteed vacation is not canceled.

Personnel working overtime at the initiation of this deployment schedule shall complete their overtime assignment and then report according to the attached deployment schedule. Unless notified, all personnel designated in the attached schedule to work Shift C on Wednesday shall report to their designated report location at 22:00 hours.

Personnel who are assigned to the yards shall not report directly to the yard for their initial shift, but to the zone facility on that line. a command level officer will be in charge of coordinating the department's strike deployment. A-Platoon personnel should expect to report for their normal, non-strike shifts. If, however, the department invokes the strike-deployment schedule, Shift A personnel will be contacted and advised to report according to the strike deployment. In the event a strike deployment is in effect at that time, Shift A personnel will relieve those Shift C personnel who began their normal B-Platoon shifts.

Employees may call the BPD announcement hotline (x7411) for updated deployment information. The toll-free number is (877) 679-7000, then 7411. There will be no compensation for these calls.

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Overtime slips will be filled out as follows: For Shift C personnel who are working on their regular workday, the overtime will be from 18:00 '" 20:30. For Shift A personnel, the overtime will be from 16:00 - 18:30. Day-shift personnel normally scheduled on eight-hour shifts shall note their overtime as the last 4.5 hours of their strike shift (Graveyard shall note the first 4.5 hours as overtime). For those who are working an RDO, the overtime will reflect the actual hours worked. Similarly, for those released early from the shift by a supervisor, the overtime charged will reflect the actual hours worked, and not what was scheduled.

Depending on the labor unions' decision, there is the possibility that the strike deadline may be moved to a later date. If that occurs, the Department's strike deployment will be adjusted to begin at 18:00 the day before the strike. All personnel will be advised of any updates in future bulletins.

469.3.1 ADMINSTRATION AND EQUIPMENT

All uniformed police personnel shall report in Class B uniforms at the initiation of a strike. Revisions to the uniform designation, with consideration given to the use of utility uniforms, will take place if the strike is prolonged.

A lieutenant or Deputy Chief will be on duty at the Lake Merritt Police Headquarters at all times during any labor strike. Whenever possible, a command officer will be assigned to the District's Operations / Logistics Center, which will be located on the second floor of the Lakeside Administration Building. The ranking command officer shall notify the Chief of Police of any significant events which may occur, including strike-related incidents of damage or violence, or any other media significant events. He/she will also make certain that the Logistics Center is also notified of significant events.

Vehicle patrols will utilize all available marked vehicles, including marked sergeants' and lieutenants' vehicles if required. Additional departmental vehicles which are equipped with radios and emergency equipment may be deployed as required to provide the necessary compliment of patrol vehicles. District pool cars or rental vehicles will be obtained to provide vehicles for other administrative and support needs.

Any significant strike related events or questions regarding non-police procedures or employee identification questions should be referred to the Logistics Center (x7360). This center will remain as the central point for strike related information, and should be updated on any significant events.

As mentioned in Station Staffing, The Transportation Department will be providing a schedule of employee staffing at Embarcadero, Montgomery, Powell Street and Civic Center stations during hours that MUNI is operating in those stations. Millbrae Station and Richmond Station will also be staffed during hours that AMTRAK and CALTRAIN are utilizing those stations. In addition, 10 of the most critical stations will also be staffed 18 hours a day by BART employees.

469.3.2 COMMUNICATION AND CONTROL

Primary radio communications will be maintained through the "Dispatch" channel of the police radio system. The need for regular status reports and updates from all locations is stressed to all personnel.

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Call signs for personnel on vehicle beats will include the normal beat designator proceeded by "A" for personnel on Shift A (0600-1830 hrs.) or "C" for personnel on Shift C (1800-0630 hrs.) Personnel on fixed posts should use a radio call-sign which includes their assigned location with their badge number. For example, an officer with badge #100 assigned at the Richmond Yard would use the call-sign "Richmond Yard 100"

Communications which may be considered sensitive or confidential should be conducted by telephone. The chain of command with the Police Department is not modified by this Operations Order and all normal notification and approval processes through this chain shall remain in effect.

469.4 REVENUE PROTECTION GUARDS

Revenue Protection Guards will be required to provide protection during the collection of money from District vending equipments during the first several days of a strike. After all money has been collected, and in the absence of revenue trains service or paid bus bridges, RPGs may be reassigned to assist at fixed-post locations. Additionally, RPGs may be assigned to escort the District Payroll checks between the Lakeside and Lake Merritt Administration buildings as they are being prepared. If charter bus service is arranged by the District, RPGs may be used to provide protection for cash bus ticket purchases at the mobile safe locations.

Revenue Protection Guards will be scheduled to work a six day work week, working 12 hour shifts. In the event of a strike, all non-guaranteed time off will be canceled. Annual vacations, pre-approved Family Leave and pre-approved discretionary days off will be honored.

A few designated RPGs scheduled to work shift 2 (1800-0630) on the first night of a strike will report to work at 2200 hours the night before the scheduled strike. The remainder of the RPGs scheduled to work shift 2 for the first day of the strike shall call the information line at (510) 464-7411 to determine if a strike is taking place. If a strike is taking place, they will be required to come into work at 1800 hours. The RPGs scheduled for shift 1 will only need to report at 0600 hours if an actual strike has begun. If no strike takes place, or a "cooling off" period has begun, all guards will be required to report for their normal shift (0400 hours). RPGs needing to check the status of the possible strike should first call the information line at (510) 464-7411. If more information is required, he/she may call the guard shack at (510) 464-6658, Sgt. Randy Gregson at (510)286-2866 or (510) 915-2442 or BART Police dispatch at (510) 464-7000.

As a reminder to all RPGs, the shift 2 guards are on a graveyard schedule, meaning that if their day off is listed as Friday, they will not need to report to work on Thursday night at 1800 hours, but they will need to report on Friday night at 1800 hours for their Saturday shift. Any questions regarding the schedule should be directed to Sgt. Randy Gregson at x2866.

All RPGs are expected to read and abide by Bulletin No. 09-43. A copy will be kept in the guard shack at the start of a labor strike.

469.5 SECURITY GUARDS

Security guards may be hired by the District and assigned to selected points in the system. The final determination for security guard posts will be determined prior to any strike deadline,

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but will emphasize MWs, portal areas and other areas of high vulnerability. There may be a mobilization delay in placing security guards in position once a strike has begun, so in addition to patrolling stations, officers must be aware of the vulnerable areas on their beat, and provide special attention to these areas. The vulnerable areas may include portals, substations, radio towers, Transitionstructures, emergency entrances, or any other point where damage could be done to District property. The specific guard posts are attached to this order and officers will be advised once the guards are in place.

District personnel may also be assigned to designated stations to monitor any activity occurring in those stations. Officers shall consistently check both the interior and exterior of stations on their beat and check on the welfare of employees who may be assigned to that location. Downtown San Francisco stations which are used by MUNI will remain open during hours that MUNI is operating. BART personnel will be assigned in these stations during hours that they are open, and police personnel should also provide frequent patrols to these stations. Throughout the District, officers should use normal patrol procedures, varying their patterns and avoiding predictable time frames to be at locations within the beat.

469.5.1 GUARD POSTS

In the event that a strike is in effect, private security guards may be hired to staff 20 posts according to a schedule which is attached. Personnel will be advised once the guards are in place. At the conclusion of any strike deployment, the watch commander will immediately contact the guard company to advise that the deployment by their agency is no longer required. The Operations Bureau Deputy Chief will be advised of the exact time of this notification. Any problems with security guard deployment should be referred to the watch commander for resolution with the guard company.

- EAST BAY
    - 1 Maintenance Way (MW) 4 7th Street, 100' east of the Maritime Street overpass Oakland
    - 2 MW 5 & MW 6 5th Street & Jefferson Street Oakland
    - 3 MW 8 Northside Avenue via Hopkins Street Berkeley
    - 4 MW 9 BHT West Portal, Chabot Road (near Golden Way) Oakland
    - 5 MW 10 Berkeley Hills Tunnel East Portal, South Parking Lot, Orinda BART station Orinda
    - 6 MW 12 Off Camino Diablo frontage road, MP 14.52 Walnut Creek
    - 7 Northgate Portal 23rd Street & Northgate Avenue Oakland
    - 8 Ashby Portal Adeline Street & Alcatraz Avenue Berkeley
    - 9 Oakland Vent 7th Street access between Trapac and Matson Terminals Oakland
    - 10 L-Line West Portal Kent Avenue and Bevilacqua San Lorenzo

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- 11 Schaeffer Ranch Substation & Antenna Eden Canyon Road, South side of 580 between Castro Valley and Dublin Castro Valley
- 12 Willow Pass Radio Antenna 4709 Evora Road, North side of Hwy 4, east of Willow Pass Road Concord
- 13 Walnut Creek Antenna 2650 Camino Diablo, North side of Hwy 24, just NW of the 24/680 interchange Walnut Creek

- WEST BAY
  - 14 Maintenance Way (MW) 1 1/4 mi. north of Daly City BART on St. Charles via Alemany Blvd. Daly City
  - 15 MW 2 2 1/2 blocks east on Havelock Street, west of San Jose Avenue San Francisco
  - 16 Washington Street Portal Colma Yard, near Washington and Hill Streets Colma
  - 17 MW 20 F Street, Colma (right turn after trackway) Colma
  - 18 WSR - Shaw Road Substation 983 7th Avenue (fenced substation) Take 6th Ave. to Walnut, to 7th San Bruno
  - 19 WCS - Center Street Substation 91 Monterey Street (fenced / walled compound, portal across street) Millbrae
  - 20 "WSP" - Santa Paula Switch Station
  - WPA - Santa Paula Bulk Station" "7 Monterey Street (right next each other)
  - 19 Monterey Street" Millbrae

469.6 STAFFED STATIONS

BART personnel will maintain 24-hour staffing at each of the joint-use stations including Embarcadero, Montgomery, Powell Street and Civic Center Stations in San Francisco, Richmond Station and Millbrae Station. The San Francisco stations will remain open from 0400-0100 hours to allow MUNI passengers access. Richmond Station will be open to allow AMTRAK passengers access to the station, and Millbrae Station will be open to allow CALTRAIN access. Ten additional stations will be designated as Critical Stations and will also be staffed from 0500-2230 hours daily, but will remain closed. They are listed below and are subject to status re-evaluation by Transportation:

Coliseum, Ashby, Dublin/Pleasanton, MacArthur, West Oakland, Balboa Park, Hayward, Fremont, El Cerrito Del Norte, and Walnut Creek

Officers shall provide additional coverage to the open stations, and should check the critical stations frequently to ensure the safety of personnel assigned at those locations. An additional patrol beat should be provided in San Francisco during hours of MUNI operation to the extent possible. When available, CSOs will also be used to monitor these stations.

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On the night of a strike, teams of non-striking transportation personnel will board the last revenue trains at MacArthur Station and will meet the closing station agents on the platform of each station to collect AFC keys and canvas bags. In the event that they are not met by an on-duty station agent, transportation will have a member of their team off-board the train to close the station. Transportation may request through dispatch that an officer be sent to assist them in collecting keys and/or closing stations.

469.7 EMPLOYEE ACCESS

Employees who enter District facilities should meet one of the following criteria:

(a) Possess a laminated Strike BART Identification Card bearing the individual's name. These cards do not include the employee's photograph and a regular employee ID card should also be presented to confirm identity.

(b) Be a BART Police employee.

If there is a question regarding admission of employees, the facility captain for that location should be contacted or confirmation regarding the employee's status sought from the Logistics Center at x7360 (510-874-7360), x7361, x7362 or by email at logistics@bart.gov. An informational sheet with sample copies of the identification cards will be provided for each of the primary access points.

469.7.1 BUS SERVICE

It is anticipated that private bus service may be provided at 4 key stations, El Cerrito Del Norte, Walnut Creek, Dublin/Pleasanton and Fremont. Confirmation will be made prior to the contract deadline.

469.8 PICKET ACTIVITY

Personnel should anticipate pickets at all District facilities, especially maintenance yards and administration locations. Police personnel should not interfere with lawful picketing, and should maintain an impartial position with all personnel involved. The senior police representative at each picket site should contact the picket captain so any concerns or minor violations can be addressed quickly and resolved with minimal police intervention. Use of video cameras to document disruptive picket activity should be considered when possible.

If picketing activity unlawfully restricts access to BART facilities, or is taking place on BART property, the picket captain should be asked to allow reasonable access and/or to move off of BART property. Pickets are permitted to reasonably delay ingress and egress of personnel and vehicles and they may speak to drivers crossing picket lines to present their positions. This delay must be reasonable, and should not significantly impact traffic on surrounding streets or impact public safety. If the delay is excessive, the picket captain should be requested to open the picket line for the passage of the vehicle or persons. If these access violations continue, the pickets should be ordered to comply with lawful directions regarding providing breaks in the picket line or moving off of BART property. Arrests for access violations at picket sites should only be

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undertaken as a final option, and a police supervisor should be consulted whenever possible before any arrests are made for blocking access.

Picket-line violations such as drinking in public, intoxication, or disturbing the peace should also be called to the attention of the picket captain for resolution. If the situation is not addressed by the picket captain or union representative at the site, a police manager should be advised of the violation. The involved union will be asked to address the problem, with police personnel at the scene documenting the situation in the event some action is required from the courts. Again, physical arrests should be undertaken only as a final option for these minor violations.

Incidents of violence or assault will not be tolerated, and immediate intervention should be undertaken to address this type of incident. Police personnel should request sufficient resources to safely intervene, and arrests for incidents of violence should be undertaken when sufficient police personnel are at the scene.

Police coverage for the Lakeside Administration Building will be provided by the Oakland Police Department.

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Reporting Significant Security Concerns to TSA

471.1 PURPOSE AND SCOPE

The purpose of this policy is to define how the Department will cooperate in sharing intelligence information about events of significant security concern. The events of 9/11 demonstrated the importance of instant communication between federal, state and local agencies in a crisis. The Transportation Security Administration (TSA) created the Transportation Security Operations Center (TSOC) to serve as the primary coordination point for multiple agencies dealing with transportation security on a daily basis. The TSOC serves as the 24/7 point of contact for all transportation security concerns.

471.2 NOTIFICATIONS

As required by 49 C.F.R. §1580.203(b), the TSOC will immediately be notified telephonically by the Watch Commander during any incidents involving any potential threats or significant security concerns. The telephone number for the TSOC is 1-866-615-5150. At his/her discretion, the Watch Commander may assign the task of contacting the TSOC to an employee with greater operational knowledge of the reportable incident as long as such assignment does not significantly delay the report to the TSOC.

Potential threats or significant security concerns encompass incidents, suspicious activities, and threat information including, but not limited to, the following:

(a) Interference with the train or transit vehicle crew.

(b) Bomb threats, specific and non-specific

(c) Reports or discovery of suspicious items that result in the disruption of rail operations.

(d) Suspicious activity occurring on-board a train or transit vehicle or inside the facility of a passenger railroad carrier or rail transit system that results in a disruption of rail operations.

(e) Suspicious activity observed at or around rail cars or transit vehicles, facilities, or infrastructure used in the operation of the passenger railroad carrier or rail transit system.

(f) Discharge, discovery, or seizure of a firearm or other deadly weapon on a train or transit vehicle or in a station, terminal, facility, or storage yard, or other location used in the operation of the passenger railroad carrier or rail transit system.

(g) Indications of tampering with passenger rail cars or rail transit vehicles.

(h) Information relating to the possible surveillance of a passenger train or rail transit vehicle or facility, storage yard, or other location used in the operation of the passenger railroad carrier or rail transit system.

(i) Correspondence received by the passenger railroad carrier or rail transit system indicating a potential threat to rail transportation.

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(j) Other incidents involving breaches of the security of the passenger railroad carrier or the rail transit system operations or facilities.

Information reported should include, as available and applicable:

- Contact information for the reporting party including telephone number and email address.
- The name and address of the affected station or facility.
- Identifying information on the affected train, including run-number and destination.
- Current location of the affected train.
- Description of the threat, incident or activity.
- Name and identifying information of individuals involved in the threat, incident, or activity.
- The source of any threat information.

471.2.1 REPORTING INCIDENTS IN THE ABSENCE OF A WATCH COMMANDER
In the absence of an on-duty Watch Commander, the Sergeant/Officer-in-Charge responsible for the area where the reportable incident is occurring shall be responsible for ensuring that the TSOC is notified. Notification to the TSOC does not take precedence over notifications as required by Policy Manual § 358.

471.3 EMPLOYEE DUTY TO REPORT

Any employee with knowledge of an incident that is reportable under this policy shall ensure that the Integrated Security Response Center (Police Dispatch) is notified of the incident. The employee notifying the ISRC shall request that an on-duty Watch Commander or Sergeant is notified to determine if a report to the TSOC is warranted.

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Community Oriented Policing Program

473.1 PURPOSE AND SCOPE

The BART Police Department's community oriented policing program is a proactive approach to policing that involves problem identification and resolution, and creating partnerships between the members of the police department and the communities they serve. Officers in the BART Police Department are expected to be community resources who assist citizens in solving problems within their jurisdictions. It is expected that the officers will work with patrons, community residents and other city departments to provide a long-term solution to existing and potential issues concerning safety.

Officers involved in community oriented policing are concerned with improving the quality of life in and around the BART District. Officers may be assigned to a specific geographic area for a long term in order to provide them with the opportunity to get to know transit patrons and community residents on a more personal level, learn what they perceive as problems, and develop ways of addressing those problems.

473.2 PHILOSOPHY

Community oriented policing is a philosophy that promotes organizational strategies, which support the systematic use of partnerships and problem-solving techniques, to pro-actively address the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime.

Community oriented policing goes beyond traditional policing to build a cooperative and mutually beneficial relationship between the police and the community by:

- Ensuring active involvement on the part of problem-solving officers and neighborhood services coordinators in the affairs of the community.
- Encouraging active citizen involvement in policing efforts.
- Focusing on issues of ongoing public concern.
- Providing continuity of service to the community.

473.3 COMMUNITY ORIENTED POLICING OFFICER SELECTION PROCESS

(a) Community oriented policing officers will be selected based on the following requirements:

1. Minimum of two (2) years non-probationary patrol experience, including at least one (1) non-probationary year as a BART police officer
2. Possess a POST Basic certificate
3. Immediate supervisor's recommendation
4. Satisfactory performance evaluations, and an attendance record that complies with department guidelines

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5. Pass an oral interview selection process
6. Applicants must be assigned to the Patrol Bureau at the time of selection, and have an exemplary work record

(b) A community oriented policing program selection committee shall be established, and this committee shall be composed of the following personnel who shall convene for the purposes of screening and selecting qualified applicants for community oriented police officers:

1. Community oriented police program coordinator
2. Community oriented police supervisor
3. Community oriented police officer selected by the BPOA

(c) The selection process for community oriented policing officer shall be as follows:

1. Upon notification of memorandums of interest being accepted for community oriented policing officer, all interested officers meeting the minimum qualifications listed shall submit memorandums of interest to the community oriented policing program coordinator via the chain of command. All memorandums of interest must include a resume of law enforcement experience with BART police, other police agencies, and community activities.
2. It will be the responsibility of the applicant's immediate supervisor to prepare a written recommendation as to the applicant's suitability for the community oriented policing officer position. Additionally, all supervisor's written recommendations will include comments on attendance, discipline, EDR file review, and ensure compliance with established minimum qualifications.
3. All qualified applicants will be invited to participate in an oral assessment interview. The members of the oral interview assessment panel will be the community oriented policing program selection committee. The committee will rate all candidates on a communication assessment form. An overall score of 75% is needed to pass. Those passing will comprise an eligibility pool that will remain in effect for twelve (12) months.

(d) The ultimate decision regarding the final selection shall rest with the Chief of Police. Among the criteria considered in making the selection will be:

1. Supervisor's recommendation
2. Review of personnel and Internal Affairs files
3. Prior performance evaluations
4. Performance on the oral assessment phase of the selection process

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473.3.1 COMMUNITY ORIENTED POLICING COORDINATOR

The community oriented policing program coordinator will be selected from the rank of lieutenant by the Operations Bureau Deputy Chief or his/her designee and shall possess a POST Supervisory Certificate.

The community oriented policing coordinator shall have the overall responsibility for, but not be limited to the following:

- Monitor and direct overall community oriented policing program.
- Monitor community oriented policing officer and supervisor performances.
- Maintain liaisons with other agency's community oriented policing coordinators.
- Develop ongoing training for community oriented policing personnel.

473.3.2 COMMUNITY ORIENTED POLICING PROGRAM SUPERVISORS

The Operations Bureau Deputy Chief, or his/her designee, will appoint a sufficient number of community oriented policing supervisors to effectively monitor the daily workings of the community oriented policing program. Ideally, these supervisors will have performed duties as community oriented policing officers during their careers and will be well versed in the intricacies of the community oriented policing program.

Community oriented policing supervisors will be responsible for the following:

- Assignment of community oriented policing officers.
- Monitor individual community oriented policing officer performance and conduct within their respective areas of responsibility.

473.3.3 COMMUNITY ORIENTED POLICING OFFICERS

The Operations Bureau Deputy Chief, or his/her designee, will appoint a sufficient number of community oriented policing officers to effectively perform the daily workings of the community oriented policing program. COP personnel will address a variety of civic, school, resident, and business groups on matters relating to personal safety and ways to reduce the likelihood of becoming a crime victim.

473.3.4 RETENTION

Any member of the community oriented policing program may be removed from the program by the Chief of Police. Reasons for removal include:

- Engaging in unlawful or unprofessional behavior
- Failing to adhere to the rules and regulations of this policy
- Demonstrating a pattern of unsafe or unacceptable police practices
- Being a principal in any departmental investigation which results in a sustained finding
- Having substandard ratings on departmental performance evaluations

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- Voluntarily withdrawing from the community outreach program

Any community oriented policing officer or supervisor wishing to withdraw from the program voluntarily should submit a memorandum, via the chain of command, directed to the Operations Bureau Deputy Chief. Those community oriented policing officers or supervisors withdrawing voluntarily or involuntarily from the program may be readmitted when new openings occur by going through the selection process again.

The community oriented policing program staff will make a recommendation as to whether to reinstate the officer or supervisor. The final determination will rest with the Operations Bureau Deputy Chief. The community oriented policing coordinator will make a recommendation as to whether to reinstate an community oriented policing supervisor. The final determination will rest with the Operations Bureau Deputy Chief.

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Chapter 5 - Traffic Operations

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District Property Traffic Enforcement

500.1 PURPOSE AND SCOPE

The ultimate goal of traffic law enforcement is to reduce traffic collisions. The BART Police 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. All officers assigned to patrol or traffic enforcement functions will emphasize enforcement of traffic violations on all BART District owned, operated, or administered properties.

500.2 TRAFFIC OFFICER DEPLOYMENT

California Penal Code 830.33(a): The primary duty of a peace officer who is a member of the San Francisco Bay Area Rapid Transit District Police Department appointed pursuant to Section 28767.5 of the Public Utilities Code is the enforcement of the law in or about the properties owned, operated, or administered by the District or when performing necessary duties with respect to patrons, employees, and properties of the District.

California Vehicle Code 21113(a): No person shall drive any vehicle or animal, nor shall any person stop, park, or leave standing any vehicle or animal, whether attended or unattended, upon the driveways, paths, *parking facilities*, or the grounds of any public school, state university, state college, unit of the state park system, county park, municipal airport, rapid transit district, transit development board, or transit district.

California Vehicle Code 21113(c): When any governing board, legislative body, or officer permits public traffic upon the driveways, paths, *parking facilities*, or grounds under their control then, except for those conditions imposed or regulations enacted by the governing board, legislative body, or officer applicable to the traffic, all the provisions of this code relating to traffic upon the highways shall be applicable to the traffic upon the driveways, paths, *parking facilities*, or grounds.

500.3 ENFORCEMENT

District property traffic enforcement stops should only be done in police vehicles that are equipped with at least a steady burning red light in the front, amber flashing lights to the rear and a siren.

District property traffic enforcement (other than speed or reckless driving violations) shall only be done for those parking and/or moving violations where appropriate and maintained signage and/ or road markings exists that conform to Department of Transportation standards.

District property traffic enforcement actions are commensurate with applicable laws and take into account the degree and severity of the violation committed. This department does not establish citation 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.

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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, and within department policies, such as reckless driving with extenuating circumstances

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Suspended, Revoked, and Unlicensed Drivers

501.1 PURPOSE AND SCOPE

To enforce laws pertaining to unlicensed or suspended and revoked drivers and provide a procedure for handling drivers operating vehicles while unlicensed, or while driving with a suspended and/or revoked drivers license. To provide a procedure for the tow and impound of vehicles used by such violators.

501.2 DRIVER LICENSE STATUES VERIFICATION

Officers who contact the driver of a vehicle and become aware that he/she is operating the vehicle while unlicensed, or with a suspended and/or revoked drivers license shall:

(a) Verify, whether on their MDC's or via dispatch, the driver's license statues via CLETS. Officers should request that dispatch print a copy with the case number on it. Officers shall request the service code on any suspension or revocation. Service Codes B through G and M indicate the person has been served notice of any suspensions and/or revocations.

(b) If the driver's license has been suspended or revoked, but he or she has not been notified of the suspension or revocation, give him/her verbal notice of the suspension or revocation. Complete a DL-310 form and have the driver sign it. If the driver refuses to sign, write "refused" on the signature line. Confiscate any California Drivers License(s) per 4460 V.C. Forward the license and DL-310 to the traffic officer. Do not place the license into evidence.

(c) If the driver has prior notification of the suspension or revocation, issue the driver a citation for the appropriate violation of 14601-14601.5 V.C. The violator's vehicle may be towed and stored per 22651(p) V.C. or towed and impounded per 14602.6(a) V.C.

(d) Officers shall document their actions via the appropriate arrest report. A CHP-180 report will be required if the vehicle is impounded or stored. Officers citing drivers for infraction violations of 12500(a) V.C. or 14601.1(a) V.C. may use a citation report, unless the vehicle is impounded or stored.

(e) Persons seeking release of their vehicles should be advised to contact the Traffic Officer during business hours.

501.2.1 DRIVER AND PASSENGERS OF VEHICLES BEING TOWED

Refer to Policy 510 for the departments towing policy. Consideration should be given to the safety of the driver and any passengers when deciding whether to tow the vehicle. Officers may summon a taxi or other party to pick up the people, at their request, or the people may be transported to a safe area. In no case should an unlicensed driver, or a person with a suspended or revoked driving privilege, be allowed to take control of the vehicle. Vehicles seized pursuant to sections (b) and (c), listed in 501.2 above, may be subject to forfeiture under section 14607.6(a) V.C. Such forfeiture should be reviewed by the Administrative Traffic Officer.

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501.2.2 30 DAY VEHICLE IMPOUNDS

When impounding a vehicle pursuant to section 14602.6(a)(1) VC, officers shall indicate on the CHP 180 form that a vehicle is to be held for 30 days in the box labeled "Storage Authority and Reason", by writing "14602.6(a)(1) VC-30 day hold".

Vehicles may be released prior to 30 days if the "30 day hold" wording is absent. Dispatchers shall enter "14602.6(a)(1)VC-30 day hold" wording in the narrative of their CADS screen.

In cases where a 30 day hold is not warranted, 22651(p)VC shall be used.

501.2.3 VEHICLE RELEASE

The owners or agents seeking the release of vehicles towed, stored or impounded pursuant to 14602.6(a) V.C. may request a hearing by the Administrative Traffic Officer during regular business hours at x7038.

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Traffic Collision Involving Police Personnel

502.1 PURPOSE AND SCOPE

This policy is to establish a procedure for reporting and reviewing traffic collisions involving on-duty BART police employees; and traffic collisions involving vehicles owned, leased or rented by the District and operated by, or assigned to, an on- or off-duty BART police employee.

502.1.1 PROCEDURE

A Collision Review Board shall review traffic collisions involving on-duty police employees and traffic collisions involving vehicles owned, leased or rented by the District and operated by, or assigned to, an on- or off-duty BART police employee. The Board will determine if the collision was preventable, non-preventable, a non-collision, or legal intervention. The Board will not be responsible for determining or recommending discipline, or investigating or deciding on other possible procedural, rule, or legal violations.

The Board will not be used to review traffic collision involving the Chief of Police or Deputy Chief. The Chief will review collisions involving commanders, while the District General Manager will review collisions involving the chief.

Investigations of collisions covered under this policy will be conducted by sworn supervisors.

502.2 COLLISIONS OCCURRING ON DISTRICT PROPERTY

(a) BPD employees involved in a collision occurring on District property shall notify the Communications Center as soon as practicable. The involved employee will advise that he/she has been involved in a traffic collision and request medical assistance for any involved parties, as needed. The employee shall also request that the appropriate zone supervisor be notified.

(b) Upon notification, the zone supervisor should proceed to the collision scene. The supervisor shall attempt to take verbal statements from all involved parties and complete the collision investigation. Any exceptions to having a supervisor at the collision scene to handle the investigation must be approved by a watch commander.

(c) Collisions will be documented on the appropriate CHP Traffic Collision Report form, as follows:

1. Property Damage Only (PDO) forms (CHP 555-03) may be used if:

    (a) One or two parties are involved;

    (b) No injuries or fatalities are incurred (including a complaint of pain);

    (c) No anticipated prosecution;

    (d) Non-injury hit-and-run collisions where prosecution is not anticipated or no follow-up information is available.

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1. A PDO requires a Collision Report narrative. This format consists of a following report headings: Notification, Statements, Summary, Area of Impact, and Cause. A sketch is required when preparing a PDO; however, a diagram is not. Refer to the CHP Collision Investigation Manual for specific report-preparation instructions.
2. (Note: Nothing in this directive prohibits the documentation of a report qualifying as a PDO from being completed as a Collision Investigation as described below, at the discretion of the reporting officer or as directed by a supervisor.)

2. All other collisions not qualified for completion on a PDO form shall be documented on a Traffic Collision Report (CHP 555) and will utilize the Investigation Narrative Format. This format requires the use of the following report headings: Facts (Notification, Scene, Parties, Physical Evidence, Hit and Run, Hazardous Materials, and Other Factual Information); Statements; Opinions and Conclusions (Summary, Area of Impact, Intoxication, and Cause); and, Recommendations. The Investigation Format requires a sketch and factual diagram.
   (a) All Statements, causes, opinions and conclusions, and recommendations will be documented as required by either report format, regardless of who is at fault in the collision.

(d) All police employees operating, last in control of, riding in the involved vehicle(s), or witnessing the collision, shall submit a memorandum through the chain of command to the on-scene supervisor. Memos will detail the circumstances of the collision. If the involved employee(s) is unable to prepare a memo, the investigating supervisor shall take a verbal statement.

(e) If a supervisor does not prepare the collision report, that supervisor will gather all relevant information and prepare a memo describing the circumstances of the collision and an opinion as to fault. If fault is unclear, this fact must be noted. This memo shall be forwarded to the Collision Review Board chairperson.

(f) The on-scene or assigned supervisor will send a **copy** of the traffic collision report and all original memorandum(s) to the Board chairperson. All original reports shall be forwarded to the Records Section.

(g) In the event any involved party sustains fatal or severe injuries, the California Highway Patrol will be requested to respond and handle the investigation. If the CHP does not respond, a BPD supervisor shall handle the investigation as outlined above. (Note: A severe injury is defined as an injury that results in broken, dislocated or distorted limbs, severe lacerations, or unconsciousness.)

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502.3 TRAFFIC COLLISION REPORTING

(a) BPD employees involved in a collision occurring off District property must notify the Communications Center as soon as practicable. The involved employee shall advise that he/she has been involved in a traffic collision and request medical assistance for any involved parties, as needed. The employee shall also request that the appropriate BPD supervisor be notified and the law-enforcement agency with jurisdiction of the collision site be contacted and requested to respond to investigate the collision. If the local agency is unable or declines to respond, a BPD supervisor will be assigned to investigate the collision, providing that it occurred within the BART counties.

(b) If the local law enforcement agency responds and handles the investigation, the involved employee is responsible for obtaining the investigating officer's name, case or incident number, and identifying information of the other involved parties.

(c) All police employees operating, last in control of , or riding in the involved vehicle(s), or witnessing the collision, will submit a memorandum through the chain of command to the on-scene supervisor. Memos shall detail the circumstances of the collision. If the involved employee(s) is unable to prepare a memo, the investigating supervisor will take a verbal statement.

(d) If the local law enforcement agency does no investigate the collision, the same reporting requirements regarding PDOs and Traffic Collision Reports, as listed in section 502.2 shall be utilized by the investigating BPD supervisor.

502.4 REPORTING SITUATIONS

In the event an employee is injured as a result of a traffic collision as described in this directive, a supervisor shall complete the Supervisor's Report of Injury/Illness report, and the Employee's Claim for Workers' Compensation Benefits form. The completed forms will be faxed to the appropriate locations and forwarded to the Records Section. All other injury reporting procedures also apply.

The supervisor shall also follow all procedures regarding the District's post-accident testing. Regulations for all safety-sensitive employees (all sworn classifications and Revenue Protection Guards) call for post-accident testing if the collision results in the following: a fatality, regardless of the circumstances; an injury to any person which requires immediate medical treatment away from the scene of the accident; or, one or more of the involved District vehicles incurs disabling damage as a result of the occurrence and is transported from the scene by tow truck or other vehicle. (Note: "Disabling damage" means damage that prevents a vehicle's departure from the scene and would require more than temporary simple repairs or the changing of a tire in order to be driven away.)

For those employees not designated as safety-sensitive (civilian classifications except RPGs), regulations call for post-accident testing if the collision results in the following: a fatality; a medical

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injury; or, District property damage of $5,000 or more. (See District Substance Abuse Program for further details regarding post-accident testing for all BPD employees.)

The supervisor shall also complete the involved vehicle's Vehicle Damage Report Form and Accident Control Card.

502.5 NOTIFICATION OF TRAFFIC BUREAU SUPERVISION

The Collision Review Board will be comprised of the following personnel:

(a) A command-level officer (chairperson) selected by the chief of police. If the involved employee is a lieutenant, the chairperson shall be a Deputy Chief;

(b) A sergeant selected by the chairperson;

(c) An employee of equal rank to the individual involved in the accident or other designee named by the involved employee's bargaining unit.

502.6 BOARD FINDINGS

The Collision Review Board shall determine if the collision was preventable, non-preventable, a non-collision, or legal intervention as defined below:

(a) **Preventable:** A traffic collision is preventable when the driver fails to take reasonable action to prevent a collision. Vehicle operators are expected to actively attempt to avoid collisions. Any traffic collision that is proven to be the fault of the driver through neglect of his/her duty as a driver is negligence. Failure to exercise the care that a prudent person usually takes shall be deemed a preventable accident caused by negligence.

(b) **Non-Preventable:** Any traffic collision in which the driver has no control (mechanical failure or being physically incapacitated while driving) or when the driver has taken reasonable and precautionary action to avoid a collision.

(c) **Non-Collision:** An event in which the involved vehicle may have struck another vehicle or object, or may have been struck by another vehicle or object but no damage to any involved vehicle or object has occurred and no injury to any involved party has occurred. As provided in the CHP Collision Investigation Manual, these events do not constitute a traffic collision.

(d) **Legal Intervention:** Injury or damage caused by enforcement intervention (usually apprehension or an attempt to apprehend) using a motor vehicle is not a motor-vehicle collision insofar as the enforcing agency and violator relationship are concerned. (If, however, intentional acts are committed and injury or damage goes beyond the original intent, the excessive acts are considered accidental and meet the definition of a motor-vehicle collision.)

The findings of the Collision Review Board will be in writing. The original memorandum detailing the findings shall be kept with the Board's file containing all reports and information pertinent to the collision. A copy of the findings memorandum will be sent to the employee via the chain of command.

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502.7 DISCIPLINARY ACTION

Pre-discipline or disciplinary action, when warranted, will be in accordance with established procedures.

502.8 COLLISION REVIEW FILE

The chairperson will maintain a file that includes the documentation and findings of each traffic collision reviewed by the Board. The documentation of each collision will be retained for five (5) years from the date of the Board's findings.

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Off-Property Traffic Enforcement

503.1 PURPOSE AND SCOPE

This policy is established to define when sworn officers are authorized to initiate off-property traffic enforcement stops. Off-property is defined as any property not owned and maintained by the District.

503.2 PROCEDURE

Off-property traffic stops are any stops initiated for violations that occur off the property owned by the District. Any off-property traffic stop will be conducted in a safe manner, keeping the mission, objectives and values of the department in mind. Because enforcement stops initiated for off-property violations keep departmental resources away from the District, police employees shall limit off property enforcement activity to serious, flagrant or life-threatening violations.

Off-property vehicle stops will not be initiated for equipment, registration or other vehicle code moving violations, unless the driving actions constitute a life-threatening hazard to citizens in the area. Examples of off-property vehicle stops that would justify the expenditure of sworn personnel's time away from the District include investigation of driving under the influence of alcohol or drugs, reckless driving or reasonable cause to believe involvement in serious criminal activity. To ensure the safety of sworn personnel and citizens, off-property vehicle stops should only be initiated with fully-marked police vehicles, minimally equipped with a steady burning red light to the front, amber flashing lights to the rear and a siren.

Officers initiating an off-property vehicle stop, shall use police code "11-95X" to advise dispatch of the stop. At an officers or supervisors request, dispatch will contact the local police agency that has primary jurisdiction; however, the officers may choose to handle any necessary citations or warnings without the assistance of the local agency. If BART Police personnel determine the driver of the stopped vehicle should be arrested, the local police agency shall be contacted and requested to respond. If the local police agency is unable or unwilling to assume responsibility for the person to be arrested, the BART Police personnel may determine the appropriate disposition.

All off-property vehicle stops will be documented regardless of the disposition. The on-duty zone sergeant will review all off-property traffic stops. The supervisor will ensure that stops are conducted in compliance with this directive. The supervisor will forward a copy of the report to the watch commander for review.

Police personnel may stop and render assistance to stranded motorists and assist other public agencies as a cover unit or at an accident scenes off District property. Dispatch shall be notified and an event generated. A supervisor may require a report be written documenting the employees actions.

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Vehicle Towing and Release Policy

510.1 PURPOSE AND SCOPE

This policy provides the procedures for towing a vehicle by or at the direction of this Police Department.

510.2 STORAGE AND IMPOUNDS

The responsibilities of those employees towing, storing or impounding a vehicle are listed below.

510.2.1 VEHICLE STORAGE REPORT

Department members requesting towing, storage or impound of a vehicle shall complete CHP Form 180 and accurately record the mileage and a description of property within the vehicle (Vehicle Code § 22850). A copy of the storage report should be given to the tow truck operator and the original shall be submitted to the Records Section as soon as practicable after the vehicle is stored.

Whenever a vehicle is towed the towing officer shall fax a copy of the CHP form 180 to the Records Section, x7089, prior to the end of their shift.

510.2.2 REMOVAL FROM TRAFFIC COLLISION SCENES

When a vehicle has been involved in a traffic collision and must be removed from the scene, the officer shall have the driver select a towing company, if possible, and shall relay the request for the specified towing company to the dispatcher. When there is no preferred company requested, a company will be selected from the rotational list of towing companies in the Communications Center.

If the owner is incapacitated, or for any reason it is necessary for the Department to assume responsibility for a vehicle involved in a collision, the officer shall request the dispatcher to call for a rotational tow. 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.
- Situations where the vehicle was not used to further the offense for which the driver was arrested.

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- 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

Approved storage forms shall be promptly placed into the case 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 Section to determine the names and addresses of any individuals having an interest in the vehicle through DMV or CLETS computers. Notice shall be sent to all such individuals by first-class mail (Vehicle Code §§ 22851.3(d), 22852(a), and 14602.6(a)(2)). The notice shall include the following information (Vehicle Code § 22852b):

(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.

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(d) A statement that, in order to receive their post-storage hearing, the owners, or their agents, shall request the hearing in person, writing, or by telephone within 10 days of the date appearing on the notice.

510.3 TOWING SERVICES

The department should maintain a list of selected tow companies to act as the official tow service. These firms, based on county location, will be used in the following situations:

(a) When it is necessary to safeguard a vehicle due to the inability of the owner or operator to take the required action

(b) When a vehicle is being held as evidence in connection with an investigation

(c) When it is otherwise necessary to store a motor vehicle. This would include situations involving the recovery of stolen or abandoned vehicles, and the removal from the streets of vehicles obstructing traffic in violation of state or local regulations

Nothing in this policy shall require the Department to tow a vehicle.

510.4 VEHICLE INVENTORY

All property in a stored or impounded vehicle shall be inventoried and listed on the vehicle storage form. This includes the trunk and any compartments or containers, even if closed and/or locked. Members conducting inventory searches should be as thorough and accurate as practical in preparing an itemized inventory. These inventory procedures are for the purpose of protecting an owner's property while in police custody, to provide for the safety of officers, and to protect the Department against fraudulent claims of lost, stolen, or damaged property.

510.5 SECURITY OF VEHICLES AND PROPERTY

Unless it would cause an unreasonable delay in the completion of a vehicle impound/storage or create an issue of officer safety, officers should make reasonable accommodations to permit a driver/owner to retrieve small items of value or personal need (e.g., cash, jewelry, cell phone, prescriptions) which are not considered evidence or contraband.

If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft or damage, personnel conducting the search shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property from such hazards.

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).

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(a) Vehicles removed pursuant to Vehicle Code § 22850 shall be released after proof of current registration is provided by the owner or the person in control of the vehicle and after all applicable fees are paid (Vehicle Code § 22850.3 and Vehicle Code § 22850.5).

(b) Vehicles removed that require payment of parking fines or proof of valid driver's license shall only be released upon presentation of proof of compliance, proof of payment, completion of affidavit and payment of applicable fees related to the removal (Vehicle Code § 22651 et seq., Vehicle Code § 22652 et seq., Vehicle Code § 22850.3 and Vehicle Code § 22850.5).

(c) A vehicle removed pursuant to Vehicle Code § 14602.6(a) shall be released to the registered owner or his/her agent with proof of current registration, proof of a valid driver's license and applicable fees paid prior to the end of the 30-day impoundment period if the vehicle was stolen, if the driver reinstates his/her driver's license, if the driver acquires a license and proper insurance, or under other circumstances as set forth in Vehicle Code § 14602.6.

Personnel whose duties include releasing towed vehicles should consult the Vehicle Code under which the vehicle was towed or impounded for any specific requirements prior to release.

Employees who suspect that a vehicle was impounded in error should promptly advise a supervisor. Supervisors should approve, when appropriate, the release of the vehicle without requiring the registered owner or his/her agent to request a hearing, as described in the Vehicle Impound Hearings Policy.

510.7 RELEASE OF VEHICLE

- Vehicles removed pursuant to Vehicle Code § 22850 shall be released after proof of current registration is provided by the owner or person in control of the vehicle and after all applicable fees are paid (Vehicle Code §§ 22850.3 and .5).
- 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.), 22652 (et seq.), 22850.3 and .5).
- A vehicle removed pursuant to Vehicle Code § 14602.6(a) and impounded for 30 days shall be released at the end of the impoundment period only when the registered owner or agent presents his/her valid driver's license and proof of current vehicle registration, or upon order of a court (Vehicle Code § 14602.6(d)(2)).

A vehicle removed pursuant to Vehicle Code § 14602.6(a) shall be released to the registered owner or his or 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 (Vehicle Code § 14602.6(d)(1)):

(a) In response to a valid order of a court.

(b) When the vehicle is a stolen vehicle.

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(c) When the vehicle is subject to bailment and is driven by an unlicensed employee of a business establishment, including a parking service or repair garage.

(d) When the license of the driver was suspended or revoked for an offense other than those included in Article 2 (commencing with Vehicle Code § 13200) of Chapter 2 of Division 6 or Article 3 (commencing with Vehicle Code § 13350) of Chapter 2 of Division 6.

(e) When the vehicle was seized under this section for an offense that does not authorize the seizure of the vehicle.

(f) When the driver reinstates his or her driver's license or acquires a driver's license and proper insurance.

(g) To the legal owner when all of the following are met:

1. The legal owner is a motor vehicle dealer, bank, credit union, acceptance corporation, or other licensed financial institution legally operating in this state or is another person, not the registered owner, holding a security interest in the vehicle.
2. The legal owner or the legal owner's agent pays all towing and storage fees related to the seizure of the vehicle.
3. The legal owner or the legal owner's agent presents a copy of the documents specified in Vehicle Code § 14602.6(f)(3).

Vehicles may be released prior to the 30 days if the registered owner requests a hearing with the Traffic Officer. Based on the research and circumstances surrounding the towing of the vehicle the Traffic Officer may authorize the release of the vehicle.

Officers or Community Services Officers, with supervisory approval, shall complete the Vehicle Release Form for all impounded or stored vehicles. The original copy of the form shall be forwarded to the records sections. The copy shall be given to the legal owner or their agent.

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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 officer of this Department, a hearing will be conducted upon the request of the registered or legal owner of the vehicle or his/her agent (Vehicle Code §§ 22650(a) and 22852(a)).

The hearing shall be conducted within 48 hours of the request being received by the Department, excluding weekends and holidays. The hearing officer must be a person other than the person who directed the storage or impound of the vehicle (Vehicle Code § 22852(c)).

512.2.1 HEARING PROCEDURES

The vehicle storage hearing is an informal process to evaluate the validity of an order to store or impound a vehicle. The employee who caused the storage or removal of the vehicle does not need to be present for this hearing.

All requests for a hearing on a stored or impounded vehicle shall be submitted in person, in writing or by telephone within 10 days of the date appearing on the notice (Vehicle Code § 22852(d)). The Traffic Officer will generally serve as the hearing officer. The person requesting the hearing may record the hearing at his/her own expense.

The failure of either the registered or legal owner or interested person or his/her agent to request a hearing in a timely manner or to attend a scheduled hearing shall be considered a waiver of and satisfaction of the post-storage hearing requirement (Vehicle Code §§ 22851.3(e)(2) and 22852(d)).

Any relevant evidence may be submitted and reviewed by the hearing officer to determine if reasonable grounds have been established for the storage or impound of the vehicle. The initial burden of proof established by a preponderance of the evidence that the storage/impound was based on probable cause rests with the Department.

After consideration of all information, the hearing officer shall determine the validity of the storage or impound of the vehicle in question and then render a decision. The hearing officer shall also consider any mitigating circumstances attendant to the storage that reasonably would warrant the release of the vehicle or a modification or reduction of the period the vehicle is impounded (Vehicle Code §§14602.6(b) and 14602.8(b)).

Aside from those mitigating circumstances enumerated in the Vehicle Code, the registered owner's lack of actual knowledge that the driver to whom the vehicle was loaned was not validly licensed may constitute a mitigating circumstance under Vehicle Code §§ 14602.6(b) or 14608(b), warranting release of the vehicle. This mitigating circumstance exception is not limited to situations

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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 Bureau Deputy Chief. The hearing officer will recommend to the appropriate Bureau Deputy Chief that the fees paid by the registered or legal owner of the vehicle in question or their agent be reimbursed by the Department.

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Impaired Driving and Evidence Collection

514.1 PURPOSE AND SCOPE

This policy provides guidance to those department members who play a role in the detection and investigation of driving under the influence (DUI).

514.2 POLICY

When a person is arrested for driving under the influence of an alcoholic beverage, the arresting officer will advise the person that he/she has a choice of whether the chemical test shall be of the breath or blood (Vehicle Code § 23612 (a)(2)(A)). When a person is arrested for driving under the influence of any drug or the combined influence of an alcoholic beverage and any drug, the arresting officer will advise the person that he/she has a choice of whether the test shall be of the blood, breath or urine (Vehicle Code § 23612 (a)(2)(B)).

If the person chooses to submit to a breath test, the officer should also require the person to submit to a blood or urine test if the officer has a clear indication that a blood or urine test will reveal evidence of any drug or the combined influence of an alcoholic beverage and any drug (Vehicle Code § 23612(a)(2)(C)).

Any person who is unable to submit to a chemical test due to any of the following conditions shall not be considered as refusing to comply with the provisions of Vehicle Code § 23612:

- The Department is unable to furnish a selected test.
- There are verifiable medical reasons for noncompliance.
- An attending physician refuses to allow it.

514.3 INVESTIGATIONS

If a person who has been arrested for a violation of Vehicle Code § 23140; Vehicle Code § 23152; Vehicle Code § 23153, after having been advised of his/her rights per Vehicle Code § 23612, refuses or fails through statements or actions to complete a chemical test, the handling officer shall serve the notice of order of suspension on behalf of the Department of Motor Vehicles and confiscate all California driver's licenses in the person's possession (Vehicle Code § 23612(e); Vehicle Code § 23612(f)).

Blood may be taken by force in any felony or in a misdemeanor impaired driver investigation when the person refuses to take a chemical test. If the person makes a timely and reasonable request to undergo a different and viable form of testing, such request shall be considered. Blood may only be taken by force when the following circumstances have been met:

(a) The person must be in custody and the officer must have reason to believe the person is intoxicated.

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(b) The person's alternative choice, if selected, is either unavailable or not a viable test for the nature of the suspected intoxication (e.g., breath is not a viable test for suspected drug influence).

(c) The blood is taken in a medically approved manner.

(d) Only reasonable force may be used to restrain the arrestee.

A supervisor shall be present whenever blood is forcibly extracted from a person who is uncooperative and has refused a chemical test. The amount of force used to accomplish the collection of this evidence will be controlled by that supervisor, keeping in mind the seriousness of the suspected offense and the factors used to determine the reasonableness of force in accordance with the Use of Force Policy. In misdemeanor cases, force will generally be limited to handcuffing or similar restraint methods during the withdrawal of blood.

The amount of force and methods used to accomplish the blood sample draw shall be detailed in the related report.

514.4 CHEMICAL TESTS

A person is deemed to have consented to a chemical test or tests under any of the following (Vehicle Code § 23612):

(a) The person is arrested for driving a vehicle while under the influence, pursuant to Vehicle Code § 23152.

(b) The person is under 21 years of age and is arrested by an officer having reasonable cause to believe that the person's blood alcohol content is 0.05 or more (Vehicle Code § 23140).

(c) The person is under 21 years of age and detained by an officer having reasonable cause to believe that the person was driving a vehicle while having a blood alcohol content of 0.01 or more (Vehicle Code § 23136).

(d) The person was operating a vehicle while under the influence and proximately caused bodily injury to another person (Vehicle Code § 23153).

(e) The person is dead, unconscious or otherwise in a condition that renders him/her incapable of refusal (Vehicle Code § 23612(a)(5)).

514.4.1 CHOICE OF TEST

A person arrested for DUI has the choice of whether the test is of his/her blood or breath, and the officer shall advise the person that he/she has that choice. If the person arrested either is incapable, or states that he/she is incapable, of completing the chosen test, the person shall submit to the remaining test.

If the person chooses to submit to a breath test and there is reasonable cause to believe that the person is under the influence of a drug or the combined influence of alcohol and any drug, the officer may also request that the person submit to a blood test. If the person is incapable of

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completing a blood test, the person shall submit to and complete a urine test (Vehicle Code § 23612(a)(2)(C)).

514.4.2 BLOOD TEST

Only persons authorized by law to withdraw blood shall collect blood samples (Vehicle Code § 23158). The withdrawal of the blood sample should be witnessed by the assigned officer. No officer, even if properly certified, should conduct the blood withdrawal.

Officers should inform an arrestee that if he/she chooses to provide a blood sample, a separate sample can be drawn for alternate testing. Unless medical personnel object, two samples should be drawn and retained as evidence, so long as only one puncture is required.

If an arrestee cannot submit to a blood test because he/she is a hemophiliac or is using an anticoagulant, he/she shall not be required to take a blood test. Such inability to take a blood test should not be treated as a refusal. However, the person may be required to complete another available and viable test.

514.4.3 URINE TESTS

If a urine test will be performed, the person should be promptly transported to the appropriate testing site. The officer shall follow any directions accompanying the urine evidence collection kit.

Urine samples shall be collected and witnessed by an officer or jail staff of the same sex as the person giving the sample. The person tested should be allowed sufficient privacy to maintain his/her dignity, to the extent possible, while still ensuring the accuracy of the specimen (Vehicle Code § 23158(i)).

The collection kit shall be marked with the person's name, offense, Bay Area Rapid Transit Police Department case number and the name of the witnessing officer. The collection kit should be refrigerated pending transportation for testing.

514.5 REFUSALS

When a person refuses to provide a viable chemical sample, officers should:

(a) Advise the person of the requirement to provide a sample (Vehicle Code § 23612).

(b) Audio-record the admonishment and the response if practicable.

(c) Document the refusal in the appropriate report.

Upon refusal to submit to a chemical test as required by law, officers shall personally serve the notice of order of suspension upon the person and take possession of any state-issued license to operate a motor vehicle that is held by that person (Vehicle Code § 23612(e); Vehicle Code § 23612(f)).

514.5.1 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:

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(a) A search warrant has been obtained; or

(b) The officer can articulate that exigent circumstances exist. Exigency does not exist solely because of the short time period associated with the natural dissipation of alcohol in the person's blood stream. Exigency can be established by the existence of special facts such as a lengthy delay in obtaining a blood sample due to an accident investigation or medical treatment of the person.

514.5.2 FORCED BLOOD SAMPLE

If a person indicates by word or action that he/she will physically resist a blood draw, the officer should request a supervisor to respond.

The responding supervisor should:

(a) Evaluate whether using force to obtain a blood sample is appropriate under the circumstances.

(b) Ensure that all attempts to obtain a blood sample through force cease if the person agrees to, and completes a viable form of testing in a timely manner.

(c) Advise the person of his/her duty to provide a sample (even if this advisement was previously done by another officer) and attempt to persuade the person to submit to such a sample without physical resistance. This dialogue should be recorded on audio and/or video if practicable.

(d) Ensure that the withdrawal is taken in a medically approved manner.

(e) Ensure the forced withdrawal is recorded on audio and/or video when practicable.

(f) Monitor and ensure that the type and level of force applied is reasonable under the circumstances:

    1. Unless otherwise provided in a warrant, force should generally be limited to handcuffing or similar restraint methods.

    2. In misdemeanor cases, if the suspect becomes violent or more resistant, no additional force will be used and a refusal should be noted in the report.

    3. In felony cases, force which reasonably appears necessary to overcome the resistance to the blood being withdrawn may be permitted.

(g) Ensure the use of force and methods used to accomplish the blood sample draw are documented in the related report.

If a supervisor is unavailable, officers are expected to use sound judgment and perform as a responding supervisor, as set forth above.

514.6 ARREST AND INVESTIGATION

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514.6.1 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.

514.6.2 STATUTORY WARNING

An officer requesting that a person submit to chemical testing shall provide the person with the mandatory warning pursuant to Vehicle Code § 23612(a)(1)(D) and Vehicle Code § 23612(a)(4).

514.6.3 PRELIMINARY ALCOHOL SCREENING

Officers may use a preliminary alcohol screening (PAS) test to assist in establishing reasonable cause to believe a person is DUI. The officer shall advise the person that the PAS test is being requested to assist in determining whether the person is under the influence of alcohol or drugs, or a combination of the two. Unless the person is under the age of 21, he/she shall be advised that the PAS test is voluntary. The officer shall also advise the person that submitting to a PAS test does not satisfy his/her obligation to submit to a chemical test as otherwise required by law (Vehicle Code § 23612).

514.6.4 PRELIMINARY ALCOHOL SCREENING FOR MINORS

If an officer lawfully detains a person under 21 years of age who is driving a motor vehicle and the officer has reasonable cause to believe that the person has a blood alcohol content of 0.01 or more, the officer shall request that the person take a PAS test to determine the presence of alcohol in the person, if a PAS test device is immediately available. If a PAS test device is not immediately available, the officer may request the person to submit to chemical testing of his/her blood, breath or urine, conducted pursuant to Vehicle Code § 23612 (Vehicle Code § 13388).

If the person refuses to take or fails to complete the PAS test or other chemical test, or if the result of either test reveals a blood alcohol content of 0.01 or more, the officer shall proceed to serve the person with a notice of order of suspension pursuant to this policy (Vehicle Code § 13388).

514.6.5 OFFICER RESPONSIBILITIES

The officer serving the arrested person with a notice of an order of suspension shall immediately (Vehicle Code § 23612):

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(a) Forward a copy of the completed notice of suspension or revocation form and any confiscated driver's license to the Department of Motor Vehicles (DMV).

(b) Forward a sworn report to DMV that contains the required information in Vehicle Code § 13380.

(c) Forward the results to the appropriate forensic laboratory if the person submitted to a blood or urine test.

514.7 RECORDS SECTION 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 supervisor will ensure that all appropriate reports and documents related to administrative license suspensions are reviewed and forwarded to DMV.

Any officers who receive notice of required attendance to an administrative license suspension hearing should promptly notify the prosecuting attorney.

Officers called to testify at an administrative hearing should document the hearing date and DMV file number in a supplemental report. Specific details of the hearing generally should not be included in the report unless errors, additional evidence or witnesses are identified. The Records Section should forward this to the prosecuting attorney as part of the case file.

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, 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.

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Traffic Citations

516.1 PURPOSE AND SCOPE

This policy outlines the responsibility for traffic citations, the procedure for dismissal, correction, and voiding of traffic citations.

516.2 RESPONSIBILITIES

The Traffic Officer shall be responsible for the development and design of all Department traffic citations in compliance with state law and the Judicial Council.

The Records Section 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 Administrative Services Supervisor. Upon a review of the circumstances involving the issuance of the traffic citation, the Administrative Services Supervisor may request the Operations Bureau Deputy Chief to recommend dismissal of the traffic citation. If approved, the citation will be forwarded to the appropriate court with a request for dismissal. All recipients of traffic citations whose request for the dismissal of a traffic citation has been denied shall be referred to the appropriate court.

Should an officer determine prior to a court proceeding that any citation should be dismissed in the interest of justice or where prosecution is deemed inappropriate the officer will send a memo, via the chain of command, to their Bureau Deputy Chief immediately after receiving the subpoena. Personnel will not request dismissals without approval from the command-level officer.

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. The citation shall have an explanation on the back copy of why the citation was voided. The citation will be sent to the Administrative Services Supervisor.

516.5 CORRECTION OF TRAFFIC CITATIONS

When a traffic citation is issued and is in need of correction, the officer issuing the citation shall submit the citation and complete a notice of citation correction form that shall indicate the corrections made to the citation. A copy of the correction notice shall be mailed by the reporting officer to the violator. A copy of the notice shall be attached with the citation and forwarded to the Records Section.

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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 Section.

Upon separation from employment with the this department, all employees issued traffic citations books shall return any unused citations to the Records Section.

516.7 NOTICE OF PARKING VIOLATION APPEAL PROCEDURE

Disposition of notice of parking violation appeals is conducted pursuant to Vehicle Code § 40215.

516.7.1 APPEAL STAGES

Appeals may be pursued sequentially at three different levels:

(a) Administrative reviews are conducted by the Traffic Section who will review written/ documentary data. Requests for administrative reviews are available at the front desk or Traffic Section of the Bay Area Rapid Transit 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 and Vehicle Code § 40210).

516.7.3 COSTS

(a) There is no cost for an administrative review.

(b) Appellants must pay the full amount due for the citation, or provide satisfactory proof of their inability to pay, before receiving an administrative hearing.

(c) An appeal through Superior Court requires prior payment of filing costs including applicable court charges and fees. These costs will be reimbursed to the appellant in addition to any previously paid fines if appellant's liability is overruled by the Superior Court.

516.8 JUVENILE CITATIONS

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.

This policy is to establish a procedure for providing assistance to persons with disabled motor vehicles on District property and in those situations off District property requiring immediate attention.

It shall be the policy of the BART Police Department to ensure the motoring public's safety.

520.2 OFFICER RESPONSIBILITY

When an on-duty officer or CSO observes a disabled vehicle on District property, assistance and/or corrective actions shall be required from the time of arrival until:

- All possible steps have been taken to remove any hazard
- Adequate warning devices have been placed, when appropriate
- Roadside service, personal transportation or aid, as needed, has been requested
- The officer/CSO is reasonably certain that all necessary aid has been rendered
- The officer/CSO's assistance is refused by the person(s) involved, provided that the officer acts as necessary to prevent injury or damage to other persons/vehicles that may be endangered by the situation

If responding to a priority call, providing no medical attention is required, the officer shall immediately notify dispatch of the motorist's location and request response by the next available unit or CSO.

Officers/CSOs providing assistance to a motorist/disabled vehicle shall advise dispatch with the location, license plate number and the number of vehicle occupants. An event number will be assigned for record and statistical purposes.

If it becomes necessary to tow a disabled vehicle absent a request from the driver or registered owner, the procedure for reporting a towed vehicle shall be followed.

520.2.1 OFF PROPERTY MOTORIST ASSISTANCE

Whenever motorist assistance is provided off District property as a result of a situation requiring immediate attention, the incident shall be documented as an "Outside Assist Incident Report". In such cases, the officer/ CSO will stay only as long as it takes to stabilize the situation or until relieved by the local jurisdiction.

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520.3 EXTENT OF ASSISTANCE

In most cases, a disabled motorist will require assistance. After arrangements for assistance are made, continued involvement by department personnel will be contingent on the time of day, the location, the availability of departmental resources, and the vulnerability of the disabled motorist.

520.3.1 MECHANICAL REPAIRS

Department personnel shall not make mechanical repairs to a disabled vehicle. The use of push bumpers to relocate vehicles to a position of safety is not considered a mechanical repair.

520.4 PUBLIC ACCESS TO THIS POLICY

This written policy is available upon request.

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Parking Enforcement

521.1 PURPOSE AND SCOPE

The purpose of this policy is to delineate the District's parking programs, restricted parking areas, regulations, and departmental parking-enforcement procedures.

It shall be the policy of this department to regularly enforce parking violations in District parking facilities by the issuance of parking citations, parking violation warning notices, or verbal warnings. When parking citations are issued, appropriate BART Resolution or California Vehicle Code sections will be used. Parking citations shall only be issued by sworn personnel and community service officers.

Employee parking is governed by respective union/association contracts, designated parking spaces, and District parking programs and regulations listed herein as applicable.

521.1.1 DEFINITIONS

(a) **District Parking Programs:**

1. **Daily Paid Parking:** Designated stations require a daily parking fee for all spaces,Monday through Friday, excluding designated holidays. This fee may be paid in one of three ways.

   (a) **Option #1:** After parking, the customer enters the paid area of the station and inserts cash or a valid BART ticket into a Parking Validation Addfare machine in order to make payment for the applicable parking stall. The validation is good for 24-hours of parking only and multiple days of parking cannot be purchased. Payment must be made prior to boarding a train and leaving the station.

   (b) **Option #2:** At all paid stations, the customer may use pre-purchased a daily, monthly or long term un-reserved permit. This allows a customer to park in available un-reserved areas without having to physically enter a parking stall number and pay the fee each day. The monthly reserved permit must be visible on the dashboard through the parked and permitted vehicle's windshield. These permits are still valid for those who purchased them in the past but are no longer for sale.

   (c) **Option #3:** A customer may register for and receive a Clipper Card (if not already a card holder) and a vehicle parking ID hang-tag that is to be displayed on the back of the customer's vehicle rear view mirror. After the customer enters the fare gate or paid area of the station, they will proceed to the Clipper Card validation machine reader and touch the Clipper Card to the reader to activate the number on the parking hang-tag for that day. Daily fee parking is required if parking anytime between 04:00 and 15:00. A monthly

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permit may be purchased on-line at bart.gov. Clipper Card information can be found at the bart.gov website.

2. **Single-Day Reserved Parking:** A single-day reserved permit may be purchased at stations that require a daily fee. A single-day permit reserves a space until 10:00, Monday through Friday (excluding designated holidays), in the Monthly Reserved Parking area. Parking with a single-day permit is limited to 24 hours. Single-day reserved permits may be purchased on-line or by contacting bart.gov website

3. **Monthly Reserved Parking:** Up to 40% of parking spaces at all BART Stations will be allocated for this program. The actual number of reserved spaces at each station will depend on the number of customers who sign-up for the program. These reserved spaces are located in premium parking areas and are designated by signs stating "Monthly Reserved Parking". Spaces are reserved for those in the program until 10:00 each weekday (excluding designated holidays). After 10:00, the spaces are available on a first-come basis. There is a monthly fee for permit holders enrolled in this program and the cost varies from station to station, based on demand and availability. Permits are station specific and must be visible on the dashboard through the windshield of the parked and permitted vehicle or stuck to the windshield. Monthly reserved parking permits may be purchased on-line at bart.gov.

4. **Airport/Long-Term Parking:** Airport/long-term permitted parking is available at most stations with parking. This permit allows customers to park for periods greater than 24 hours. The number of long-term parking permits is limited and they are available on a first-come basis. Permit holders may park in Monthly Reserved Parking areas, but may also park in any other non-restricted areas. Permits are station specific and must be visible through the windshield of the parked and permitted vehicle. Airport/long-term parking permits may be purchased on line at bart.gov.

(b) **Restricted Parking:**

(a) **24-Hour Weekday Time Limit:** There is a 24-hour weekday parking time limit at all BART Stations (airport/long-term parking permit holders excepted). All stations offer parking in excess of 24 hours from as early as the beginning of revenue service on Friday to 06:00 on Monday. Designated holidays are also exempt from the time limit. If a designated holiday falls on a Friday, customers may park as early as the beginning of revenue service on Thursday, until 06:00 on Monday. If a designated holiday falls on a Monday, customers may park as early as the beginning of revenue service on Friday, until 06:00 on Tuesday.

(b) **Carpool Parking:** Many of the stations' parking lots contain designated areas for permitted carpoolers between 06:00 and 10:00. These permits require that at least two (2) Carpool-to-BART registered carpoolers be in the vehicle upon parking. Minimally, two (2) of the Carpool Parking Permits must be visible on the dashboard

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through the windshield of the parked and permitted vehicle. Permits may be obtained by calling the Regional Rideshare Program at 5-1-1. There is no-charge for the permits, but customers parking in the Carpool areas are still required to pay for parking at those stations with requisite parking fees.

(c) **Mid-day Parking:** Some stations have designated Midday parking areas. These areas do not allow for vehicles to be parked prior to 10:00. This leaves spaces available for customers arriving after 10:00. Additionally, monthly reserved spaces and carpool spaces that are not filled after 10:00 convert to daily parking and are available for customers.

(d) **Disabled Parking Areas: Requirements and Exceptions:** Disabled persons or disabled veterans may park in parking stalls designated for disabled parking. Vehicles parked or standing in these designated stalls must display either a special identification license plate or a distinguishing placard, both issued by the DMV.

(a) Officers and Community Service Officers may contact the driver or passenger of a vehicle displaying a disabled placard or license plate to verify eligibility.

(b) Vehicles displaying DMV issued license plates or placards are not exempt from parking in red zones, the 24-hour time restriction, or paying of required parking fees: such as daily parking, reserved parking, airport/long-term parking, or any other normally required fees. (Exception: those vehicles displaying DMV issued license plates or placards are not required to pay daily parking fees at the North Berkeley Station due to the fact that the elevator to the platform at this station is located outside of the station.)

(e) **Attended Vehicle Parking for either 24 hour attended parking or 4:00 to 6:00 p.m. attended parking:** Restricts parking in these designated areas to attended vehicles only from the posted times. Vehicles displaying DMV issued disabled license plates or placards are exempt from this regulation.

(f) **Red Zones:** Prohibits the stopping, standing, or parking of vehicles along any curb painted red, except for any authorized bus or taxi when the red zones are marked for buses or taxi and are signed accordingly.

(g) **White Zones:** Restricts stopping, standing, or parking to those picking up or dropping off passengers. By statute, stopping, standing, or parking is limited to (5) minutes.

(h) **Yellow Zones:** Restricts stopping, standing, or parking, to commercial vehicles bearing commercial license plates for the purpose of loading and unloading. By statute, stopping, standing, or parking is limited to (15) minutes.

(i) **Non-Patron Parking:** District parking lots and garages are restricted to use by District customers. A District customer is defined as one who parks a vehicle in a District parking facility and proceeds directly to the paid area of the adjacent BART station. (Exception: the original parking garage at the Pleasant Hill Station is exempt

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from the restriction limiting use to BART Customers only, as it was built with Federal Highway money and is not restricted to BART Parking only.) All users of the Pleasant Hill Station parking facility must pay the established parking fee.

(j) **Motorcycle Parking:** Designated motorcycle parking is available at some stations, and, if available, motorcycles are not required to pay for parking if parked in these designated areas. If designated motorcycle parking is not available, and/or if a motorcycle is parked in a car-sized space, payment of the daily fee is required at those stations requiring parking fees. Motorcycles failing to park in a designated motorcycle parking area, if available, shall first be issued a warning notice, prior to being cited. All other requirements and restrictions also apply to motorcycles.

(k) **Over-sized Vehicles:** Vehicles measuring in excess of 6.5 feet wide and 19 feet long may not be parked in a District parking facility. Prior to being cited, vehicles found in violation shall first be issued a warning notice.

(l) **Board of Director Permits:**

(a) BART Board of Directors are issued hang tag permits which state "BADR." These permits allow Directors to park in restricted areas in all District parking facilities, excluding disabled parking areas and red zones. BART board members may also be issued special BPD permits.

(b) Directors employed by the Metropolitan Transportation Commission (MTC) are issued permits by the MTC. Parking for these permitted vehicles is located in the MTC parking lot located at 101-8th Street, Oakland. These vehicles are allowed to park in designated parking areas located beneath the building's overhang. All other vehicles parked in violation of the posted signs designating restricted hours should be issued citations or warning notices as appropriate.

(m) **Special Permits:** The District's Parking Division, as well as the chief of police, may at times issue special parking permits for various reasons. These permits may allow a vehicle to be legally parked in areas that it may not otherwise be permitted. If in doubt as to the validity or restrictions of any particular permit, the citing employee shall contact the Parking Division, the department's traffic officer, or the employee's supervisor for clarification.

(n) **Warning Notices:** Warning notices shall be issued for a pre-determined length of time to vehicles that are parked illegally but are subject to a modified or newly adopted regulation. The pre-determined length of time will be determined by the department. Warning notices should also be considered if there has been significant disruption in regular enforcement or if markings or signage is not reasonably clear.

(o) **Verbal Warnings:** Verbal warnings shall be given to drivers who stop and wait in a no-parking zone to drop off or pick-up passengers. Drivers will be told to move

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their vehicles. Those who refuse to heed the warning should be cited for the parking violation, not for failure to obey traffic control signs. Exceptions would be drivers who clearly violate posted "Do Not Enter" and "Bus Zone" signs.

(p) **Designated Parking Holidays:** The following days are designated as parking holidays and parking fees are not required: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, Christmas Day. All other parking restrictions apply except those that specifically state they do not apply on weekends or designated holidays.

521.2 PROCEDURES

521.2.1 ISSUING PARKING CITATIONS

Prior to issuance, parking citations shall be completed in their entirety. Handwritten citations shall be completed using a pen containing black ink only. The Parking Violation Notices are two-part (no carbon required) and the pen must have a hard writing point so that the written information is transferred from the top copy of the citation to the copy below. Once the required date, time observed, time issued location, vehicle identifying information, violation, fine amount, and additional remarks are completed, the issuing employee shall print his/her name and badge number in the space provided. Citations shall be printed clearly and legibly, including the name and ID number of the issuing employee.

Electronically-generated citations may also be issued if authorized handheld electronic units are available. As above, these citations must also be completed in their entirety.

Completed citations shall be left under the vehicle's driver side windshield wiper. If the vehicle does not have windshield wipers, some other secure method of attachment should be utilized and the citation should be placed where it is obvious to the returning driver.

If the issuing employee encounters a situation in which a car is parked in violation of parking restrictions, and it appears to the employee that it may not be clear to a reasonable person that the vehicle was parked in violation (e.g., missing or poorly located signage, very worn curb markings), the employee shall refrain from issuing a citation until the problem is rectified. If it is questionable as to the clarity of the signage or marking, a police supervisor may be consulted and/or a warning notice may be issued in lieu of citation.

Specific problems with poor or unclear signage or markings will be reported in writing by memorandum or e-mail to the administrative traffic officer, who will convey the need for corrective measures to the Parking Division and/or other appropriate department.

Handwritten citations shall be turned in by end of the issuing employee's shift and forwarded to LMA for sending to the Citation Processing Center. Electronic citations shall be uploaded by the end of the employee's shift.

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521.2.2 VOIDING PARKING CITATIONS

If a citation has been started or completed and prior to issuance mitigating circumstances arise that support that the citation should not be issued, the citation may be voided. To do this, the issuing employee shall write "VOID" in large letters, across the face of the citation. The voided citation shall then be forwarded to LMA for sending to the Citation Processing Center. For electronic citations, the issuing employee should send an email to the citation processing center to request a void of the citation.

Once a parking citation has been completed and secured to the vehicle, employees may not normally void the citation. Even if the issuing employee or supervisor determines that the citation should have not been issued or it should be dismissed in the interest of justice, the only way to have the citation dismissed or voided is for the person receiving the citation to appeal it (see below).

There is an exception to this process. If the citation was issued for BR-2495-4, Sign Violation-Fee Required, the citation may be voided after issuance if it falls within certain parameters. If, after issuance, the person receiving the citation reports that the citation was issued in error and provides a receipt proving that the required parking fee was paid to or in close proximity to the issuance of the citation, then the receiving employee shall collect the citation (Note: "close proximity" as used in the preceding sentence is defined as the few minutes that it would take a customer to park and proceed into the station to pay for parking, while a citation could be issued prior to payment). The citation shall then be voided and forwarded, along with the receipt provided by the person receiving the citation, to LMA for sending to the Citation Processing Center. The receiving employee shall also issue the person a Parking Control Machine Verification Receipt (form #1400).

521.2.3 APPEAL PROCESS

For those receiving a parking citation, 40215(a) CVC allows for an initial review of the citation to determine if the violation did not occur, the registered owner was not responsible for the violation, or that extenuating circumstances make dismissal of the citation appropriate in the interest of justice. If, during the review, any of the above listed reasons are found to be prevailing, the department will contact the Citation Processing Center and instruct them to cancel the citation. The citation review must be received within 21 calendar days of the issuance of the citation or 14 calendar days from the mailing of the notice of delinquent parking violation. The review may be made by telephone, in writing, or in person. Per 40215(b) CVC, if the subject contesting the citation is dissatisfied with the results of the initial review, the person may request an administrative hearing of the violation no later than 21 calendar days following the mailing of the results of the initial review. This hearing may take place by mail or in person.

521.2.4 MONTHLY RESERVED PARKING

Both monthly reserved and airport/long term-parking permits are assigned numbers which are printed on the permits. These permit numbers can be input into a cellular telephone equipped with a Web browser provided by Parking Permit vendor in order to check the permit's validity and expiration date. Those CSOs that have access to the enforcement cell phones should regularly check vehicles displaying these permits to assure permit validity.

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521.2.5 VEHICLE CODE REGISTRATION AND EQUIPMENT VIOLATIONS

Unattended vehicles may be issued parking citations for registration violations (e.g., expired registration, missing registration tabs. Citations for expired registration will not be issued unless a registration has been expired for more than six (6) months. Unattended vehicles will not be issued citations for equipment violations (e.g., cracked windshields, missing gas cap, no front license plate).

521.2.6 APPLICABLE PARKING ENFORCEMENT CODE SECTIONS

The following BART Resolutions and California Vehicle code sections should be used when applicable (not inclusive):

- BR2495-2 Patron Parking Only
- BR2495-4 Sign Violation-Permit Required 4:00 a.m. to 10:00 a.m. (used for reserved permit, long-term permit, and single-day reserved permit)
- BR2495-4 Sign Violation-Fee Required
- BR2495-4 Other Sign Violation
- BR2495-4a Parking Validation Required
- BR2495-4b Sign Violation-Carpool Only 6:00 a.m. to 10:00 a.m.
- BR2495-4c Sign Violation-No Parking 7:00 a.m. to 10:00 a.m.
- BR2495-4d Sign Violation-Reserved Parking
- BR2495-4e Parking in Excess of 72-hours
- BR2495-4f Sign Violation-24-hour Parking
- BR2495-5(a) Red Zone-No Stopping, Standing, or Parking (except buses parked in bus zones designated by red curb)
- BR2495-5(b) Blocking Crosswalk
- BR2495-5(c) Blocking Driveway
- BR2495-5(d) Within 15' of Fire Hydrant
- BR2495-5(e) Yellow Zone-Commercial Vehicles Only (15 minutes)
- BR2495-5(f) White Zone-Passenger loading/unloading (5 minutes)
- BR2495-5(g) Disabled Parking Only
- BR2495-5(h) Outside Marked Stall
- BR2495-5(h)a Not Marked for Parking
- BR2495-6 Over-sized Vehicle (exceeds 6.5' wide or 19' long)
- BR2495-7 Motorcycle Parked Outside Motorcycle Area

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- BR2495-11(a) Taxi Outside of Taxi Zone
- BR2495-11(b) Taxi Parked Outside of Taxi Zone
- 22500(i) CVC Parked in a Bus Zone
- 22500(l) CVC Blocking Wheelchair Sidewalk Curb Cut
- 22507.8(b) CVC Blocking or Obstructing Disabled Parking Stall or Space
- 22507.8(c)2 CVC Parking in Crosshatched Lines Area Adjacent to Disabled Parking Stall or Space

521.3 TOWING OF VEHICLES FOR PARKING VIOLATIONS

521.3.1 EXCESSIVE OUTSTANDING PARKING CITATIONS

California Vehicle Code Section 22651 (i) allows for the towing and impounding of any vehicle, excluding rental vehicles, that are known to have been issued five (5) or more notices of parking violations to which the owner or person in control of the vehicle has not responded to within 21 calendar days of citation issuance, or 14 calendar days of the mailing of a notice of delinquent parking violations, or the registered owner has not paid the applicable fines, or has failed to appear in court to adjudicate the outstanding citations. It shall be the policy of this department to tow only after (10) or more parking citations are on file. In such cases, the employee seeking to tow and impound of the vehicle in question, shall contact the department's traffic officer for confirmation through DMV and/or Citation Processing Center of the outstanding citations. If the traffic officer cannot confirm that at least 10 outstanding parking citations meet the above criteria, the vehicle shall not be towed. If the vehicle has five (5) confirmed notices of parking violations and is involved in a criminal investigation, it can be towed without exception. All tows done under section 22651(i) CVC must be approved in advance by the zone sergeant.

521.3.2 PARKING WITH REGISTRATION EXPIRED IN EXCESS OF SIX MONTHS

California Vehicle code section 22651(o) allows for the towing and impounding of vehicles in which the registration is expired in excess of six (6) months. This department will only tow vehicles that have been expired in excess of twelve (12) months. If the vehicle is involved in a criminal investigation and is six (6) months expired, it can be towed without exception. All tows under 22651(o) CVC must be approved in advance by the zone sergeant.

521.3.3 PARKING AND ENFORCEMENT INFORMATION CONTACTS

The District's Parking Division may be contacted at (510) 464-6156. This division is responsible for establishing and managing the District's parking programs. the Parking Division is also responsible for managing, ordering, and follow-up on placement and replacement of parking signage.

District parking information may be found at www.bart.gov/guide/parking. This Web site also directs parties to the parking permit vendor. The parking permit vendor stores permit-user databases and collects the fees paid for these programs. Their systems may also be contacted by telephone at (877) 700-PARK (7275).

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Parking Enforcement

The Citation Processing Center tabulates issued parking citations, collects fines for parking violations, and administers the citation-dispute process. the Citation Processing Center may be contacted at:

Citation Processing Center-BART

P.O. Box 2730

Huntington Beach, CA 92647-2730

Telephone: (800) 989-2058

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Taxi Rules

523.1 TAXI POLICY

The BART District's taxi rules are intended to facilitate the orderly operation of taxis on BART District property. Violators of these rules are subject to a citation under section 21113(a) of the California Vehicle Code. Section 21113 (a) V.C. requires proper notice in the form of signage. Absent proper signage at or near the location, officers shall give verbal warnings to violators. Officers should endeavor to educate the Taxi drivers of the rules by providing a copy of these rules to violators. In addition, all Federal, State, and Local regulations apply.

(a) **Taxi Rules:**

1. To pick up customers on District property, taxis shall be parked within the limits of the taxi stand (yellow-white-green curb) or designated Taxi area.
2. Taxis shall be driven along the most direct route to a taxi stand and shall be parked in the taxi stand by order of arrival only.
3. Except for a customer deliberately choosing a different taxi, taxis shall pick-up customers and leave the taxi standby order of arrival only.
4. When the taxi stand is full, taxis shall immediately be driven off the property via the most direct route without stopping, parking, circling, or roaming.
5. No more than two taxis owned by the same company may be parked in a taxi stand at the same time.
6. In stations with a taxi stand, the passenger zone (white curb) may be used by taxis to drop off but not to pick-up customers.
7. In stations without a taxi stand, the passenger zone will serve as the default taxi stand but only one taxi may be parked to pick-up customers there.
8. A ramped taxi, specifically requested by a customer using a wheelchair, is allowed to park in the passenger zone to pick-up that customer.
9. Drivers of taxis may not reserve a place in a taxi stand for another taxi.
10. While waiting for customers, taxi drivers should not physically stand on the roadway side of their taxis.
11. No mechanical repairs or any type of general maintenance shall be performed on taxis while on District property.
12. A taxi shall not be left unattended for more than five minutes.
13. The trunk area of a taxi shall have space to accommodate luggage and collapsible wheelchairs.

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14. Drivers of taxis shall not solicit patronage by words or gestures but shall wait in or near their taxis for customers to request their services.
15. Drivers of taxis that are parked in taxi stands shall not refuse to transport customers who lawfully request their services.
16. Drivers of taxis shall not use words or gestures to discourage or prohibit customers from choosing taxis out of sequence in a taxi stand.
17. Drivers of taxis shall not engage in verbal or physical altercations with each other or with their customers.

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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 BART District Ordinance regulating 72-hour parking violations and abandoned vehicles under the authority of Vehicle Code §§ 22652.6 and 22669.

524.2 MARKING VEHICLES

Vehicles suspected of being in violation of the District of BART 72-Hour Parking Ordinance shall be marked and noted on the Bay Area Rapid Transit 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. 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 Section.

Parking citations for the 72-hour parking ordinance shall not be issued when the vehicle is stored for the 72-hour parking violation.

524.2.1 MARKED VEHICLE FILE

The Traffic Section shall be responsible for maintaining a file for all Marked Vehicle Cards.

The Traffic Section or their designee 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 Section immediately following the storage of the vehicle. A copy of the completed CHP 180 form shall be faxed to the Records Section at x7089 prior to the end of shift. It shall be the responsibility of the Records Section 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 Section 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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524.2.3 TOWING OF VEHICLES FOR 72-HOUR RESTRICTION

Per BR2495-4e, no person shall park or leave any vehicles in a District parking facility for a period in excess of 72 consecutive hours. Not withstanding this restriction, vehicles may park for longer than 72 consecutive hours if the vehicle has been issued an Airport/Long-Term Parking permit or other arrangements have been made with an authorized District representative. The 72-hour period does not begin until the vehicle has been properly marked and tagged. Prior marking requires that the left rear tire of the vehicle be marked with a vertical chalk mark running from the bottom of the wheel's rim, down the lower most sidewall to the ground. From this point, the chalk mark is drawn on the ground, outward at a right angle and perpendicular to the wheel.

Additionally, the vehicle must be tagged with a departmental orange colored warning tag entitled, "THIS VEHICLE IS PARKING IN VIOLATION OF THE LAW." (Form #0701.) This warning tag shall be completed and placed on the vehicle's windshield. The warning tag shall contain the following information: vehicle make, mileage (if observable), license number, date marked, location, and officer's name and badge number. the tag shall also indicate the date in which the vehicle is to be moved by before it may be towed.

After a vehicle has been marked and tagged, and it has been determined that the vehicle has not been moved for 72 or more hours after being marked, the vehicle may be towed under towing authority 22651 (k) CVC.

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Chapter 6 - Investigation Operations

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Investigation and Prosecution

600.1 PURPOSE AND SCOPE

When assigned to a case for initial or follow-up investigation, detectives shall proceed with due diligence in evaluating and preparing the case for appropriate clearance or presentation to a prosecutor for filing of criminal charges.

600.2 MODIFICATION OF CHARGES FILED

Employees are not authorized to recommend to the District Attorney, General Counsel, or to any other official of the court that charges on a pending case be altered or the case dismissed. In all cases resulting in court prosecution, any request to modify the charges filed or to recommend dismissal of charges in a pending case shall be made to the District Attorney's Office or General Counsel's Office only as authorized by a Bureau Deputy Chief or the Chief of Police.

600.3 CUSTODIAL INTERROGATION REQUIREMENTS

Any custodial interrogation of a person who is suspected of having committed any violent felony offense should be electronically recorded (audio/video or both as available) in its entirety as otherwise allowed by law. Regardless of where the interrogation occurs, every reasonable effort should be made to secure functional recording equipment to accomplish such recordings.

Officers should also consider electronically recording a custodial interrogation, or any investigative interview, for any other offense when the officer reasonably believes it would be appropriate and beneficial to the investigation and is otherwise allowed by law.

No recording of an interrogation should be destroyed or altered without written authorization from the District Attorney and the Criminal Investigations Section supervisor. Copies of recorded interrogations or interviews may be made in the same or different format provided they are true, accurate and complete copies and are made only for authorized and legitimate law enforcement purposes.

Officers should not allow the recording to take the place of a thorough report and investigative interviews and should continue to obtain written statements from suspects when applicable.

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Sexual Assault Victims' DNA Rights

602.1 PURPOSE AND SCOPE

Consistent with Penal Code § 293 and the Sexual Assault Victims' DNA Bill of Rights (Penal Code § 680), this policy will establish a procedure by which sexual assault victims may inquire about and be provided with information regarding the status of any DNA evidence in their case, their right to confidentiality and other rights afforded by law.

602.2 INVESTIGATION CONSIDERATIONS

602.2.1 VICTIM CONFIDENTIALITY

Officers investigating or receiving a report of an alleged sex offense shall inform the victim, or the victim's parent or guardian if the victim is a minor, that his/her name will become a matter of public record unless the victim requests that his/her name not be made public. The reporting officer shall document in his/her report that the victim was properly informed and shall include any related response made by the victim, or if a minor, any response made by the victim's parent or guardian (Penal Code 293 § (a) and (b)).

(a) Except as authorized by law, members of this department shall not publicly disclose the name or address of any victim of a sex crime who has exercised his/her right to confidentiality (Penal Code § 293 (c) and (d)).

602.2.2 OFFICER RESPONSIBILITY

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

(a) Immediately provide the victim with the "Victims of Domestic Violence" card containing the names and locations of rape victim counseling centers within the county and their 24-hour counseling service telephone numbers (Penal Code § 264.2(a)).

(b) If the victim is transported to a hospital for any medical evidentiary or physical examination, the officer shall immediately cause the local rape victim counseling center to be notified (Penal Code § 264.2(b)(1)).

    1. Prior to any such examination the assigned officer shall ensure that the victim has been properly informed of his/her right to have a sexual assault victim counselor and at least one other support person present (Penal Code § 264.2(b)(2)).

    2. A support person may be excluded from the examination by the officer or the medical provider if his/her presence would be detrimental to the purpose of the examination (Penal Code § 264.2(b)(4)).

602.3 TESTING OF SEXUAL ASSAULT EVIDENCE

(a) Subject to available resources and other law enforcement considerations which may affect the ability to process and analyze rape kits or other sexual assault victim evidence and other

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crime scene evidence, any member of this department assigned to investigate a sexual assault offense (Penal Code §§ 261, 261.5, 262, 286, 288a or 289) should take every reasonable step to ensure that DNA testing of such evidence is performed in a timely manner and within the time periods prescribed by Penal Code § 803(g).

(b) In order to maximize the effectiveness of such testing and identifying the perpetrator of any sexual assault, the assigned officer should further ensure that the results of any such test have been timely entered into and checked against both the Department of Justice Cal-DNA database and the Combined DNA Index System (CODIS).

(c) If, for any reason, DNA evidence in a sexual assault case in which the identity of the perpetrator is in issue is not going to be analyzed within two years of the crime, the assigned officer shall notify the victim of such fact in writing within no less than 60 days prior to the expiration of the two-year period (Penal Code § 680(d)).

602.4 VICTIM NOTIFICATION OF DNA STATUS

(a) Upon receipt of a written request from a sexual assault victim or the victim's authorized designee, the assigned officer may inform the victim of the status of the DNA testing of any evidence from the victim's case.

1. Although such information may be communicated orally, the assigned officer should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.
2. Absent a written request, no member of this department is required to, but may, communicate with the victim or victim's designee regarding the status of any DNA testing.

(b) Subject to the commitment of sufficient resources to respond to requests for information, sexual assault victims shall further have the following rights:

1. To be informed whether or not a DNA profile of the assailant was obtained from the testing of the rape kit or other crime scene evidence from their case.
2. To be informed whether or not there is a match between the DNA profile of the assailant developed from the evidence and a DNA profile contained in the Department of Justice Convicted Offender DNA Database, providing that disclosure would not impede or compromise an ongoing investigation.
3. To be informed whether or not the DNA profile of the assailant developed from the evidence has been entered into the Department of Justice Data Bank of case evidence.

(c) Provided that the sexual assault victim or victim's designee has kept the assigned officer informed with regard to current address, telephone number and e-mail address (if available),

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any victim or victim's designee shall, upon request, be advised of any known significant changes regarding the victim's case.

1. Although such information may be communicated orally, the assigned officer should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.
2. No officer shall be required to or expected to release any information which might impede or compromise any ongoing investigation.

602.5 DESTRUCTION OF EVIDENCE

Any destruction of evidence related to a sexual assault shall occur only after victim notification is made as required pursuant to Penal Code § 680 and only in compliance with the Property and Evidence Policy.

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Asset Forfeiture Policy

606.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure and liquidation of assets associated with specified controlled substances. This policy applies to forfeited or seized assets in the form of currency, real estate, automobiles, boats, aircraft, or any other items of value.

606.2 ASSET SEIZURE AUTHORITY

Health & Safety Code § 11470 provides for the forfeiture of any currency, and real and/or personal property, which represents proceeds or was used to facilitate narcotic activity in violation of the Health & Safety Code. The offense(s) must involve the manufacturing, distribution, transportation for sale, sales, possession for sale, offer for sale, offer to manufacture, or the conspiracy to commit certain Health & Safety Code violations.

Health & Safety Code § 11488(a) specifies that any peace officer having probable cause, may seize all moneys, negotiable instruments, securities, vehicles, boats, airplanes or other things of value which are forfeitable pursuant to Health & Safety Code § 11470 (e) or (f).

606.3 ASSET FORFEITURE PROCEDURE

Before seizing any currency, vehicle or personal property pursuant to Health & Safety Code § 11470, a patrol officer should contact a narcotics detective. The following guidelines will be observed:

(a) The seizing officer or the detective will serve all persons with Notice of Seizure and Intended Forfeiture forms which includes an attached County of Origin Claim form Opposing Forfeiture, and a forfeiture receipt. Disclaimers (English/Spanish) will be completed on all persons disclaiming ownership of currency, vehicle or property seized.

(b) When someone has made notification other than the Asset Forfeiture detective, a copy of all reports and all applicable asset forfeiture paperwork must be forwarded to the Asset Forfeiture detective in the Criminal Investigations Section, for review.

(c) Interview all persons involved concerning their possession of the seized assets, financial situation, employment, income and other resources. The interviewing officer shall ensure that *Miranda* warnings are given and waivers obtained before interviewing any person who is in custody.

(d) Attempt to promptly determine all lien holders or all persons who may have a legal interest in the seized currency, vehicle or property for further contact, investigation and notification.

(e) The seizure of assets subject to forfeiture is a civil proceeding filed through the county of origin, Office of the District Attorney Forfeiture Unit or Narcotic Enforcement Team.

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606.3.1 SEIZED PROPERTY

The seized property will be checked through the Automated Property System to determine if the property has been stolen.

The property will be booked as evidence, with the notation in the comment section of the property form, "Seized Subject to Forfeiture." Property seized subject to forfeiture should be booked on a separate property form No other evidence from the case should be booked on this form.

606.3.2 SEIZED CURRENCY

Currency seized subject to forfeiture will be counted by the seizing officer and a supervisor. The currency will be placed in a money envelope with the denomination of the currency, totals of each denomination and total amount of currency enclosed noted on the money envelope. The officer counting and supervisor verifying money will initial and sign the envelope when sealed. If the currency will not fit into a standard money envelope, place the currency in a larger envelope or bag, sealing and affixing a completed money envelope to the outside of the larger envelope or bag which contains the currency.

Currency seized will be given to and retained by the evidence clerk, for deposit into the BART General Fund. If there is a need to book the currency into evidence/property, the currency will be booked on a single property form notating "subject to asset forfeiture" in the comments section of the property form. The seizing officer shall notify the Operations Bureau Deputy Chief of the booked currency and the circumstances of the seizure as soon as possible.

606.3.3 SEIZED VEHICLES

Vehicles seized subject to forfeiture will be taken to a designated secure storage facility. A seized vehicle should not be impounded. The officer seizing the vehicle shall notify the detective supervisor of the seizure of the vehicle and circumstances of the seizure as soon as possible.

If the vehicle cannot be driven, a tow truck will be used to tow the vehicle to the storage facility.

Personal property located in a seized vehicle shall be removed and booked into Property as either evidence or for safekeeping.

606.4 ASSET FORFEITURE LOG

A computerized inventory of all asset forfeiture cases shall be kept in the Criminal Investigations Section. The inventory shall include the following:

- Case number
- Date of seizure
- Value
- Type of seizure (federal or state)
- Status of the seizure

Information maintained on the log will be provided to the Chief of Police or authorized staff, as requested.

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606.5 PROCEEDS FROM FORFEITURE

Equitable shares received from seized assets shall be maintained in separate funds and shall be subject to accounting controls and annual financial audits.

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Confidential Informants

608.1 PURPOSE AND SCOPE

In many instances, a successful investigation cannot be conducted without the use of confidential informants. To protect the integrity of the department and the officers using informants, it shall be the policy of this department to take appropriate precautions by developing sound informant policies.

608.2 INFORMANT FILE SYSTEM

The Criminal Investigations Section Supervisor or his/her designee shall be responsible for maintaining informant files. A separate file shall be maintained on each confidential informant.

608.2.1 FILE SYSTEM PROCEDURE

Each file shall be coded with an assigned informant control number. An informant history shall be prepared to correspond to each informant file and include the following information:

(a) Informant's name and/or aliases

(b) Date of birth

(c) Physical description: height, weight, hair color, eye color, race, sex, scars, tattoos or other distinguishing features

(d) Current home address and telephone numbers

(e) Current employer(s), position, address(es) and telephone numbers

(f) Vehicles owned and registration information

(g) Places frequented

(h) Informant's photograph

(i) Briefs of information provided by the informant and his or her subsequent reliability. If an informant is determined to be unreliable, the informant's file is marked as "Unreliable"

(j) Name of officer initiating use of the informant

(k) Signed informant agreement

(l) Update on active or inactive status of informant

The informant files shall be maintained in a secure area within the Criminal Investigations Section. These files shall be used to provide a source of background information about the informant, enable review and evaluation of information given by the informant, and minimize incidents that could be used to question the integrity of detectives or the reliability of the confidential informant.

Access to the informant files shall be restricted to the Chief of Police, a Bureau Deputy Chief, the Criminal Investigations Section Supervisor, or their designees.

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608.3 USE OF INFORMANTS

Before using an individual as a confidential informant, an officer must receive approval from the Criminal Investigations Section Supervisor. The officer shall compile sufficient information through a background investigation in order to determine the reliability, credibility and suitability, of the individual, including age, maturity and risk of physical harm.

608.3.1 JUVENILE INFORMANTS

The use of juvenile informants under the age of 13-years is prohibited. Except as provided for in the enforcement of the Tobacco Enforcement Act, Business & Professions Code §§ 22950, et seq., the use of any juvenile informant between the ages of 13 and 18-years is only authorized by court order obtained pursuant to Penal Code § 701.5.

For purposes of this policy, a "juvenile informant" means any juvenile who participates, on behalf of this department, in a prearranged transaction or series of prearranged transactions with direct face-to-face contact with any party, when the juvenile's participation in the transaction is for the purpose of obtaining or attempting to obtain evidence of illegal activity by a third party and where the juvenile is participating in the transaction for the purpose of reducing or dismissing a pending juvenile petition against the juvenile.

608.4 GUIDELINES FOR HANDLING CONFIDENTIAL INFORMANTS

All confidential informants are required to sign and abide by the provisions of the departmental Informant Agreement. The officer using the confidential informant shall discuss each of the provisions of the agreement with the confidential informant.

Details of the agreement are to be approved in writing by the unit supervisor before being finalized with the confidential informant.

608.4.1 RELATIONSHIPS WITH CONFIDENTIAL INFORMANTS

No member of the Bay Area Rapid Transit Police Department shall knowingly maintain a social relationship with a confidential informant while off duty, or otherwise become intimately involved with a confidential informant. Members of the Bay Area Rapid Transit Police Department shall neither solicit nor accept gratuities nor engage in any private business transaction with a confidential informant.

To maintain officer/informant integrity, the following must be adhered to:

(a) Officers shall not withhold the identity of an informant from their superiors

(b) Identities of informants shall otherwise be kept confidential

(c) Criminal activity by informants shall not be condoned

(d) Informants shall be told they are not acting as police officers, employees or agents of the Bay Area Rapid Transit Police Department, and that they shall not represent themselves as such

(e) The relationship between officers and informants shall always be ethical and professional

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(f) Social contact shall be avoided unless necessary to conduct an official investigation, and only with prior approval of the Criminal Investigations Section supervisor

(g) Officers shall not meet with informants of the opposite sex in a private place unless accompanied by at least one additional officer or with prior approval of the Criminal Investigations Section Supervisor. Officers may meet informants of the opposite sex alone in an occupied public place such as a restaurant. When contacting informants of either sex for the purpose of making payments officers shall arrange for the presence of another officer, whenever possible

(h) In all instances when department funds are paid to informants, a voucher shall be completed in advance, itemizing the expenses

608.5 NARCOTICS INFORMANT PAYMENT PROCEDURES

The potential payment of large sums of money to any confidential informant must be done in a manner respecting public opinion and scrutiny. Additionally, to maintain a good accounting of such funds requires a strict procedure for disbursements.

608.5.1 PAYMENT PROCEDURE

The amount of funds to be paid to any confidential informant will be evaluated against the following criteria:

- The extent of the informant's personal involvement in the case.
- The significance, value or effect on crime.
- The amount of assets seized.
- The quantity of the drugs seized.
- The informant's previous criminal activity.
- The level of risk taken by the informant.

The Criminal Investigations Section Supervisor will discuss the above factors with the Operations Bureau Deputy Chief and arrive at a recommended level of payment that will be subject to the approval of the Chief of Police. The amount of payment will be based on a percentage of the current market price for the drugs or other contraband being sought, not to exceed 15-percent.

608.5.2 CASH DISBURSEMENT POLICY

The following establishes a cash disbursement policy for confidential informants. No informant will be told in advance or given an exact amount or percentage for services rendered.

(a) When both assets and drugs have been seized, the confidential informant shall receive payment based upon overall value and the purchase price of the drugs seized not to exceed a maximum of $150,000.

(b) A confidential informant may receive a cash amount for each quantity of drugs seized whether or not assets are also seized, not to exceed a maximum of $30,000.

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608.5.3 PAYMENT PROCESS

A check shall be requested, payable to the case agent. The case number shall be recorded justifying the payment. The Chief of Police and the General Manager's signatures are required for disbursements over $500. Payments $500 and under may be paid in cash out of the Criminal Investigations Section Buy/Expense Fund. The Criminal Investigations Section Supervisor will be required to sign the voucher for amounts under $500.

To complete the transaction with the confidential informant the case agent shall have the confidential informant initial the cash transfer form. The confidential informant will sign the form indicating the amount received, the date, and that the confidential informant is receiving funds in payment for information voluntarily rendered in the case. The Bay Area Rapid Transit Police Department case number shall be recorded on the cash transfer form. The form will be kept in the confidential informant's file.

If the payment amount exceeds $500.00, a complete written statement of the confidential informant's involvement in the case shall be placed in the confidential informant's file. This statement shall be signed by the confidential informant verifying the statement as a true summary of his/her actions in the case(s).

Each confidential informant receiving a cash payment shall be informed of his or her responsibility to report the cash to the Internal Revenue Service (IRS) as income.

608.5.4 REPORTING OF PAYMENTS

Each confidential informant receiving a cash payment shall be informed of his/her responsibility to report the cash to the Internal Revenue Service (IRS) as income. If funds distributed exceed $600 in any reporting year, the confidential informant should be provided IRS Form 1099 (26 CFR § 1.6041-1). If such documentation or reporting may reveal the identity of the confidential informant and by doing so jeopardize any investigation, the safety of peace officers or the safety of the confidential informant (26 CFR § 1.6041-3), then IRS Form 1099 should not be issued.

In such cases, the confidential informant shall be provided a letter identifying the amount he/she must report on a tax return as #other income# and shall be required to provide a signed acknowledgement of receipt of the letter. The completed acknowledgement form and a copy of the letter shall be retained in the confidential informant's file.

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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.

610.1.1 DEFINITIONS

Definitions related to the policy include:

Eyewitness identification process - Any field identification, live lineup or photographic identification.

Field identification - A live presentation of a single individual to a witness following the commission of a criminal offense for the purpose of identifying or eliminating the person as the suspect.

Live lineup - A live presentation of individuals to a witness for the purpose of identifying or eliminating an individual as the suspect.

Photographic lineup - Presentation of photographs to a witness for the purpose of identifying or eliminating an individual as the suspect.

610.2 POLICY

This department will strive to use eyewitness identification techniques, when appropriate, to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent.

610.3 INTERPRETIVE SERVICES

Officers should make a reasonable effort to arrange for an interpreter before proceeding with eyewitness identification if communication with a witness is impeded due to language or hearing barriers.

Before the interpreter is permitted to discuss any matter with the witness, the investigating officer should explain the identification process to the interpreter. Once it is determined that the interpreter comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy.

610.4 EYEWITNESS IDENTIFICATION FORM

The Criminal Investigations Section supervisor shall be responsible for the development and maintenance of an eyewitness identification process for use by members when they are conducting eyewitness identifications.

The process and any related forms or reports should provide:

(a) The date, time and location of the eyewitness identification procedure.

(b) The name and identifying information of the witness.

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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 admonishment that the suspect may or may not be among those presented and that the witness is not obligated to make an identification.

(f) An admonishment to the witness that the investigation will continue regardless of whether an identification is made by the witness.

(g) A signature line where the witness acknowledges that he/she understands the identification procedures and instructions.

The process and related forms should be reviewed at least annually and modified when necessary.

610.5 EYEWITNESS IDENTIFICATION

Officers are cautioned not to, in any way, influence a witness as to whether any subject or photo presented in a lineup is in any way connected to the case.

Officers should avoid mentioning that:

- The individual was apprehended near the crime scene.
- The evidence points to the individual as the suspect.
- Other witnesses have identified, or failed to identify, the individual as the suspect.

In order to avoid undue influence, witnesses should view suspects or a lineup individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses.

Whenever feasible, the eyewitness identification procedure should be audio and/or video recorded and the recording should be retained according to current evidence procedures.

610.5.1 PHOTOGRAPHIC LINEUP AND LIVE LINEUP CONSIDERATIONS

When practicable, the person composing the lineup and the person presenting the lineup should not be directly involved in the investigation of the case. When this is not possible, the member presenting the lineup must take the utmost care not to communicate the identity of the suspect in any way.

When practicable, the employee presenting a lineup to a witness should not know which photograph or person is the suspect.

Other persons or photos used in any lineup should bear similar characteristics to the suspect to avoid causing him/her to unreasonably stand out. In cases involving multiple suspects, a separate lineup should be conducted for each suspect. The suspects should be placed in a different order within each lineup.

The employee presenting the lineup to a witness should do so sequentially and not simultaneously (i.e., show the witness one person at a time). The witness should view all persons in the lineup.

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The order of the suspect or the photos and fillers should be randomized before being presented to each witness.

A live lineup should only be used before criminal proceedings have been initiated against the suspect. If there is any question as to whether any criminal proceedings have begun, the investigating officer should contact the appropriate prosecuting attorney before proceeding.

610.5.2 FIELD IDENTIFICATION CONSIDERATIONS

Field identifications, also known as field elimination show-ups or one-on-one identifications, may be helpful in certain cases, where exigent circumstances make it impracticable to conduct a photo or live lineup identifications. A field elimination or show-up identification should not be used when independent probable cause exists to arrest a suspect. In such cases a live or photo lineup is the preferred course of action if eyewitness identification is contemplated.

When initiating a field identification, the officer should observe the following guidelines:

(a) Obtain a complete description of the suspect from the witness.

(b) Assess whether a witness should be included in a field identification process by considering:

1. The length of time the witness observed the suspect.
2. The distance between the witness and the suspect.
3. Whether the witness could view the suspect's face.
4. The quality of the lighting when the suspect was observed by the witness.
5. Whether there were distracting noises or activity during the observation.
6. Any other circumstances affecting the witness's opportunity to observe the suspect.
7. The length of time that has elapsed since the witness observed the suspect.

(c) If safe and practicable, the person who is the subject of the show-up should not be handcuffed or in a patrol vehicle.

(d) When feasible, officers should bring the witness to the location of the suspect, rather than bring the suspect to the witness.

(e) A person should not be shown to the same witness more than once.

(f) In cases involving multiple suspects, witnesses should only be permitted to view the suspects one at a time.

(g) A person in a field identification should not be required to put on clothing worn by the suspect, to speak words uttered by the suspect or to perform other actions mimicking those of the suspect.

(h) If a witness positively identifies an individual as the perpetrator, officers should not conduct any further field identifications with other witnesses for that suspect. In such instances

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officers should document the contact information for any additional witnesses for follow up, if necessary.

610.6 DOCUMENTATION

A thorough description of the eyewitness process and the results of any eyewitness identification should be documented in the case report. Witness comments of how certain he/she is of the identification or non-identification should be quoted in the report.

If a photographic lineup is utilized, a copy of the photographic lineup presented to the witness should be included in the case report. In addition, the order in which the photographs were presented to the witness should be documented in the case report.

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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 Bay Area Rapid Transit Police Department that is both favorable and material to the current prosecution or defense of a criminal defendant.

612.2 POLICY

The Bay Area Rapid Transit 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 Bay Area Rapid Transit 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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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 AND REPLACEMENT OF DEPARTMENTAL PROPERTY

Employees shall be responsible for the safekeeping, serviceable condition, proper care and use 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 to their supervisor, any lost or damaged department issued property or equipment assigned for their use. Supervisors shall inspect the damaged item and recommend replacement if appropriate. Employees shall utilize the Police Uniform/ Equipment/Personal Property Replacement Form to replace damaged or lost items. Actual receipts, not copies, need to be submitted with this form. The request must be approved by a command level officer who will forward the form and receipt for the new items to the Support Services Bureau. All signature's need to be obtained, on the form, prior to being submitted for any re-reimbursement's

(b) Employees will be responsible for minor repairs to their uniforms or personal property as a result of damage caused by normal wear and tear or other minor damage occurring while performing authorized duties. Minor repairs are considered to be any repair costing less than one month's uniform maintenance and cleaning allowance (excluding personal property). Any repair costing more than one month's uniform maintenance and cleaning allowance will be considered a major repair. If the damage is not due to employee negligence, the affected employee may request reimbursement by submitting the damaged item and a Police Uniform/Equipment/Personal Property Replacement Form to his/her immediate supervisor. the supervisor will inspect the damaged item and recommend replacement if appropriate. The request must be approved by a command level officer who will forward the form and receipt for the new item to the Support Services Bureau.

(c) The use of damaged or unrepairable 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. Employees should check with the Property Clerk prior to purchasing replacement equipment to see if the department has the equipment available.

(d) Except when otherwise directed by a supervisor 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.

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(e) Department property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority.

(f) In the event that any department property becomes damaged or unrepairable, no employee shall attempt to repair the property without prior approval of a supervisor.

700.3 FILING CLAIMS FOR PERSONAL PROPERTY

Reimbursement claims for personal property damaged, lost or rendered unserviceable in the line of duty must be submitted, via the chain of command, on a Uniform/Equipment Replacement Form. This form should be submitted to the employee's immediate supervisor within ten (10) days of the incident.

Employees making the request will provide his/her supervisor with an estimate of the replacement cost for the damaged article. The supervisor will examine the damaged article, determine if the damage was due to negligence and consider the condition of the article at the time it was damaged before submitting the reimbursement request to a command level officer for approval.

The replacement of the following personal equipment items are subject to the following conditions:

(a) The replacement cost of damaged or destroyed prescription glasses or the repair of damaged glasses providing District authorized vendors are patronized;

(b) Wrist watch not to exceed $50 (unless otherwise stipulated in the collective bargaining agreement);

(c) Personal weapon not to exceed cost of District issued weapon (unless otherwise stipulated in the collective bargaining agreement.

At no time will the reimbursement of any personal property exceed the fair market value cost of the article when it was new.

The supervisor shall direct a memo to the appropriate Bureau Deputy Chief via chain of command, which shall include the results of his/her investigation and whether the employee followed proper procedures. The supervisor's report shall address whether reasonable care was taken to prevent the loss or damage.

Upon review by staff and a finding that no misconduct or negligence was involved, repair or replacement may be recommended by the Chief of Police who will then forward the claim to the Finance Department.

The department will not replace or repair luxurious or overly expensive items (jewelry, exotic equipment, etc.) that are not reasonably required as a part of work.

700.3.1 REPORTING REQUIREMENT

A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.

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A written report documenting the circumstances causing the damage 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. If the damage or loss did not occur during any enforcement action but while on duty, a verbal report as soon as practical, as well as a Speedy Memo, along with the Police Uniform/ Equipment/Personal Property Replacement Form shall be submitted to the supervisor within 10 days.

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 District, 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 Bureau Deputy Chief.

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Personal Communication Devices

702.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of department-issued mobile phones and personal communication devices, and the on-duty use of such devices personally-owned by personnel.

Because of technical advances and varying manufacturer nomenclature, this policy will generically refer to all Personal Communication Devices (PCD) as such, but is intended to include all mobile phones, Personal Digital Assistants (PDA), and other such wireless two-way communication and/or portable Internet access devices.

702.2 DEPARTMENTALLY ISSUED PCD

Depending on an employee's assignment and needs of the position, the Department may, at its discretion, issue a PCD. Such devices shall remain the sole property of the Department and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without reason.

702.2.1 INDIVIDUALLY OWNED PCD

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

(a) Carrying an individually-owned personal communication device is optional.

(b) The device shall be purchased, used and maintained at the employee's expense.

(c) The employee shall not be reimbursed by the department for any personally owned device which is lost, stolen or broken while the employee is on duty.

702.2.2 USE OF PERSONAL COMMUNICATION DEVICES

PCDs, whether provided by the Department or personally-owned, should only be used by on-duty employees for legitimate department business except as provided for below. Employees may use a PCD to communicate with other personnel in those situations where the use of the radio is either impractical or not feasible. PCDs however, should not be used to replace regular radio communications.

(a) PCD's may not be used to conduct personal business while on duty except when brief personal communications may be warranted by the circumstances (e.g., inform family of extended hours). While employee's may use personally owned PCDs for personal business during authorized breaks, such usage should be limited as much as practical to areas where the communication will not be seen or heard by members of the public.

(b) Extended or frequent use of department-issued PCDs or personally owned PCDs while on duty for personal use is prohibited and may be subject to discipline. Employees may be responsible for reimbursing the Department for any charges incurred as a result of personal use.

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702.2.3 USE WHILE DRIVING

The use of a PCD while driving can cause unnecessary distractions and presents a negative image to the public. Officers operating emergency vehicles should restrict the use of these devices while driving to matters of an urgent nature and should, where practical, stop the vehicle at an appropriate location to complete their call.

Except in the case of an emergency, employees who are operating non-emergency vehicles shall not use cellular phones or other personal communication devices while driving unless the telephone is specifically designed and configured to allow hands-free listening and talking (Vehicle Code 23123 (a)). Such use should be restricted to business related calls or calls of an urgent nature.

702.3 PRIVACY POLICY

Employees shall have no expectation of privacy with regard to any communication made with or stored in or through PCDs issued by the Department and shall have no expectation of privacy in their location should the device be equipped with location detection capabilities. The use of any department-provided or -funded PCD, computer, Internet service, telephone service or other wireless service while on-duty is without any expectation of privacy that the employee might otherwise have in any communication, including the content of any such communication. Communications or data reception on personal, password-protected, web-based e-mail accounts and any other services are subject to monitoring if department equipment is used.

In accordance with this policy, supervisors are authorized to conduct a limited administrative search of electronic files without prior notice, consent or a search warrant, on department-issued or personally owned PCDs that have been used to conduct department-related business. Administrative searches can take place for work-related purposes that may be unrelated to investigations of employee misconduct and, as practicable, will be done in the presence of the affected employee. Prior to conducting any search of personally owned devices, supervisors shall consult with the Chief of Police. All such searches shall be fully documented in a written report.

702.4 DEPARTMENT-ISSUED PCD

Depending on an employee's assignment and the needs of the position, the Department may, at its discretion, issue a PCD. Department-issued PCDs are provided as a convenience to facilitate on-duty performance only. Such devices and the associated telephone number shall remain the sole property of the Department and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

Unless an employee is expressly authorized by the Chief of Police 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

Employees may carry a personally owned PCD while on-duty, subject to the following conditions and limitations:

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(a) Carrying a personally owned PCD is a privilege, not a right.

(b) The Department accepts no responsibility for loss of or damage to a personally owned PCD.

(c) Employees shall promptly notify the Department in the event the PCD is lost or stolen.

(d) The PCD and any associated services shall be purchased, used and maintained solely at the employee's expense.

(e) The device should not be used for work-related purposes except in exigent circumstances (e.g., unavailability of radio communications). Employees 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.

(f) 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.

(g) Use of a personally owned PCD 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, employees will provide the Department with all telephone access numbers for the device.

Except with prior express authorization from their supervisor, employees are not obligated or required to carry, access, monitor or respond to electronic communications using a personally owned PCD while off-duty. If an employee is in an authorized status that allows for appropriate compensation consistent with policy or existing collective bargaining agreements, or if the employee has prior express authorization from his/her supervisor, the employee may engage in business-related communications. Should employees engage in such approved off-duty communications or work, employees entitled to compensation shall promptly document the time worked and communicate the information to their supervisor to ensure appropriate compensation. Employees 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 PERSONAL COMMUNICATION DEVICES

The following protocols shall apply to all PCDs that are carried while on-duty or used to conduct department business:

(a) A PCD shall not be carried in a manner that allows it to be visible while in uniform, unless it is in an approved carrier.

(b) All PCDs in the workplace shall be set to silent or vibrate mode.

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(c) A PCD may not be used to conduct personal business while on-duty, except for brief personal communications (e.g., informing family of extended hours). Employees shall endeavor to limit their use of PCDs to authorized break times, unless an emergency exists.

(d) Employees may use a PCD to communicate with other personnel in situations where the use of the radio is either impracticable or not feasible. PCDs should not be used as a substitute for, as a way to avoid or in lieu of regular radio communications.

(e) Officers are prohibited from taking pictures, video or making audio recordings or making copies of any such picture or recording media unless it is directly related to official department business. Disclosure of any such information to any third party through any means, without the express authorization of the Chief of Police or the authorized designee, may result in discipline.

(f) Employees will not access social networking sites for any purpose that is not official department business.

(g) Using PCDs to harass, threaten, coerce or otherwise engage in inappropriate conduct with any third party is prohibited. Any employee having knowledge of such conduct shall promptly notify a supervisor.

702.7 SUPERVISORY RESPONSIBILITIES

Supervisors should ensure that members under their command are provided appropriate training on the use of PCDs consistent with this policy. Supervisors should monitor, to the extent practicable, PCD use in the workplace and take prompt corrective action if an employee is observed or reported to be improperly using a PCD. An investigation into improper conduct should be promptly initiated when circumstances warrant.

If, when carrying out any provision of this policy, the need to contact an employee who is off-duty arises, supervisors should consider delaying the contact, if practicable, until the employee is on-duty, as such contact may be compensable.

702.8 USE WHILE DRIVING

The use of a PCD while driving can adversely affect safety, cause unnecessary distractions and present a negative image to the public. Officers operating emergency vehicles should restrict the use of these devices to matters of an urgent nature and should, where practicable, stop the vehicle at an appropriate location to use the PCD.

Except in an emergency, employees who are operating non-emergency vehicles shall not use a PCD while driving unless the device is specifically designed and configured to allow hands-free use (Vehicle Code § 23123). Hands-free use should be restricted to business-related calls or calls of an urgent nature.

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702.9 OFFICIAL USE

Employees are reminded that PCDs are not secure devices and conversations may be intercepted or overheard. Caution should be exercised while utilizing PCDs to ensure that sensitive information is not inadvertently transmitted. As soon as reasonably possible, employees shall conduct sensitive or private communications on a land-based or other department communications network.

The following situations are examples of when the use of a PCD may be appropriate:

(a) Barricaded suspects

(b) Hostage situations

(c) Mobile Command Post

(d) Catastrophic disasters, such as plane crashes, earthquakes, floods, etc.

(e) Major political or community events

(f) Investigative stakeouts

(g) Emergency contact with an allied agency or allied agency field unit

(h) When immediate communication is needed and the use of the radio is not available or appropriate and other means are not readily available

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Vehicle Maintenance

704.1 PURPOSE AND SCOPE

Employees are responsible for assisting in maintaining Department vehicles so that they are properly equipped, properly maintained, properly refueled and present a clean appearance.

704.2 DEFECTIVE VEHICLES

When a department vehicle becomes inoperative or in need of repair that affects the safety of the vehicle, that vehicle shall be removed from service for repair. Immediate notification to a supervisor shall be made by the employee who first becomes aware of the defective condition, describing the correction needed. The supervisor shall decide if the vehicle should be driven or towed to the Oakland Shops for repair and shall notify the department vehicle maintenance CSO describing the required repairs at x6656.

Employees shall ensure that all weapons are removed from any vehicle left at any repair location.

704.3 VEHICLE EQUIPMENT

Certain items shall be maintained in all department vehicles for emergency purposes and to perform routine duties.

704.3.1 PATROL VEHICLES

Officers shall inspect the patrol vehicle at the beginning of the shift and ensure that the following equipment, at a minimum, is present in the vehicle:

- 20 Emergency road flares
- 2 Sticks yellow crayon or chalk
- 1 Roll Crime Scene Barricade Tape
- 1 First aid kit, CPR mask
- 1 Blanket
- 1 Blood-borne pathogen kit, Incl. protective gloves
- 1 Sharps container
- 1 Hazardous waste disposal bag
- 1 Traffic Safety Vest
- 1 Hazardous Materials Emergency Response Handbook
- 1 Evidence collection kit
- 1 Camera

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704.3.2 UNMARKED POLICE VEHICLES

An employee driving unmarked department vehicles shall ensure that the minimum following equipment is present in the vehicle:

- 20 Emergency road flares
- 1 Roll Crime Scene Barricade Tape
- 1 First aid kit, CPR mask
- 1 Blanket
- 1 Blood-borne pathogen kit, Incl. protective gloves
- 1 Sharps container
- 1 Hazardous waste disposal bag
- 1 Traffic Safety Vest
- 1 Hazardous Materials Emergency Response Handbook
- 1 Evidence collection kit
- 1 Camera

704.4 VEHICLE REFUELING

Absent emergency conditions or supervisor approval, officers driving patrol vehicles should not place a vehicle in service that has less than one-half tank of fuel. Vehicles shall only be refueled at the authorized location with regular unleaded fuel. Whenever possible, vehicles in Oakland will be re-fueled at the Oakland Shops.

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 CIVILIAN EMPLOYEE USE

Civilian employees using marked vehicles shall ensure all weapons are removed from vehicles before going into service. Civilian employees shall also prominently display the "out of service" placards or lightbar covers at all times. Civilian employees shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

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Vehicle Use

706.1 PURPOSE AND SCOPE

This policy establishes a system of accountability to ensure District-owned vehicles are used appropriately. For the purposes of this policy, #District-owned# includes any vehicle owned, leased or rented by the District.

706.2 POLICY

The Department provides vehicles for official business use and may assign take-home vehicles based on its determination of operational efficiency, economic impact to the Department, tactical deployments and other considerations.

706.2.1 PARKING

District owned vehicles should be parked in their assigned stalls. Employees shall not park privately owned vehicles in any stall assigned to a District owned vehicle or in other areas of the parking lot not designated as a parking space unless authorized by a supervisor. Privately owned motorcycles shall be parked in designated areas.

706.3 USE OF VEHICLES

District-owned vehicles shall only be used for official business and, when approved, for commuting to allow members to respond to department-related business outside their regular work hours.

Members shall not operate a District-owned vehicle at any time when impaired by drugs and/or alcohol.

Any member operating a vehicle equipped with a two-way communications radio, MDC and/or a GPS device shall ensure the devices are on and set to an audible volume whenever the vehicle is in operation.

706.3.1 SHIFT ASSIGNED VEHICLES

Members who use a fleet vehicle as part of their work assignment shall ensure that the vehicle is properly checked out and logged on the daily shift roster, according to current procedures, prior to taking it into service. If for any reason during the shift the vehicle is exchanged, the member shall ensure that the exchanged vehicle is likewise properly noted on the daily shift roster.

Members shall be responsible for inspecting the interior and exterior of any assigned vehicle before taking the vehicle into service and at the conclusion of the shift. Any previously unreported damage, mechanical problems, unauthorized contents or other problems with the vehicle shall be promptly reported to a supervisor and documented as appropriate.

706.3.2 UNSCHEDULED USE OF VEHICLES

Members utilizing a District-owned vehicle for any purpose other than their regularly assigned duties shall first notify the Watch Commander of the reason for use and a notation will be made on the shift roster indicating the operator's name and vehicle number. This section does not apply

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to members permanently assigned an individual vehicle (e.g., command staff, detectives), who regularly use the vehicle on an unscheduled basis as part of their normal assignment.

706.3.3 UNMARKED VEHICLES
Except for use by the assigned member, unmarked units shall not be used without first obtaining approval from the supervisor of the unit to which the vehicle is assigned.

706.3.4 AUTHORIZED PASSENGERS
Members operating District-owned vehicles shall not permit persons other than District members or persons required to be conveyed in the performance of duty, or as otherwise authorized, to ride as a passenger in their vehicle.

706.3.5 PARKING
Except when responding to an emergency or other urgent official business requires otherwise, members driving District-owned vehicles should obey all parking regulations at all times.

District-owned vehicles should be parked in their assigned stalls. Members shall not park privately owned vehicles in any stall assigned to a District-owned vehicle or in any other areas of the parking lot that are not designated as a parking space unless authorized by a supervisor. Privately owned motorcycles shall be parked in designated areas.

706.3.6 INSPECTIONS
The interior of any vehicle that has been used to transport any person other than a member should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized or personal items have not been left in the vehicle.

When transporting any suspect, prisoner or arrestee, the transporting officer shall search all areas of the vehicle that are accessible by the person before and after the person is transported.

706.3.7 PRIVACY
All District-owned vehicles are subject to inspection and/or search at any time by a supervisor without notice and without cause. No member assigned to or operating such vehicle shall be entitled to any expectation of privacy with respect to the vehicle or its contents.

706.4 SECURITY
Employees may take home District owned vehicles only with prior approval from their Bureau Deputy Chief and shall meet the following criteria:

(a) The employee obeys the rules of the road

(b) Street or off street parking is available at the employee's residence.

(c) Vehicles shall be locked when not attended.

(d) All firearms and kinetic impact weapons shall be removed from the interior of the vehicle and placed in the trunk or properly secured in the residence when the vehicle is not attended (refer to Firearms policy § 312 regarding safe storage of firearms at home).

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When an employee is on vacation, leave, or out of the area in excess of one week, the vehicle shall be stored at District police facility.

706.5 KEYS AND SECURITY

All uniformed field members approved to operate marked patrol vehicles should be issued a copy of the unit key as part of their initial equipment distribution upon hiring. Officers shall not duplicate keys.

Members assigned a permanent vehicle should be issued keys for their assigned vehicle.

The loss of any key shall be promptly reported in writing through the member's chain of command.

706.6 ENFORCEMENT ACTIONS

When driving an assigned vehicle to and from work outside of the jurisdiction of the Bay Area Rapid Transit Police Department, an officer should avoid becoming directly involved in enforcement actions except in those circumstances where a potential threat to life or serious property damage exists (see the Off-Duty Law Enforcement Actions Policy and the Law Enforcement Authority Policy).

Officers may render public assistance (e.g., to a stranded motorist) when deemed prudent.

Officers shall, at all times while driving a marked District-owned vehicle, be armed, appropriately attired and carry their department-issued identification. Officers should also ensure that department radio communication capabilities are maintained to the extent feasible.

706.7 MAINTENANCE

Members are responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicles.

Members shall make daily inspections of their assigned vehicles for service/maintenance requirements and damage. It is the assigned member's responsibility to ensure that his/her assigned vehicle is maintained according to the established service and maintenance schedule.

Supervisors shall make, at a minimum, monthly inspections of vehicles assigned to members under their command to ensure the vehicles are being maintained in accordance with policy.

706.7.1 ACCESSORIES AND/OR MODIFICATIONS

No modifications, additions or removal of any equipment or accessories shall be made to the vehicle without written permission from the Bureau Commander.

706.8 VEHICLE DAMAGE, ABUSE AND MISUSE

When a District-owned vehicle is involved in a traffic collision or otherwise incurs damage, the involved member shall promptly notify a supervisor. Any traffic collision report shall be filed with the agency having jurisdiction (see also Traffic Collision Reporting Policy).

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When a collision involves a District vehicle or when a member of this department is an involved driver in a collision that occurs in this jurisdiction, and the collision results in serious injury or death , the supervisor should request that an outside law enforcement agency be summoned to investigate the collision.

The member involved in the collision shall complete the District's vehicle collision form. If the member is unable to complete the form, the supervisor shall complete the form.

Any damage to a vehicle that was not caused by a traffic collision shall be immediately reported during the shift in which the damage was discovered, documented in memorandum format and forwarded to the Watch Commander. An administrative investigation should be initiated to determine if there is any vehicle abuse or misuse.

706.9 TOLL ROAD USAGE

Law enforcement vehicles are not routinely exempted from incurring toll road charges.

To avoid unnecessary toll road charges, all members operating a District-owned vehicle upon the toll road shall adhere to the following:

(a) All members operating a District-owned vehicle 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 District for any toll fees incurred in the course of official business.

(b) All members passing through a toll plaza or booth during a response to an emergency shall notify, in writing, the appropriate Bureau Commander within five working days explaining the circumstances.

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Video Surveillance

707.1 PURPOSE AND SCOPE

The BART District and BART Police Department are committed to providing a safe and secure environment for our patrons, employees and the community. The purpose of video surveillance systems is to assist police in criminal investigations and to detect, deter and prevent potential terrorist and/or criminal activities within the BART system.

707.1.1 DEFINITIONS

a. CCTV: Closed-circuit television (CCTV) is the use of video cameras to transmit a signal to a specific place, on a limited set of monitors. Video images may be recorded to a data storage system.

b. Data Storage System: A computer or electronic device dedicated to the purpose of storing data.

c. Video Recovery Personnel (VRP): BART Police Department employee(s) specifically assigned to collect and/or retrieve video from a data storage system. The VRP is responsible for logging all video requests and retrievals.

d. Fixed Camera: Is a video camera that has a single and primary view/focus that may not be electronically modified after installation.

e. PTZ: Pan/Tilt/Zoom (PTZ) features are available on select camera models that gives the remote user the ability to reposition and refocus the camera on any object or view within a 360 degree radius of the cameras mounting position

f. Public Area: Areas open for public use where the expectation of privacy is not violated by what could normally be openly observed.

g. Private Areas: Areas such a bathrooms, lockers and changing rooms; areas where a reasonable person might change clothing, or private offices. Exceptions are cameras used narrowly to safeguard money, documents, or supplies, from theft, destruction, or tampering.

707.1.2 POLICY

This policy details how the BART Police Department will maintain and operate video surveillance equipment throughout the BART District. It also details the procedures to be used for recording, retaining and using information obtained from the use of video surveillance equipment installed throughout the BART District.

This policy will specify rules of acceptable BART Police Department use of video surveillance and designate specifications in order to achieve program goals without compromising the public's right to privacy. This document must also be flexible to adjust for unanticipated incidents, occurrences or applications for future improvements.

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707.1.3 RACIAL PROFILING AND/OR BIASED-BASED POLICING

No person will be targeted, monitored or tracked based solely on the actual or perceived race, religion or creed, age, national origin, gender (including gender identity), sexual orientation, disability, or political status or beliefs.

707.1.4 VIDEO SURVEILLANCE SYSTEM SPECIFICATIONS

The video surveillance system used will utilize multiple fixed and adjustable cameras focused on predetermined public areas in public places, including BART train cars. Cameras shall be situated in a manner and located in public places that will maximize the field of view of public areas for public safety and security purposes only. This system will be used primarily to address threats to public safety and applications delineated in this document.

Camera placement will minimize the potential inadvertent capture of images from areas where there would be a reasonable expectation of privacy.

Pan, Tilt, and Zoom (PTZ) cameras are also in place and these cameras have capabilities that allow operators to manipulate the framing or focal length of a video image only for the specific purpose of monitoring potential suspicious persons, or activities.

707.1.5 VIDEO STORAGE CAPABILITY

Structure and facility images captured from the video surveillance system will automatically be downloaded onto a secure data storage system where they will be stored based on the systems' design and recording capabilities before being overwritten by new data; which varies from seven (7) to thirty (30) days.

Train car video recorders store images for two (2) to seven (7) days before being overwritten. This video image storage time frame is based on the various recording systems design and capabilities.

707.1.6 VIDEO REQUEST PROCEDURE

Personnel requesting any station or train car video images shall email their request to:

PoliceVideo@bart.gov

Personnel must specify they are requesting either "BART Station Video" and/or "Train Car Video." The following information shall be provided when requesting video images:

<u>BART Station Video</u>

1. Requesting employee or outside agency
2. Station name
3. Date of occurrence
4. Physical description of involved parties
5. Timeframe if known
6. Exact location (i.e. platform, parking structure, bus zone, etc.)

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7. Reason for request (Type of crime or administrative use)

8. BART Police case number, if any

Train Car Video

1. Requesting employee or outside agency

2. Date of occurrence

3. Physical description of involved parties

4. Timeframe if known

5. Train run number and train car number

6. Train destination direction

7. Location of train at time of occurrence

8. Reason for request (Type of crime or administrative use)

9. BART Police case number, if any

When requesting video from a train car, personnel should be as specific as possible and should make a reasonable effort to identify the incident train car number prior to requesting any video.

707.1.7 PRIORITY VIDEO REQUESTS

In the event that there is an immediate need for the retrieval of video images (any incident deemed priority by a Detective or on-duty supervisor), including video that may be in danger of being purged, the Watch Commander or supervising member of the Investigations Bureau will make direct notification to the Video Recovery Personnel during their normal working hours. In the event that VRP are off-duty, the Watch Commander shall authorize the call-out of the necessary personnel.

707.1.8 OUTSIDE AGENCY VIDEO REQUESTS

Personnel who receive video image requests from allied agencies should direct them to the Department's video email address at:

http://PoliceVideo@bart.gov

. Should the agency's request be urgent, the requestor shall be directed to the on-duty Watch Commander who will respond in accordance with this policy and section 707.4.1 Priority Video Requests..

707.1.9 RELEASE OF VIDEO IMAGES TO THE GENERAL PUBLIC

All video images/data shall be used for law enforcement or public safety purposes only; except as required by law, subpoenas or other court process, such data will not otherwise be disclosed/ released by the BART Police Department without the consent of the Chief of Police.

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Department employees shall not release any information, including capabilities regarding the Districts CCTV systems to the public without prior authorization from the Chief of Police, or the appropriate designee. Personnel shall not release the Video Recovery Personnel telephone number or email address to members of the public.

707.1.10 REQUESTS FOR VIDEO IMAGES FROM THE MEMBERS OF THE PUBLIC

Persons that have a subpoena or preservation letter, and are interested in requesting video footage, shall be directed to the Department's Records Section during normal business hours, or via fax at 510-464-7089.

Persons that do not have a subpoena or preservation letter, and are interested in requesting video footage are to be directed to the District Secretary's Office at 510-464-6000 or via fax at 510-464-6011.

707.1.11 VIDEO IMAGES AS EVIDENCE

The review and retrieval of images may be for the purpose of criminal or administrative investigations only. Any working copies shall be accounted for by the officer, investigator or agency authorized to access and utilize the video images.

707.1.12 RETRIEVAL AND HANDLING OF VIDEO EVIDENCE

The downloading and/or retrieval of video image requests will be the responsibility of the Video Recovery Personnel. In criminal investigations and instances where there is an associated BART Police case number*, the VRP will make a master copy of the video image(s) and submit them as evidence. *Video image requests generated for administrative purposes will not be submitted to evidence, unless specifically requested.

Video footage that is retrieved as evidence shall be handled in a manner that is consistent with the Department's evidence handling guidelines - Policy 804. Personnel shall adhere to a strict chain of custody, and shall always submit the original video cassettes/discs/digital files into evidence.

707.1.13 CAPTURING OF VIDEO IMAGES WITH PERSONAL DEVICES

Personnel without access to retrieve video footage shall not use any video or still image cameras, recorders or cell phones to capture video or still images from the video surveillance system. This applies to equipment privately and District-owned, and includes stored video images as well as video footage being viewed live.

707.1.14 USER ACCESS

All persons designated by the Department as video surveillance system users shall receive necessary training. When technologically feasible, unique user identification shall be used in order to access the system. Images stored on servers shall only be accessed and retrieved by authorized personnel and only in response to public safety emergencies or authorized internal or criminal investigations.

Access to the video system will not be arbitrarily provided. Rather, only personnel with a need to access this system will be granted access. All requests for access shall be completed by the

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employee's direct supervisor and should be forwarded to the appropriate designee in charge of CCTV system access. Prior to being given access to the system, each authorized employee will be briefed on this policy.

Any personnel not employed by a law enforcement agency that have a need to access, view or review the CCTV system must have the consent of the Chief of Police, as well as complete a background screening prior to being provided access. Such personnel will also be required to review this policy and sign both a confidentiality agreement, which strictly limits the purposes for which accessed data may be used and imposes sanctions for any violation, as well as an agreement promising to adhere to the guidelines set forth in this policy.

707.1.15 LEGITIMATE LAW ENFORCEMENT PURPOSES

The BART Police Department may collect data that would be relevant to other legitimate law enforcement uses and subject to certain restrictions. Similar to the "plain view" exception in Fourth Amendment law, a police officer properly observing public scenes through a visual surveillance system may act upon evidence of criminal behavior as if he/she had witnessed it in person. This is true whether the officer is viewing the footage in real time or via a recording.

707.1.16 PAN, TILT AND ZOOM (PTZ) CAMERA USAGE

Any active, continual observation of an individual, employing PTZ cameras, shall be done as the result of reasonable suspicion of their involvement in criminal activity. PTZ camera operators are responsible for protecting the public's right to privacy as delineated by Citizens' Constitutional rights to privacy.

707.1.17 PRIVACY AND ANONYMITY

In regards to video surveillance, it is the intent of these policies and guidelines to ensure that all citizens, who may be conducting their activities in a place generally described as "public," be assured that their Constitutional right to privacy is respected and acknowledged. The system will not be used for viewing activities where a reasonable expectation of privacy may exist.

707.1.18 AUDITS

The video surveillance system should be equipped with capabilities that provide an audit trail of system use and user access. This information should include the user ID, password and the ability to review all activities concerning the use of the PTZ features of that particular operator.

A designee(s) at the direction of the Chief of Police may regularly audit use of the video surveillance system. The report will address compliance issues with this policy and any audits of operators and the subsequent findings. Any user's unusual activity and/or other access that is deemed suspicious will also be included in the audit.

707.1.19 SAFEGUARDING AND PROTECTING STORED DATA

The BART Police Department and BART District will take all reasonably appropriate technological, physical, administrative, procedural, and personnel measures to protect the confidentiality and integrity of all sensitive video data and evidence, whether in transit or in storage.

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707.1.20 PUBLIC NOTIFICATION OF VIDEO CAMERAS

Whenever practical, signage notifying the public that a video surveillance system is being used and images are being recorded will be posted in conspicuous locations proximate to the entrances of stations and other facilities. The signs at the very least will show the image of a camera. Exceptions will be made for confidential police cases.

707.1.21 CAMERA ERRORS/MAINTENANCE, ADDS, MOVES AND CHANGES

Personnel who notice that a camera feed is inoperative or that the image is out of focus or obscured, shall immediately notify the Communications/Maintenance Toll Test Board at ext. 7210, and should send a notification to

http://PoliceVideo@bart.gov

for follow up.

Personnel who feel that additional camera coverage is needed in a specific location or that a camera would better serve the District if moved or refocused, shall email their requests to

http://PoliceVideo@bart.gov

via their chain of command. Each request will be reviewed and considered for presentation to the District's CCTV Change Control Board.

707.1.22 NEW TECHNOLOGY

Any changes to the scope, capabilities and the uses of the system should be in accordance to current state and federal laws and within the scope of this policy and agency guidelines. At no point should this system or policy be altered so that it violates or poses a significant threat to violate an individual's constitutional rights.

Any technological advances that could be incorporated into the existing video surveillance system should also first be presented to the District's CCTV Change Control Board, the Chief of Police, as well as his/her CCTV designee(s).

707.1.23 POLICY VIOLATIONS

Unauthorized access to the system, misuse of the system, unauthorized reproduction of images, unauthorized distribution of images, or any other violations of this policy may result in disciplinary action up to and including termination.

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Portable Aerial Observation Tower

709.1 PURPOSE AND SCOPE

This policy governs the use of portable aerial observation tower(s) for surveillance and crime detection.

709.2 EQUIPMENT

The department's portable aerial observation tower(s) are intended for use in areas where a raised surveillance platform is beneficial as a crime deterrent or for enhanced situational awareness. The tower permits an employee to be elevated to a position in a secure cab approximately 25 feet above the ground where they can better monitor the surrounding areas. The tower cab is equipped with tinted windows which prevent observation of the occupancy status of the tower. The tower may be raised or lowered from inside the cab or from a ground level control panel located in a secure compartment on the trailer. The tower is equipped with interior and exterior lights, a chair and a writing table, 110-volt power, PA system, portable radio charger and a HVAC system. The tower is powered by an on board gasoline generator or by an external 110-volt source.

709.3 MARKINGS

The portable aerial observation tower(s) are distinctively marked with the BART Police Department insignia in a highly visible manner.

709.4 DEPLOYMENT

The portable aerial observation tower(s) will be deployed at locations at the direction of a Zone Commander, the Watch Commander or any member of command staff. Any employee may request the deployment of a portable aerial observation tower for official projects via a request through the employee's chain of command. The Detective Sergeant, or designee, will be responsible for scheduling the availability of the tower(s).

In order to track the use of the tower(s), the Watch Commander will make a daily log entry for each deployment of a tower unless such notification would compromise an active investigation. Employees on patrol shall make periodic checks of unoccupied tower(s) on their beat.

The Operations Deputy Chief must review and approve overnight deployments at locations where the tower will not be continuously monitored. Employees should consider monitoring the status of unoccupied tower(s) via CCTV when deployed at locations with sufficient CCTV coverage.

When not deployed, the tower(s) will be stored at a location at the direction of the Detective Sergeant.

709.5 OPERATION

Portable aerial observation tower(s) will be operated and transported in a safe and prudent manner. The tower may only be moved by a vehicle properly equipped for towing the weight of the trailer. The trailer dimensions (height, width and length) and towing weights (overall and tongue-

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weight) are listed in a conspicuous location on the outside of each tower. Employees should check and confirm that the tires are inflated to the recommended pressure prior to moving the trailer. Employees will successfully complete an orientation on the safe operation of the tower prior to operating a tower in the field. Prior to duty on a tower, each operator must complete a safety inspection consisting of the following;

(a) All outrigger arms are extended, locked and not loose

(b) The tower is level

(c) The wind speed is below 40 mph

(d) There are no overhead obstructions or hazards

All doors and access panels will be locked when the portable aerial observation tower is not occupied. The keys for the tower will be secured with the beat officer or at the nearest police zone facility if the trailer is left unoccupied on a deployment for an extended duration of time. The trailer will be secured with a "Denver boot" on one of the tires whenever it is parked at a deployment location or parked for storage. The tower may be left in the elevated position when unoccupied. The generator disconnect switch shall be left in the disconnected position whenever the tower is left for an extended period of time with the generator turned off.

709.6 SAFETY

Portable Aerial Observation tower(s) will not be elevated during periods of high wind (40 MPH or greater). Employees who observe an unoccupied portable aerial observation tower in an elevated position during a period of high wind shall immediately report the situation to the Watch Commander or immediately lower the tower if trained to operate the equipment.

The portable aerial observation tower(s) are equipped with weather stations which include a removable external anemometer to measure the wind speed. The anemometer shall be in the installed position and operational before the tower is elevated. The anemometer shall be removed and placed in the secure storage compartment when the trailer is towed.

The portable aerial observation tower outriggers shall be deployed and the trailer leveled to the manufacturer's specifications before the cab is elevated. The supplied wheel chocks shall be used when securing the tower for deployment. Before elevating the cab, employees shall ensure that the door is securely closed and that the safety cable is attached to the door. To prevent unintentional openings of the cab door, employees shall never lean on the door or manipulate the door latch while the cab is in the elevated position.

The cab is equipped with a camera and monitor to view the area below the cab when it is in the elevated position. Employees shall confirm that the area below the cab is safe before lowering the cab to the ground level. The tower is designed to be stable when it is fully elevated or fully lowered. The tower will not be deployed in a partially elevated position.

The cab is equipped with an emergency release lever to safely lower the cab in the event of an emergency, such as a loss of power, where the normal controls are not operational. Pulling the

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lever and holding it will cause the cab to lower to the ground at a controlled speed. A second emergency release is located at ground level in the secure cabinet where the tower controls are located.

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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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800.5 CRIME ANALYST TRAINING

The below listed training is from the Department's Training Plan and is either mandatory, essential or desirable. The Training Plan is located located within the G/drive, Training Unit folder.

Mandatory - Crime analysis course

Essential - Computer related skills training.

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Communication Operations

802.1 PURPOSE AND SCOPE

The basic function of the communications system is to satisfy the immediate information needs of the law enforcement agency in the course of its normal daily activities and during emergencies. The latter situation places the greatest demands upon the communications system and tests the capability of the system to fulfill its functions. Measures and standards of performance are necessary to assess the effectiveness with which any department, large or small, uses available information technology in fulfillment of its missions.

802.1.1 FCC COMPLIANCE

Bay Area Rapid Transit Police Department radio operations shall be conducted in accordance with Federal Communications Commission (FCC) procedures and guidelines.

802.2 COMMUNICATION OPERATIONS

This department provides 24-hour telephone service to the public for information or assistance that may be needed in emergencies. The ability of citizens to telephone quickly and easily for emergency service is critical. This department provides access to the 911 system for a single emergency telephone number. This department has two-way radio capability providing continuous communication between the Communications Center and officers.

802.2.1 COMMUNICATIONS LOG

It shall be the responsibility of the Communications Center to record all relevant information on calls for criminal and non-criminal service or self-initiated activity. Employees shall attempt to elicit as much information as possible to enhance the safety of the officer and assist in anticipating conditions to be encountered at the scene. Desirable information would include, at a minimum, the following:

- Control number
- Date and time of request
- Name and address of complainant, if possible
- Type of incident reported
- Location of incident reported
- Identification of officer(s) assigned as primary and backup
- Time of dispatch
- Time of the officer's arrival
- Time of officer's return to service
- Disposition or status of reported incident

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802.3 RADIO COMMUNICATIONS

Operations are more efficient and officer safety is enhanced when dispatchers, supervisors, and fellow officers know the status of officers, their locations and the nature of cases.

802.3.1 OFFICER IDENTIFICATION

Identification systems are based on factors such as beat assignment and officer identification numbers. Employees should use the entire call sign when initiating communication with the dispatcher. The use of the call sign allows for a brief pause so that the dispatcher can acknowledge the appropriate unit. Employees initiating communication with other agencies shall use their entire call sign. This requirement does not apply to continuing conversation between the mobile unit and dispatcher once the mobile unit has been properly identified.

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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 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 evidence/property page describing each item of property separately, listing all serial numbers, owner's name, finder's name, and other identifying information or markings.

(b) Employees may 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.

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(c) Complete an evidence/property tag and attach it to each package or envelope in which the property is stored.

(d) Place the case number in the appropriate box on the evidence envelope.

(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 evidence 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 & Safety Code § 11364 shall also be booked separately.

The officer seizing the narcotics and dangerous drugs shall place them in an evidence locker accompanied by one copy of the evidence page.

804.3.3 EXPLOSIVES

Explosives that are known or suspected to be armed or live, other than fixed ammunition, should not be retained in the police facility. All paints, flammables, fireworks, railroad flares, or fuses that are considered safe should be transported to the departments flammable locker located at 5th and Clay Street in Oakland or brought to a local Fire Department.

Officers who encounter an explosive device shall immediately notify their immediate supervisor and/or Watch Commander. The Bomb Squad will be called to handle situations involving explosive devices and all such devices will be released to them for disposal.

804.3.4 EXCEPTIONAL HANDLING

Certain property items require a separate process. The following items shall be processed in the described manner:

(a) Bodily fluids such as blood or semen stains shall be air dried prior to booking.

(b) License plates found not to be stolen or connected with a known crime, should be released directly to the Property and Evidence clerk, 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 Property and Evidence clerk, or placed in the bicycle storage area until a Property and Evidence clerk can log the property.

(d) All cash shall be counted in the presence of a supervisor and the envelope initialed by the booking officer and the supervisor. The Watch Commander shall be contacted for cash in excess of $1,000 for special handling procedures.

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District property, unless connected to a known criminal case, should be released directly to the appropriate District department. No formal booking is required. In cases where no responsible person can be located, the property should be booked for safekeeping in the normal manner.

804.4 PACKAGING OF PROPERTY

Certain items require special consideration and shall be booked separately as follows:

(a) Narcotics and dangerous drugs shall be weighed and K-packed and forwarded to evidence. The weight shall be documented in the report.

(b) Firearms (ensure they are unloaded and booked separately from ammunition) shall be secured and booked in a firearm evidence box.

(c) Property with more than one known owner

(d) Paraphernalia as described in Health & 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, guns and rifle boxes should be used to package these items. Syringe tubes should be used to package syringes and needles. Syringes may be disposed of in a red Sharps Container.

A property tag shall be securely attached to the outside of all items or group of items packaged together.

804.4.2 PACKAGING NARCOTICS

The officer seizing narcotics and dangerous drugs shall retain such property in their possession until it is properly weighed, packaged, tagged, and placed in the designated narcotics locker, accompanied by two copies of the property record. Prior to packaging and if the quantity allows, a presumptive test should be made on all suspected narcotics. If conducted, the results of this test shall be included in the officer's report.

Narcotics and dangerous drugs shall be packaged in an envelope of appropriate size available in the report room. The booking officer shall initial the sealed envelope and the initials covered with cellophane tape. Narcotics and dangerous drugs shall not be packaged with other property.

A completed property tag shall be attached to the outside of the container. The chain of evidence shall be recorded on the back of this tag.

804.5 RECORDING OF PROPERTY

The Evidence clerk 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.

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A property number shall be obtained for each item or group of items. This number shall be recorded on property tag.

Any changes in the location of property held by the Department shall be documented.

804.6 PROPERTY CONTROL

Each time the Property and Evidence clerk 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 Property and Evidence clerk at least three days 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 Property and Evidence clerk. 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.

The Property and Evidence clerk 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 Section 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 Property and Evidence clerk 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 Criminal Investigations Section shall authorize the disposition or release of all evidence and property coming into the care and custody of the Department.

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804.6.5 RELEASE OF PROPERTY

All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.

Release of property shall be made upon receipt of an authorized release form, listing the name and address of the person to whom the property is to be released. The release authorization shall be signed by the authorizing supervisor or detective and must conform to the items listed on the property form or must specify the specific item(s) to be released. Release of all property shall be documented on the property form.

With the exception of firearms and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 90 days. During such period, property personnel shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 90 days after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed (Civil Code § 2080.6). The final disposition of all such property shall be fully documented in related reports.

A Property and Evidence clerk shall release the property upon proper identification being presented by the owner for which an authorized release has been received. A signature of the person receiving the property shall be recorded on the original property form. After release of all property entered on the property control card, the card shall be forwarded to the Records Section for filing with the case. If some items of property have not been released the property card will remain with the Property Section. Upon release, the proper entry shall be documented in the Property Log.

Under no circumstances shall any firearm be returned to any individual unless and until such person presents valid identification and written notification from the California Department of Justice that conforms to the provisions of Penal Code § 12021.3(e).

The Property Section Supervisor should also make reasonable efforts to determine whether the person is the subject of any court order preventing the person from possessing a firearm and if so, the firearm should not be released to the person while the order is in effect.

The Department is not required to retain any firearm or other deadly weapon longer than 180 days after notice has been provided to the owner that such firearm or other deadly weapon is available for return. At the expiration of such period, the firearm or other deadly weapon may be processed for disposal in accordance with applicable law (Penal Code § 33875).

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.

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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 Evidence clerk will be responsible for the storage, control, and destruction of all narcotics and dangerous drugs coming into the custody of this department, including paraphernalia as described in Health & Safety Code § 11364.

804.7 DISPOSITION OF PROPERTY
All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The Evidence clerk shall request a disposition or status on all property which has been held in excess of 120 days, and for which no disposition has been received from a supervisor or detective.

804.7.1 EXCEPTIONAL DISPOSITIONS
The following types of property shall be destroyed or disposed of in the manner, and at the time prescribed by law, unless a different disposition is ordered by a court of competent jurisdiction:

- Weapons declared by law to be nuisances (Penal Code §§ 29300; 18010; 32750)
- Animals, birds, and related equipment that have been ordered forfeited by the court (Penal Code § 599a)
- Counterfeiting equipment (Penal Code § 480)
- Gaming devices (Penal Code § 335a)
- Obscene matter ordered to be destroyed by the court (Penal Code § 312)
- Altered vehicles or component parts (Vehicle Code § 10751)
- Narcotics (Health and Safety Code § 11474, etc.)
- Unclaimed, stolen or embezzled property (Penal Code § 1411)
- Destructive devices (Penal Code § 19000)

804.7.2 UNCLAIMED MONEY
If found or seized money is no longer required as evidence and remains unclaimed after three years, the Department shall cause a notice to be published each week for a period of two consecutive weeks in a local newspaper of general circulation (Government Code § 50050). Such notice shall state the amount of money, the fund in which it is held and that the money will become the property of the agency on a designated date not less than 45 days and not more than 60 days after the first publication (Government Code § 50051).

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Any individual item with a value of less than fifteen dollars ($15.00), or any amount if the depositor/owner's name is unknown, which remains unclaimed for a year or by order of the court, may be transferred to the general fund without the necessity of public notice (Government Code § 50055).

If the money remains unclaimed as of the date designated in the published notice, the money will become the property of this department to fund official law enforcement operations. Money representing restitution collected on behalf of victims shall either be deposited into the Restitution Fund or used for purposes of victim services.

804.7.3 RETENTION OF BIOLOGICAL EVIDENCE

The Property Section Supervisor shall ensure that no biological evidence held by the Department is destroyed without adequate notification to the following persons, when applicable:

(a) The defendant

(b) The defendant's attorney

(c) The appropriate prosecutor and Attorney General

(d) Any sexual assault victim

(e) The Criminal Investigations Section Bureau supervisor

Biological evidence shall be retained for a minimum period established by law (Penal Code § 1417.9), the Property Section Supervisor or the expiration of any sentence imposed related to the evidence, whichever time period is greater. Following the retention period, notifications should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice unless a motion seeking an order to retain the sample is filed and served on the Department within 90 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate file. Any objection to, or motion regarding, the destruction of the biological evidence should be retained in the appropriate file and a copy forwarded to the Criminal Investigations Section Bureau supervisor.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the Chief of Police and the head of the applicable prosecutor's office.

Biological evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations. Even after expiration of an applicable statute of limitations, the Criminal Investigations Section Bureau supervisor should be consulted and the sexual assault victim should be notified.

804.8 INSPECTIONS OF THE EVIDENCE ROOM

(a) On a monthly basis, the supervisor of the evidence clerk should 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.

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(c) An annual audit of evidence held by the department shall be conducted by a Bureau Deputy Chief (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 should be made by an individual(s) not associated with the property room or function to ensure that records are correct and all evidence/property is accounted for.

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Records Section Procedures

806.1 PURPOSE AND SCOPE

Policies and procedures that apply to all employees of this department are contained in this chapter.

806.1.1 NUMERICAL FILING SYSTEM

Case reports are filed numerically within the Records Management system.

Reports are numbered commencing with month and date of the current year followed by a sequential number beginning with 00001 starting at midnight on the first day of January of each year. As an example, case number 0110-00001 would be the first new case beginning January 1, 2010.

806.2 FILE ACCESS AND SECURITY

All reports including, but not limited to, initial, supplemental, follow-up, evidence, and all reports critical to a case shall be maintained in a secure area within the Records Section accessible only to authorized Records Section personnel.

Department employees shall not access, view or distribute, or allow anyone else to access, view or distribute any record, file or report, whether hard copy or electronic file format, except in accordance with department policy and with a legitimate law enforcement or business purpose or as otherwise permissible by law.

Requests for faxed department police reports from outside agencies may be requested after hours though the Watch Commanders office. The requesting agency shall fax, on department letter head, the report request. The Watch Commander shall forward the request to the Administrative Services Supervisor with notice that the report was faxed.

806.2.1 REQUESTING ORIGINAL REPORTS

Generally, original reports shall not be removed from the Records Section. Should an original report be needed for any reason the requesting employee shall first obtain authorization from the Records Supervisor. All original reports removed from the Records Section shall be recorded on the Report Check-Out Log which shall constitute the only authorized manner by which an original report may be removed from the Records Section.

806.3 REQUISITION OF SUPPLIES

All personnel who are in need of supplies shall complete a Requisition of Supplies form available in the Records Section. The form shall be approved by a supervisor and submitted to a Police Administrative Specialist in the Records Section.

Only Records Section personnel shall issue supplies or forms from the supply room, and no supplies will be provided without a Requisition of Supplies form.

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806.4 DETERMINATION OF FACTUAL INNOCENCE

In any case where a person has been arrested by officers of the Bay Area Rapid Transit Police Department and no accusatory pleading has been filed, the person arrested may petition the Department to destroy the related arrest records. Petitions should be forwarded to the Support Services Supervisor. The Support Services Supervisor should promptly contact the prosecuting attorney and request a written opinion as to whether the petitioner is factually innocent of the charges (Penal Code § 851.8). Factual innocence means the accused person did not commit the crime.

Upon receipt of a written opinion from the prosecuting attorney affirming factual innocence, the Support Services Supervisor should forward the petition to the Criminal Investigations Section Supervisor and the General Counsel for review. After such review and consultation with the General Counsel, the Criminal Investigations Section Supervisor and the Support Services Supervisor shall decide whether a finding of factual innocence is appropriate.

Upon determination that a finding of factual innocence is appropriate, the Support Services Supervisor shall ensure that the arrest record and petition are sealed for later destruction and the required notifications are made to the California Department of Justice and other law enforcement agencies (Penal Code § 851.8).

The Support Services Supervisor should respond to a petition with the Department's decision within 45 days of receipt. Responses should include only the decision of the Department, not an explanation of the analysis leading to the decision.

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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 Bay Area Rapid Transit 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 clerk receiving a firearm when the serial numbers have been removed or obliterated shall arrange for the firearm to be transported to the crime lab for restoration and maintain the chain of evidence.

808.2.4 DOCUMENTATION
Case reports are prepared in order to document the chain of custody and the initial examination and handling of evidence from the time it is received/collected until it is released.

This report must include a record of the manner in which and/or from whom the firearm was received. This may appear on the request form or property form depending on the type of evidence.

808.2.5 FIREARM TRACE
After the serial number has been restored (or partially restored) by the criminalistics laboratory, the Property and Evidence clerk will complete a Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Tracing Center (NTC) Obliterated Serial Number Trace Request Form (ATF 3312.1-OBL) and forward the form to the NTC in Falling Waters, West Virginia or enter the data into the ATF eTrace system.

808.3 BULLET AND CASING IDENTIFICATION
Exemplar bullets and cartridge cases from the firearm, depending upon acceptance criteria and protocol, may be submitted to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Integrated Ballistic Information Network (NIBIN) which uses the Integrated Ballistic Identification System (IBIS) technology to search the national database and compare with ballistic evidence recovered from other crime scenes.

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Release of Records and Information

810.1 PURPOSE AND SCOPE

The purpose of this section is to establish a comprehensive reference and procedure for the maintenance and release of Department reports and records in accordance with applicable law.

810.2 PUBLIC REQUESTS FOR RECORDS

The California Public Records Act (Government Code § 6250, et seq.) provides that records created by a public agency shall be subject to inspection and release pursuant to request, except pursuant to exemptions set forth in the Act or otherwise established by statute. Public requests for records of this department shall be processed as follows:

810.2.1 PROCESSING OF REQUESTS

Any member of the public, including the media and elected officials, may access unrestricted records of this department by submitting a written and signed request for each record sought and paying any associated fees (Government Code § 6253).

The processing of requests is subject to the following limitations:

(a) The employee processing the request shall determine if the requested record is available and, if so, whether the record is exempt from disclosure. Either the requested record or the reason for non-disclosure will be provided promptly, but no later than 10 days from the date of request, unless unusual circumstances preclude doing so. If more time is needed, an extension of up to 14 additional days may be authorized by the Chief of Police or the authorized designee. If an extension is authorized, the Department shall provide written notice of the extension to the requesting party (Government Code § 6253(c)).

(b) In accordance with the Public Records Act, the Department is not required to create records that do not otherwise exist in order to accommodate a request under the Act.

Requests by elected officials for records that are not open to public inspection should be referred to the Support Services Bureau Deputy Chief for a determination as to whether the records will be released.

810.3 REPORT RELEASE RESTRICTIONS

Absent a valid court order or other statutory authority, records and/or unrestricted portions of such records of this department shall be made public subject to the following restrictions:

810.3.1 GENERAL CASE AND CRIME REPORTS

Reports containing any of the items listed below will not be released:

(a) **Victim information** - Victims of crimes who have requested that their identifying information be kept confidential, victims who are minors and victims of certain offenses (e.g., sex crimes, Penal Code § 293) shall not be made public. No employee shall disclose to any arrested person or to any person who may be a defendant in a criminal action the address or

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telephone number of any person who is a victim or witness in the alleged offense, unless it is required by law (Penal Code § 841.5).

(b) **Confidential information** - Information involving confidential informants, intelligence information, information that would endanger the safety of any person involved or information that would endanger the successful completion of the investigation or a related investigation shall not be made public.

1. Analysis and conclusions of investigating officers may also be exempt from disclosure.
2. If it has been noted in any report that any individual wishes to protect his/her right to privacy under the California Constitution, such information may not be subject to public disclosure.

(c) **Specific crimes** - Certain types of reports involving, but not limited to, **child abuse/ molestation** (Penal Code § 11167.5), **elder abuse** (Welfare and Institutions Code § 15633) and **juveniles** (Welfare and Institutions Code § 827) shall not be made public.

(d) **General information** - Absent statutory exemption to the contrary or other lawful reason to deem information from reports confidential, information from unrestricted agency reports shall be made public as outlined in Government Code § 6254(f).

(e) **Deceased juvenile crime victims** - The Code of Civil Procedure § 130 limits the dissemination of autopsy and private medical information concerning a murdered child by allowing families to request that the autopsy report of the victim be sealed from public inspection. Such requests shall be honored, with the exceptions that allow dissemination of those reports to law enforcement agents, prosecutors, defendants or civil litigants under state and federal discovery laws (Code of Civil Procedure §130).

810.3.2 ARREST REPORTS

Arrestee information shall be subject to release in the same manner as information contained in other reports as set forth above.

In addition to the restrictions stated above, all requests from criminal defendants and their authorized representatives (including attorneys) shall be referred to the District Attorney, General Counsel or the courts pursuant to Penal Code § 1054.5.

Local criminal history information including, but not limited to, arrest history and disposition, and fingerprints shall only be subject to release to those agencies and individuals set forth in Penal Code § 13300.

810.3.3 TRAFFIC COLLISION REPORTS

Traffic collision reports (and related supplemental reports) shall be considered confidential and subject to release only to the California Highway Patrol, Department of Motor Vehicles (DMV), other law enforcement agencies and those individuals and their authorized representatives set forth in Vehicle Code § 20012.

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810.3.4 PERSONNEL RECORDS
Personnel records, medical records and similar records which would involve personal privacy shall not be made public (Government Code § 6254((c); Penal Code § 832.7; Penal Code § 832.8).

Peace officer personnel records are deemed confidential (Penal Code § 832.7, et seq.) and shall not be made public or otherwise released to unauthorized individuals or entities absent a valid court order (Evidence Code § 1043, et seq.).

The identity of any officer subject to any criminal or administrative investigation shall not be released without the consent of the involved officer, prior approval of the Chief of Police or as required by law.

810.3.5 DOMESTIC VIOLENCE REPORTS
Victims of domestic violence or their representative shall be provided, without charge, one copy of all domestic violence incident report face sheets, one copy of all domestic violence incident reports, or both, pursuant to the requirements and time frames of Family Code § 6228.

810.4 OTHER RECORDS
Any other record not addressed in this policy shall not be subject to release where such record is exempt or prohibited from disclosure pursuant to state or federal law, including, but not limited to, provisions of the Evidence Code relating to privilege or to the security of the department's electronic technology systems (Government Code § 6254(k); Government Code 6254.19).

The Department maintains the right to refuse to disclose or release any other record when it would appear that the public's interest in accessing such record is outweighed by the need for nondisclosure (Government Code § 6255).

Any record which was created exclusively in anticipation of potential litigation involving this department shall not be subject to public disclosure (Government Code § 6254(b)).

810.4.1 PERSONAL IDENTIFYING INFORMATION
Employees shall not access, use or disclose personal identifying information, including an individual's photograph, social security number, driver identification number, name, address, telephone number and the individual's medical or disability information, which is contained in any driver license record, motor vehicle record or any department record except as authorized by the Department and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721 and 18 USC § 2722).

810.5 SUBPOENA DUCES TECUM
Any Subpoena Duces Tecum (SDT) should be promptly provided to a supervisor for review and processing. While a Subpoena Duces Tecum may ultimately be subject to compliance, it is not an order from the Court that will automatically require the release of the requested information.

All questions regarding compliance with any Subpoena Duces Tecum should be promptly referred to legal counsel for the Department so that a timely response can be prepared.

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810.6 RELEASED RECORDS TO BE STAMPED

All requests for records must be processed through the Support Services Bureau Records Supervisor. Each page of any record released pursuant to a Public Records Act request or Subpoena Duces Tecum shall be stamped in red ink with a departmental stamp identifying the individual to whom the record was released.

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Criminal Offender Record Information (CORI)

812.1 PURPOSE & SCOPE

This policy provides guidelines for the release of criminal offender information, security of that information, and persons authorized to release that information.

812.2 AUTHORITY

This policy is established pursuant to the mandate of the Regulations Regarding Security of Criminal Offender Record Information in California, Title 11, California Code of Regulations. Other authority includes Penal Code § 11105, which delineates who has access to Criminal Offender Record Information (CORI), and Penal Code §§ 11140 through 11144, which establishes penalties for the improper use of rap sheets.

812.3 DEFINITIONS

Criminal Offender Record Information - (CORI) shall include CII manual/automated rap sheets and abstracts, CII crime summaries, CII criminal history transcripts, FBI rap sheets, and any BPD documents containing a list of prior arrests.

Criminal Justice Agency - A public agency or component thereof which performs a criminal justice activity as its principal function.

Authorized Recipient - Any person or agency authorized by court order, statute or case law to receive CORI.

Right to Know - Persons or agencies authorized by court order, statute or decisional case law to receive the information.

Need to Know - A necessity exists to obtain CORI in order to execute official responsibilities.

812.4 AUTHORIZED RECIPIENTS OF CORI

CORI may be released only to authorized recipients who have both a right to know and a need to know. All law enforcement personnel with proper identification are authorized recipients, if they have an official need to know.

The California Department of Justice has issued a list of agencies authorized to receive criminal history information. Persons not included in the Department of Justice list are not authorized recipients and shall not receive CORI.

812.4.1 CRIMINAL RECORD SECURITY OFFICER

The Records Supervisor is the designated Criminal Record Security Officer for the Bay Area Rapid Transit Police Department. This supervisor is responsible for ensuring compliance with this procedure and with applicable records security regulations and requirements imposed by federal and state law. The Criminal Record Security Officer will resolve specific questions that arise regarding authorized recipients of CORI.

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812.4.2 RELEASE OF CORI

Only the persons listed below are authorized to release CORI. Each authorized person releasing CORI is responsible to ensure that each request granted appears legitimate and that the requester is an authorized recipient with a right and need to know.

(a) Criminal Records Security Officer

(b) Records Supervisor

(c) Full-time employees of the Records Section

(d) Personnel specifically designated in writing by Bureau Deputy Chief with the concurrence of the Criminal Records Security Officer

812.4.3 RELEASE OF CORI TO FIELD PERSONNEL

Personnel shall not have access to CORI until a background investigation has been completed and approved.

CORI shall not generally be transmitted by radio, cellular phone, or through computer terminals to field personnel or vehicles except in cases where circumstances reasonably indicate that the immediate safety of the officer or the public are at significant risk. Examples of situations where the transmission of summary criminal history information would be justified include a hostage situation or an armed suspect however a routine investigation or traffic enforcement stop would not be sufficient justification.

Nothing in this procedure is intended to prohibit broadcasting warrant information concerning wanted persons.

812.5 JUVENILE RECORDS

Nothing in this procedure is intended to alter existing statutes, case law, or the policies and orders of the Juvenile Court regarding the release of juvenile offender records. Refer to Policy Manual § 324 for more specific information regarding cases involving juveniles.

812.6 REVIEW OF CRIMINAL OFFENDER RECORD

Penal Code §§ 11120 through 11127 provide the authority and procedure whereby an individual may review his/her own California Department of Justice (CII) rap sheet.

Individuals shall be allowed to review their arrest or conviction record on file with the Department after complying with all legal requirements.

812.7 PROTECTION OF CORI

CORI shall be stored in the Records Section where constant personnel coverage will be provided. CORI stored elsewhere shall be secured in locked desks, locked file cabinets, or in locked rooms.

Direct access to CORI stored in the Records Section shall be restricted to the Records Section personnel authorized to release it. Direct access to CORI stored in desks, file cabinets, and rooms

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outside the Records Section shall be restricted to those persons who possess both the right to know and the need to know the information.

812.7.1 COMPUTER TERMINAL SECURITY
Computer terminal equipment capable of providing access to automated criminal offender record information is located in the Records Section, the Communications Center and in the Criminal Investigations Section to preclude access by unauthorized persons.

No employee shall be authorized to operate computer terminal equipment with access to CORI until the operator has completed the appropriate training.

812.7.2 DESTRUCTION OF CORI
When any document providing CORI has served the purpose for which it was obtained, it shall be destroyed by shredding.

Each employee shall be responsible for destroying the CORI documents they receive.

812.7.3 CUSTODIAN OF CRIMINAL RECORDS
The Records Supervisor, unless otherwise directed by the Support Services Bureau Deputy Chief, shall be the Department's official Custodian of Criminal Records. The Custodian of Criminal Records shall be responsible for the security, storage, dissemination and destruction of criminal records, and will serve as a primary contact for the California Department of Justice for any related issues. The Support Services Bureau Deputy Chief may appoint other department employees to the role of Custodian of Criminal Records, who will share the same responsibilities regarding criminal records.

The Support Services will ensure that he/she makes the appropriate applications and notifications to the California Department of Justice regarding the Department's Custodian of Criminal Record appointments, per the requirements of Penal Code § 11102.2.

This subsection is not intended to interfere with any other employee acting as a custodian of records for other statutory purposes but is narrowly tailored to address issues of criminal history records.

812.8 TRAINING PROGRAM
All personnel authorized to process or release CORI shall be required to complete a training program prescribed by the Criminal Record Security Officer. The Training Bureau shall coordinate the course to provide training in the proper use, control, and dissemination of CORI.

812.9 PENALTIES FOR MISUSE OF RECORDS
Penal Code §§ 11140 and 11144 make it a misdemeanor to furnish, buy, receive, or possess Department of Justice rap sheets without authorization by a court, statute, or case law.

Title 11, California Administrative Code § 702 provides that authorized persons or agencies violating the Regulations Regarding the Security of Criminal Offender Record Information in California may lose direct access to CORI maintained by the California Department of Justice.

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Divulging the content of any criminal record to anyone other than authorized personnel is a violation of Policy Manual § 340.3.7(a).

Employees who obtain, or attempt to obtain, information from the department files other than that to which they are entitled in accordance with their official duties is a violation of Policy Manual § 340.3.7(a).

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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 (PCD's) 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.

When employees have reason to believe that a search may result in a seizure of materials relating to First Amendment activities such as publishing or posting materials on the World Wide Web, they must consider the effect of the Privacy Protection Act ("PPA"), 42 U.S.C. § 2000aa. Every computer search that implicates the PPA must be approved by the local District Attorney. Under the Privacy Protection Act ("PPA"), 42 U.S.C. § 2000aa, law enforcement must take special steps when planning a search that agents have reason to believe may result in the seizure of certain First Amendment materials. Law enforcement searches that implicate the PPA must be pre-approved by legal counsel.

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.

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(g) Lodge all computer items in the Property Room. Do not store computers where normal room temperature and humidity is not maintained.

(h) At minimum, officers should document the following in related reports:

1. Where the computer was located and whether or not it was in operation.
2. Who was using it at the time.
3. Who claimed ownership.
4. If it can be determined, how it was being used.

(i) In most cases when a computer is involved in criminal acts and is in the possession of the suspect, the computer itself and all storage devices (hard drives, tape drives, and disk drives) should be seized along with all media. Accessories (printers, 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 shared 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 physical write-protection tab or switch, it should be activated.

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(b) Do not review, access or open digital files prior to submission. If the information is needed for immediate investigation, request that the investigator assigned to the case copy the contents to an appropriate form of storage media.

(c) Many kinds of storage media can be erased or damaged by magnetic fields. Keep all media away from magnetic devices, electric motors, radio transmitters or other sources of magnetic fields.

(d) Do not leave storage media where they would be subject to excessive heat such as in a parked vehicle on a hot day.

(e) Use plastic cases designed to protect the media, or other protective packaging, to prevent damage.

814.4 SEIZING PCDS

Personal communication devices such as cell phones, PDAs or other hand-held devices connected to any communication network must be handled with care to preserve evidence that may be on the device including messages, stored data and/or images.

(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. 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 a police facility as soon as possible for submission into evidence. Officers shall either submit the entire memory card as evidence or shall use appropriate computer software provided

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by the Department to download a copy of the evidence and burn those files to CD or DVD media. The CD or DVD media shall then be submitted as evidence.

(b) Officers requiring a copy of the digital files must request a copy from the Investigations Section. Officers shall not keep personal copies of evidence items except as is required for legitimate business purposes.

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) Digital media that is held as evidence may only be duplicated under the direction of the Investigations Section. 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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Chapter 9 - Custody

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Temporary Holding Facility

900.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines and procedures for the booking, housing, security and release of prisoners at the Bay Area Rapid Transit Police Department's Temporary Holding Facility.

In addition to this policy, the Bay Area Rapid Transit Police Department shall maintain the Operations and Procedures Manual to guide the operation of the Temporary Holding Facility.

The Department shall maintain the custody of prisoners in accordance with this policy, the Operations and Procedures Manual and in accordance with applicable law.

900.1.1 SUPERVISION OF PRISONERS

No prisoner will be held in the Temporary Holding Facility unless there is a designated employee who remains within the police building who can supervise the Temporary Holding Facility and respond to emergencies. This person will be designated by the Temporary Holding Facility supervisor and must not leave the police building while prisoners are in custody. This person will not have other duties that could conflict with the supervision of prisoners. Whenever one or more female inmates is in custody, there shall be at least one female employee, who shall be immediately available and accessible to such females (15 CCR § 1027).

Custodial personnel who are responsible for supervising prisoners in the Bay Area Rapid Transit Police Department Temporary Holding Facility shall complete eight hours of specialized training (15 CCR § 1024). Such training shall include, but not be limited to, the following:

(a) Applicable minimum jail standards

(b) Jail operations liability

(c) Inmate segregation

(d) Emergency procedures and planning

(e) Suicide prevention

Such training shall be completed as soon as practicable, but in any event not more than six months after the date of assigned responsibility. Eight hours of refresher training shall be completed once every two years (15 CCR § 1024). A record of such training shall be maintained in the employee's training file.

900.1.2 DETENTION OF PRISONERS IN THE TEMPORARY HOLDING FACILITY

It is the policy of the Bay Area Rapid Transit Police Department that prisoners detained in the Temporary Holding Facility shall be released or transported to another facility, per the provisions of this manual, as soon as possible and practical.

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900.1.3 NON-DETAINABLE PRISONERS

Arrestees who fall within the following classifications should not be detained in the Temporary Holding Facility. They should be transported to the county jail, the designated medical facility or the county mental health facility, as appropriate:

(a) Any person who is sick, injured or who has any other medical condition, including pregnant females, who may require medical attention, supervision or medication during confinement.

(b) Any person who has claimed, or is known to be afflicted with or displays symptoms of any communicable disease.

(c) Any person suffering from a severe mental disorder.

(d) Any combative or unruly person who is likely to cause damage to the facility or severely disrupt the good order of the Temporary Holding Facility (15 CCR § 1053).

(e) A prisoner who is or may be contemplating suicide.

(f) Any person suspected of being under the influence of a hallucinogen, hyperglycemic agent, psychotropic medication, narcotic, sedative, tranquilizer, anti-neoplastic (cancer) drug, research medication or any person suffering from withdrawals of the above.

(g) Any person suspected or confirmed to be developmentally disabled (15 CCR § 1057).

(h) Any person or persons for whom appropriate classification (by gender, age) cannot be maintained.

(i) Any person who is so intoxicated as to be a danger to him/herself or others and cannot be safely accommodated within the facility or a sobering cell (15 CCR § 1056). This shall also apply to those inmates who are undergoing withdrawal reactions (15 CCR § 1213).

900.1.4 DETAINABLE PRISONERS

Arrestees who fall within the following classifications may be detained in the Bay Area Rapid Transit Police Department Temporary Holding Facility with the approval of the Watch Commander. This includes those arrested and detained pending:

(a) Posting of bail

(b) Release on Own Recognizance (O.R.)

(c) Release on citation in accordance with the Cite and Release Policy in this manual

(d) Transportation to the County Jail

(e) Release per Penal Code § 849(b)

(f) In-custody interview or other investigation

900.1.5 COURT HOLDING - TEMPORARY HOLDING FACILITY PRISONERS

Those prisoners that are temporarily housed in this facility pending court appearance will be segregated according to this Police department's classification policy.

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900.1.6 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 Watch Commander.

(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 (15 CCR § 1056).

(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.

900.1.7 TRANSPORTATION OF PRISONERS

Generally and when circumstances permit, prisoners of the opposite sex, or adult and juvenile prisoners, should not be transported in the same vehicle unless they are physically separated by a solid barrier. If segregating prisoners is not practicable, officers should be alert to inappropriate physical or verbal contact between them and take appropriate action as necessary.

Whenever a prisoner is to be transported from the Temporary Holding Facility to another facility by a member of this department the transporting officer shall be responsible for the following:

(a) Verify that the identity of each prisoner to be transported matches the booking paperwork.

(b) Ensure that all pertinent documentation accompanies the prisoner, such as copies of booking forms, medical records when appropriate, an itemized list of the prisoner's property, warrant copies, etc.

(c) Ensure that any known threat or danger the prisoner may pose, such as escape risk, suicide potential, or medical condition, is recorded on the prisoner's booking documentation and is transported with the prisoner to the next facility. The transporting officer shall ensure such threat or danger is communicated to intake personnel at the facility.

900.1.8 PRISONER WITH ORTHOPEDIC OR PROSTHETIC APPLIANCE

Subject to safety and security concerns, persons who are detained in the Temporary Holding Facility shall be permitted to retain possession of an orthopedic or prosthetic appliance if it is prescribed or recommended and fitted by a physician. However, if the appliance presents a risk of

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bodily harm to any person or is a risk to the security of the facility, the appliance shall be removed from the prisoner and booked for safekeeping but shall be promptly returned if it is later determined that such risk no longer exists (Penal Code § 2656 (a) and (b)).

Whenever a prosthetic or orthopedic appliance is removed from a prisoner the Watch Commander shall be promptly apprised of the reason for the removal. If it is determined that the appliance will not be returned, the prisoner shall be examined as soon as practicable by a physician but no later than 24 hours of removal to determine if the removal will be injurious to the health or safety of the prisoner (Penal Code § 2656 (b)).

If the examining physician determines that removal is or will be injurious to the health or safety of the prisoner and the appliance cannot be returned because of safety or security concerns the prisoner should be transferred to an appropriate medical detention facility or, in lieu of transfer, shall be provided with an opportunity to petition the Superior Court for the return of the appliance in accordance with Penal Code § 2656(b) and (c).

900.2 DEPARTMENT ORGANIZATION AND RESPONSIBILITY

The following responsibilities for the Temporary Holding Facility operations have been established (15 CCR § 1029):

(a) **Facility Administrator:** The Chief of Police shall be the Facility Administrator officially charged, by law, with the administration of the Temporary Holding Facility.

(b) **Facility Manager:** Will have the responsibility for planning, managing, administrative functions, establishing channels of communication, and conducting inspections and operations reviews, review of the facility manual and the operations of the Temporary Holding Facility. The Facility Manager will be responsible to the Facility Administrator.

(c) **Maintenance Manager:** Will be responsible for the physical maintenance, cleanliness and supply of the Temporary Holding Facility. The maintenance manager will be responsible to the Facility Manager.

(d) **Facility Supervisor:** The employee with 24 hour a day functional responsibility for the Temporary Holding Facility will be the Watch Commander. Any other supervisor may provide assistance as needed. The Facility Supervisor shall be responsible to the Facility Manager.

(e) **Custodial personnel:** Custodial personnel shall be those on-duty sergeants, corporals, officers, detectives or other designated employees whose additional duties include the supervision of prisoners who are detained in the Temporary Holding Facility. Custodial personnel will be responsible to the Facility Supervisor.

900.2.1 STAFFING PLAN

The Facility Administrator shall prepare and retain a staffing plan which will indicate assigned personnel and their duties. The plan shall be available for biennial review by the Corrections Standards Authority (CSA) staff. The review and recommendations of the CSA biennial review shall be forwarded to the Chief of Police, as required by 15 CCR § 1027.

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900.3 PRISONER SUPERVISION AND CLASSIFICATION

900.3.1 SUPERVISION OF PRISONERS

All prisoners, with the exception of intoxicated prisoners, should be visually checked no less than once every hour. Intoxicated persons should be checked at least once every half-hour. This check will be conducted through direct visual observation without the aid of surveillance cameras.

900.3.2 LOG ENTRIES AND SECURITY CHECKS

(a) All adult bookings should be logged into the Temporary Holding Facility log. The following entries are to be completed by the booking officer and personnel responsible for maintaining prisoners in the facility (15 CCR § 1029):

1. Case number
2. Date/time of booking
3. Charges
4. Arrestee's name
5. Arresting officer's name
6. Date/time of each safety check and the name of the officer conducting the check (15 CCR § 1027)
7. Date and time of release

(b) The log shall be kept in the booking area of the Temporary Holding Facility. It is the responsibility of the Facility Supervisor to ensure that all appropriate entries are made. Prisoner counts shall be made every four hours and verified against the log.

(c) The Watch Commander should make periodic checks to ensure that the log and security checks are made on time.

(d) The Facility Manager should review all Temporary Holding Facility logs and shall report to the Facility Administrator as required.

(e) All logs and reports should be maintained in the Records Section for inspection by the Facility Manager, Facility Administrator or other officials as may be required.

900.3.3 PRISONER CLASSIFICATION, SCREENING AND SEGREGATION

It is the policy of the Bay Area Rapid Transit Police Department Temporary Holding Facility to segregate prisoners in compliance with the requirements noted in Title 15 of the California Code of Regulations.

(a) It is necessary to establish a prisoner classification procedure wherein each prisoner will be evaluated, prior to housing, according to categories of sex, age, criminal sophistication, seriousness of crime charged, assaultive/non-assaultive behavior, medical problems,

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mental state (including developmental disabilities) and sexual orientation, and housed in order to provide for the safety of prisoners and staff (15 CCR § 1050).

(b) As part of the booking procedure, the booking officer should evaluate each incoming prisoner using the Prisoner Classification and Screening Form. This form shall be completed in its entirety in order to properly assign prisoners according to sex, age, criminal sophistication, seriousness of crime charged, physical or mental health needs, assaultive/non-assaultive behavior, restrictions, cell assignments and other criteria to ensure the safety of the prisoner and staff.

(c) During the booking procedure, the booking officer shall ask the prisoner if he/she is contemplating suicide. The officer shall evaluate the prisoner for other signs or indications that the prisoner may be suicidal. If there is any suspicion that the prisoner may be suicidal, he/she shall be transported to the county jail or appropriate mental health facility. The receiving staff shall be notified in writing (e.g., noted on the booking sheet, 5150 form, etc.) that the suspect may be suicidal.

(d) It is the responsibility of the arresting officer's supervisor to ensure that the Prisoner Classification and Screening Form has been properly completed. After the completion of the form, the arresting officer's supervisor will be required to authorize, on a case-by-case basis, the placement of each prisoner in the Temporary Holding Facility who is not immediately released or transported to the county jail.

1. The prisoner will then be housed or transported.
2. The completed classification form will be attached to the arrest report, booking forms and fingerprints as applicable.
3. The prisoner classification form should be retained in the prisoner's arrest file

(e) Before placing any prisoner into a temporary holding cell with any other prisoner, members shall consider whether the prisoner may be at a high risk of being sexually abused based on all available known information (28 CFR 115.141).

(f) If a prisoner will be housed overnight in the same cell with any other prisoner, he/she shall be screened to assess his/her risk of being sexually abused by other prisoners or of being sexually abusive toward other prisoners. Members shall ask the prisoner about his/her own perception of vulnerability and shall consider the following criteria to screen prisoners for risk of sexual victimization, including (28 CFR 115.141):

1. Whether the prisoner has a known or apparent mental, physical or developmental disability.
2. The age of the prisoner.
3. The physical build and appearance of the prisoner.
4. Whether the prisoner has previously been incarcerated.

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5. The nature of the prisoner's alleged offense and criminal history.

(g) Any prisoner identified as being at a high risk for sexual victimization shall be provided with heightened protection. This may include continuous, direct sight and sound supervision, single-cell housing or placement in a cell that is actively monitored on video by a staff member who is available to immediately intervene, unless no such option is reasonably feasible (28 CFR 115.113; 28 CFR 115.141).

900.3.4 TEMPORARY DETENTION OF JUVENILES
Juveniles who are detained by this department will be processed and handled in accordance with the Temporary Custody of Juveniles policy. Juveniles will not be permitted in the Temporary Holding Facility.

900.3.5 TEMPORARY DETENTION OF FEMALES
Whenever one or more female prisoners are in custody, there shall be at least one female employee who shall be available and accessible to the female prisoner(s). Male employees are not to search or enter the cell of a female prisoner, unless another female employee is present. (Title 15, California Code of Regulations § 1027, Penal Code § 4021)

In the event there is not a female employee readily available to conduct searches and hourly safety inspections, the female prisoner shall be transported to the county jail, or released pursuant to another lawful process (e.g., citation, O.R. release, etc.).

900.3.6 HANDCUFFING OF PREGNANT ARRESTEES
Persons who are known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety and in no event shall persons known to be pregnant or in recovery following delivery be restrained by the use of leg irons, waist chains or handcuffs behind the body.

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

900.3.7 REPORTING PHYSICAL HARM OR SERIOUS THREAT OF PHYSICAL HARM
Any Temporary Holding Facility incident that results in physical harm or serious threat of physical harm to an employee, inmate or other person shall be documented per the Use of Force Policy, On-Duty Injuries Policy or other applicable reporting process. A copy of all reports generated regarding the above circumstances shall be submitted to the Facility Manager as soon as reasonably practicable. The Facility Manager will retain a record of these reports for inspection purposes (15 CCR § 1044).

900.4 TEMPORARY HOLDING FACILITY SEARCHES
Immediately upon securing weapons, officers bringing prisoners into the Temporary Holding Facility shall thoroughly search their prisoners. All arrestees brought into the Temporary Holding Facility must be searched by an officer or other authorized employee of the same gender whenever

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possible before the officer relinquishes control. When a prisoner has been handcuffed, the prisoner should remain handcuffed until the search is substantially completed.

In the case of female prisoners, all searches will be conducted by a female officer or designated female employee whenever possible, and male employees shall remain outside the closed door, but available to assist immediately if needed. Should a female prisoner become combative, an officer may be assigned to restrain her until the appropriate search is completed.

Arrestee search procedures and policies are found in Policy Manual § 902.

900.5 FIRE SAFETY

The person, designated by the facility supervisor as having responsibility for the Temporary Holding Facility should, at the beginning and end of each shift, inspect the Temporary Holding Facility to ensure:

(a) No flammable materials are stored in the detention area

(b) Fire extinguishers are serviceable

(c) Cell keys are available in the Watch Commander's office and the Communications Center for emergency use

(d) First aid kits are readily available and completely stocked

(e) Smoke detectors are operational

The Facility Supervisor or his/her designee shall inspect the facility on a monthly basis. The results of the monthly inspection shall be documented in writing. The inspection record shall be retained for two years (Title 15, California Code of Regulations § 1032).

900.5.1 FIRE PROCEDURES

(a) In the event of a fire in the detention area the discovering employee should immediately:

1. Notify the Fire Department, Watch Commander and on-duty patrol personnel simultaneously through the Communications Center
2. Initiate movement of all prisoners to an area of safety through the utilization of the evacuation plan.
3. Begin fire suppression procedures as applicable.

(b) Responding patrol officers under the direction of the Temporary Holding Facility Supervisor should be responsible for:

1. The evacuation of prisoners.
2. Obtaining medical services as needed.
3. Securing prisoners in a temporary holding area.

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4. Arranging transportation of prisoners to the County Jail or other Temporary Holding Facility as necessary.
5. Initiating an investigation concerning the origin of the fire along with filing necessary reports.

(c) The Facility Manager, in coordination with the Fire Department and qualified first aid/CPR instructional personnel, shall oversee the training of all department personnel and ensure that they are familiar with:

1. The Temporary Holding Facility policy and procedures; and
2. Fire safety and evacuation plan including the use of the fire extinguisher.

(d) The Fire Marshal should make annual inspections of the Temporary Holding Facility.

900.6 EVACUATION OF TEMPORARY HOLDING FACILITY

If an evacuation of the Temporary Holding Facility becomes necessary, the following should be considered:

900.6.1 PRIMARY CONCERNS

(a) Safety of public

(b) Safety of department personnel

(c) Safety of prisoners

(d) Security of prisoners

900.6.2 NOTIFICATION

(a) Watch Commander

(b) All available sworn personnel

(c) Fire Department

(d) Medical aid

(e) Facility Manager

(f) Facility Administrator

900.6.3 EMERGENCY EVACUATION

When time permits, all prisoners will be restrained, as deemed necessary by the officer conducting the evacuation. The evacuation will be conducted in an orderly fashion by one of the routes posted in the Temporary Holding Facility.

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900.6.4 EVACUATION FORMATION AREA
All prisoners will form in the designated location where they will be held until the Temporary Holding Facility can again be safely occupied, or as in the case of an emergency of a long duration until they can be transported to another facility.

If possible, juveniles are to be kept separate from adult prisoners, and females from male prisoners.

Only after the safety and security of the prisoners is assured will personnel, not detailed to prisoner security, participate in fire suppression or other emergency activities.

900.6.5 DISTRICTWIDE OR REGIONAL DISASTERS
In cases of Districtwide or regional disasters, the Watch Commander may authorize the release of prisoners detained for misdemeanors or felonies involving property crimes only. Every available effort will be made to continue the custody of violent felons or felons accused of violent crimes to ensure the safety of the public.

900.6.6 FIRST-AID/PROFESSIONAL MEDICAL ATTENTION
As necessary, evacuating personnel will apply first-aid techniques to those prisoners injured as a result of the emergency or injured during the evacuation procedure until professional medical aid arrives to assist.

900.6.7 REPORTS
The Watch Commander will ensure that any emergency evacuation of the Temporary Holding Facility is documented and that copies of those reports be forwarded to the Temporary Holding Facility Manager and Temporary Holding Facility Administrator.

900.7 PRISONER TELEPHONE CALLS
Every prisoner, whether adult or juvenile, detained in the Temporary Holding Facility shall be entitled to at least three completed telephone calls immediately upon being booked and no later than three hours after arrest. Either the arresting officer or the booking officer must ask the arrested person if he/she is a custodial parent with responsibility for a minor child as soon as practicable but no later than three hours after the arrest, except where this may be physically impossible. If the person is a custodial parent with responsibility for a minor child, the person shall be entitled to make two additional telephone calls for the purpose of arranging care for the minor child (Penal Code § 851.5).

There is no obligation for the officer to make a call on a prisoner's behalf - for example in the case of a person that is so intoxicated that he or she cannot make a call. An officer is not required to wake an intoxicated person three hours after booking so that they may complete a call.

There is also no limitation on the amount of time a prisoner's phone call must last. A prisoner should be given sufficient time on the phone to contact whomever he/she desires and to arrange for necessary items because of his/her arrest. The phone calls are not intended to be lengthy conversations and the officer may use his or judgment in determining the duration of the calls.

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900.7.1 TELEPHONE CALL PROCEDURES
The Department will pay the cost of local calls. Long distance calls must be paid by the prisoners using calling cards or by calling collect.

Calls between the prisoner and his/her attorney shall be deemed confidential and shall not be monitored, eavesdropped upon or recorded.

The provisions of Penal Code § 851.5 shall be posted in bold block type in a conspicuous place within the Temporary Holding Facility.

900.7.2 ON-GOING TELEPHONE ACCESS
Once a prisoner has completed telephone calls provided by Penal Code § 851.5 and it appears that the individual is not going to be released or transferred to another custodial facility, reasonable efforts should be made to provide the prisoner with access to a telephone, as practical. 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 prisoner's desire for further phone access.

900.8 HANDLING OF PRISONER'S PROPERTY
Officers shall take care in the handling of a prisoner's property to avoid discrepancies or losses.

Any personal property belonging to the prisoner but retained by the officer for safekeeping, shall be kept in a secure location until the prisoner is released or transferred. Smaller items such as a driver's license, pocketknife, wallet, prescription medications and other similar property, shall be placed in a property bag, and sealed. A list of the property, including detailed descriptions of prescription medications, shall be included on the booking form. Any property too large to be kept in the Temporary Holding Facility shall be booked into property for safekeeping. Prisoner property that is too large or will not otherwise be accepted by a receiving facility in the event of an inmate transfer should be booked for safekeeping.

Property belonging to the prisoner, but retained by the officer as evidence, shall be booked according to procedures. The prisoner shall be advised that such property will be kept as evidence and where demanded, the officer will issue the prisoner a receipt. Such receipt may be a copy of the property booking form, written out in the officer's handwriting or typed for his/her personal signature. It should include the description of the property (but not its value), the case number, date, time, officer's badge number and signature. Where a receipt is issued, it should be mentioned in the arrest report.

900.8.1 VERIFICATION OF PRISONER'S MONEY
All money belonging to the prisoner and retained by the officer shall be counted in front of the prisoner. When possible, the prisoner should initial the dollar amount on the booking sheet. 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. Rings and other jewelry of apparent value or small enough to be easily lost should also be sealed in an envelope. All envelopes should clearly indicate

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the contents on the front. The person sealing it should place his/her initials across the sealed flap. Should any money be withdrawn or added to the cash envelope, the officer making such change shall enter the amount below the original entry and initial it. The total amount of money in the envelope should always be computed and written on the outside of the envelope.

900.8.2 RELEASE OF PRISONER'S PROPERTY

Release of any prisoner's property to any person requires the recipient's signature on the appropriate form. Any request for release of property by a prisoner must be made in writing on the booking sheet.

When a prisoner is released from custody, all property will be returned to him/her and he/she will be required to sign the back of the booking sheet.

If a prisoner is released to the court or an officer of another agency, all property will be released to that officer who will be required to verify and sign for the property. The officer transporting prisoners to court is required to obtain the receiving officer's signature on the booking form as notice of receipt of the prisoner's property.

Any alleged shortage or discrepancy shall be brought to the attention of the Watch Commander who will interview the prisoner claiming the shortage prior to his/her release. The Watch Commander shall ensure that a search for the alleged missing item(s) is complete and shall attempt to prove or disprove the claim. A written claim by the prisoner shall be requested where the discrepancy cannot be resolved.

900.9 TEMPORARY HOLDING FACILITY PROCEDURES

900.9.1 SECURITY

(a) Firearms, deadly weapons or any type of explosive device shall not be permitted within the secure area of the Temporary Holding Facility. Weapons should be properly secured in the gun lockers outside of the secure area of the Temporary Holding Facility. An exception may occur only during emergencies upon approval of the Facility Administrator, Facility Manager, or Watch Commander.

(b) All perimeter doors to the Temporary Holding Facility shall be kept locked at all times except during routine cleaning when no prisoners are present, or in the event of an emergency, such as an evacuation.

(c) Cell doors are to be locked at all times when prisoners are detained in the facility.

(d) No personnel shall smoke at any time while in the detention area. No prisoner shall be allowed to smoke or possess smoking materials in the detention area.

(e) Restraint devices such as handcuffs, disposable cuffs, belly-chains and leg restraints shall be used in accordance with department policy and only with the approval of the Watch Commander.

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900.9.2 RECEIPT OF PRISONERS

The arresting and or booking officer should:

(a) Make a thorough search of all prisoners booked into the Temporary Holding Facility. Female prisoners should be searched by female officers or other female staff whenever possible

(b) Inventory and record all property removed from the prisoner's person

(c) Secure property for safekeeping

(d) Remove all hazardous items from the prisoner's person

(e) Remove belts, shoes and jackets

(f) Complete the following:

1. For non-retainable misdemeanor offenses, complete one Bay Area Rapid Transit Police Department fingerprint/palm card.
2. For retainable misdemeanor and felony offenses, complete one Bay Area Rapid Transit Police Department fingerprint/palm card and two FBI fingerprint cards.
3. For warrant arrests complete, one Bay Area Rapid Transit Police Department fingerprint/palm card and two FBI fingerprint cards.
4. For traffic offense warrants, complete one Bay Area Rapid Transit Police Department fingerprint/palm card.
5. For juvenile arrests, one Bay Area Rapid Transit Police Department fingerprint/palm card and two FBI fingerprint cards to be mailed to Cal-ID.

(g) All prisoners arrested, both adult and juveniles, will be photographed. In the event of a malfunction, a 35mm camera is stored in the booking area and two front view photos will be taken. The prisoner will be given a card to hold below the facial/neck area that contains the prisoners name and case number.

(h) Complete the prisoner classification and screening form. The arresting officer will seek approval from his or her supervisor regarding the decision to keep the prisoner or transport.

(i) Complete the Bay Area Rapid Transit Police Department booking form or County Intake Form.

(j) In the case of an arrest involving an intoxicated person, complete a Detoxification Assessment Form.

(k) Before the booking procedure is completed, the arresting or booking officer will log the prisoner into the Temporary Holding Facility Log. This procedure is to be completed regardless of the time the prisoner is to be held in the facility and shall include those prisoners whose admittance is for booking only. In the case of felony arrests that require "last day" filing, the log entry will be highlighted in yellow and submitted with the accompanying arrest report for supervisory approval and normal routing through the Records Section.

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900.9.3 PRISONER BEDDING

(a) The booking officer should offer one blanket and one mattress to each person booked into the facility.

(b) Clean bedding should be stored in the Temporary Holding Facility storage room.

(c) Blankets that have been used by a prisoner should be placed in the laundry bin after use by the officer releasing the prisoner.

(d) Used bedding will be cleaned, as needed, upon the direction of the Temporary Holding Facility Manager. It is the manager or his/her designee's responsibility to ensure that adequate supplies of clean blankets are available in the storage room for issue, as needed.

900.9.4 PRISONER FOOD SERVICE

(a) Prisoner food will be made on-site or purchased from local restaurants.

(b) Meals will be provided for prisoners detained in excess of six hours.

900.9.5 ATTORNEYS AND BAIL BONDSMEN

(a) An attorney may visit the prisoner at the prisoner's request or a relative of the prisoner (Penal Code § 825).

(b) Attorneys and bail bondsmen who need to interview a prisoner should do so inside the Temporary Holding Facility in the secure interview room.

(c) Both the attorney and the prisoner should be searched for weapons prior and after being admitted to the Temporary Holding Facility interview room.

(d) Attorneys must produce a current California Bar card as well as other matching appropriate identification.

(e) Interviews between attorneys and their clients shall not be monitored or recorded.

900.9.6 RELEASE OF PRISONERS

(a) The Temporary Holding Facility should be inspected for damage prior to the release or transportation of any prisoner.

(b) Any damages should be noted and, if necessary, an additional crime report completed. If additional charges are warranted they will be made. Photographic evidence should be obtained and documented to support additional charges.

(c) Prisoners should be required to clean cells prior to release or transportation. If a prisoner refuses, he/he may not be compelled to clean up nor may his/her release be delayed to accomplish this.

(d) Prisoners shall be released in accordance with state law. The releasing officer will be responsible for the following:

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1. All proper reports and forms shall be completed prior to release.
2. All bail moneys are accounted for.
3. Bail bonds are attached to the necessary paperwork and placed in the bond basket in the Records Section.
4. All property, not to include evidence, contraband, or dangerous weapons shall be returned to the prisoner.
5. The appropriate Temporary Holding Facility Log will be completed showing the date, time, and reason for release, as well as the releasing officer's name.
6. Notifying the Communications Center of the prisoner's release.
7. The prisoner being released will be escorted from the Temporary Holding Facility and police facility by a department employee. At no time will a released prisoner be allowed in any secure area of the station without personal supervision by an employee.

900.9.7 FACILITY SANITATION AND MAINTENANCE

The Watch Commander should inspect the Temporary Holding Facility at the beginning and end of each shift to ensure that the detention area is clean and maintained to an acceptable level of cleanliness. The Temporary Holding Facility shall be cleaned, as necessary, in order to provide a proper custodial and working environment. Any maintenance problems will be reported to the jail supervisor.

900.9.8 DEATH OF A PRISONER

In the event of a fatal injury or death of a prisoner while in custody of the Temporary Holding Facility, in addition to a standard criminal investigation, the Chief of Police or the authorized designee shall report in writing to the Attorney General within 10 days after the death, all facts in the possession of the department concerning the death. In all such cases, the Watch Commander shall be notified and will make the appropriate additional notifications as directed in the Temporary Holding Facility manual.

A medical and operational review of every in-custody death shall be conducted. The review team shall include the following:

- Chief of Police or the authorized designee
- The health administrator
- The responsible physician and other health care and supervision staff who are relevant to the incident (15 CCR § 1046)

900.9.9 ACCESS TO FAITH AND MORALS BASED PROGRAMS

Consistent with available resources, safety and security, the religious beliefs and needs of all prisoners should be reasonably accommodated, including reasonable access to clergy members

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and spiritual advisers, volunteer religious organizations, faith and morals based programs, and other secular volunteer programs. No prisoner shall be required to participate in any such program.

900.9.10 PRISONER DISCIPLINE

Prisoner discipline will not be administered in this facility. Any prisoner who repeatedly fails to follow directions or facility rules should be transported to the appropriate jail, mental health facility or hospital as soon as practicable. Such conduct should be documented and reported to the receiving facility (15 CCR § 1081).

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Custody Searches

902.1 PURPOSE AND SCOPE

The purpose of this policy is to establish consistent department procedures which conform to Penal Code § 4030 regarding pat-down, booking and strip searches of pre-arraignment detainees.

902.2 DEFINITIONS OF SEARCHES

Pat-Down Search - This is the normal type of search used by officers in the field to check an individual for weapons. It involves a thorough patting down of clothing to locate any weapons or dangerous items that could pose a danger to the officer, the prisoner, or other prisoners.

Booking Search - This search is used in the jail and again involves a thorough patting down of an individual's clothing. All pockets, cuffs, etc., on the clothing are checked to locate all personal property, contraband, or weapons. The prisoner's personal property is taken and inventoried.

Strip Search or Visual Body Cavity Search - This is a search that requires a person to remove or rearrange some or all of his/her clothing to permit a visual inspection of the underclothing, breasts, buttocks or genitalia of such person (Penal Code § 4030(d)(2)). This includes monitoring of an arrestee showering or changing clothes where the arrestee's underclothing, buttocks, genitalia or female breasts are visible to the monitoring employee.

Physical Body Cavity Search - This is a search that includes physical intrusion into a body cavity. Body cavity means the stomach or rectal cavity of a person, and the vagina of a female person (Penal Code §§ 4030(d)(1) and 4030(d)(3)).

902.2.1 SEARCH PROTOCOL

Employees will refer to Policy 322.2.1 for the search protocol

902.3 PAT DOWN SEARCHES

When any officer has reasonable suspicion to believe that a person being lawfully detained may possess weapons or other dangerous items, or in such circumstances the officer reasonably believes that the individual may present a threat to officer safety, that officer may conduct a normal pat-down search of that individual.

Prior to detaining any individual in any police vehicle, an officer should conduct a normal pat-down search of that individual.

Whenever practical, a pat-down search of an individual should be conducted by an officer of the same sex as the person being searched. Absent the availability of a same sex officer, it is recommended that a supervisor and/or witness officer be present during any pat-down search of an individual of the opposite sex as the searching officer. Officers will use the back side of their hands and fingers to search sensitive areas of the opposite sex to include the breast, crotch and buttocks area.

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902.4 BOOKING SEARCHES

(a) Absent emergency circumstances in which no reasonable alternative exists, no person arrested for a misdemeanor or infraction not involving weapons, controlled substance or violence may be placed in the general jail population, unless all of the following conditions exist:

1. The person is not cited and released
2. The person is not released on his or her own recognizance
3. The person is not able to post bail within a reasonable time not less than three hours

(b) Any person taken into custody may be subjected to pat-down searches, metal detector searches, and thorough clothing searches in order to discover and retrieve concealed weapons and contraband prior to being placed in a booking cell.

902.5 STRIP SEARCHES

No person held at a Bay Area Rapid Transit Police Department facility shall be subjected to a strip search unless there is reasonable suspicion based upon specific and articulable facts to believe the person has a health condition requiring immediate medical attention or is concealing a weapon or contraband. Factors to be considered in determining reasonable suspicion include, but are not limited to:

(a) The detection of an object during a pat-down search that may be a weapon or contraband and cannot be safely retrieved without a modified strip search or strip search.

(b) Circumstances of a current arrest that specifically indicate the person may be concealing a weapon or contraband. A felony arrest charge or being under the influence of a controlled substance should not suffice as reasonable suspicion absent other facts.

(c) Custody history (past possession of contraband while in custody, assaults on staff, escape attempts).

(d) The person's actions or demeanor.

(e) Criminal history (level of experience in a custody setting).

No transgender or intersex prisoner shall be searched or examined for the sole purpose of determining the prisoner's genital status. If the prisoner's genital status is unknown, it may be determined during conversations with the prisoner, by reviewing medical records, or, if necessary, as part of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).

902.5.1 STRIP SEARCH PROCEDURES

Strip searches at Bay Area Rapid Transit Police Department facilities shall be conducted as follows (Penal Code § 4030; 28 CFR 115.115):

(a) Written authorization from the Watch Commander shall be obtained prior to the strip search.

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(b) All employees involved with the strip search shall be of the same sex as the person being searched, unless the search is conducted by authorized medical personnel (28 CFR 115.115).

(c) All strip searches shall be conducted in a professional manner under sanitary conditions and in a secure area of privacy so that the search cannot be observed by persons not participating in the search. The search shall not be reproduced through a visual or sound recording.

(d) Whenever possible, a second officer of the same sex should be present during the search for security and as a witness to the finding of evidence.

(e) Employees conducting a strip search shall not touch the breasts, buttocks or genitalia of the person being searched.

(f) The primary employee conducting the search shall prepare a written report to include:

1. The facts that led to the decision to perform a strip search.
2. The reasons less intrusive methods of searching were not used or were insufficient.
3. The written authorization for the search, obtained from the Watch Commander.
4. The name of the person who was searched.
5. The name and sex of the persons who conducted the search.
6. The name, sex and role of any person present during the search.
7. The time and date of the search.
8. The place at which the search was conducted.
9. A list of the items, if any, recovered during the search.
10. The facts upon which the employee based his/her belief that the person searched was concealing a weapon or controlled substance, if the person was not arrested for a felony.

(g) A copy of the written authorization shall be retained and made available upon request to the prisoner or the prisoner 's authorized representative.

(h) No employee should view a prisoner's private underclothing, buttocks, genitalia or female breasts while the prisoner is showering, performing bodily functions or changing clothes, unless the prisoner otherwise qualifies for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the prisoner with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the prisoner 's consent and/or otherwise protect the prisoner 's privacy and dignity.

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902.6 PHYSICAL BODY CAVITY SEARCH

(a) No person arrested on a misdemeanor or infraction shall be subjected to a body cavity search without a search warrant (Penal Code § 4030(h)).

(b) A copy of the search warrant and the results of any body cavity search shall be included with the related reports and made available, upon request, to the arrestee or authorized representative (Penal Code § 4030(i)).

(c) Only a physician, nurse practitioner, registered nurse, licensed vocational nurse, or Level II Emergency Medical Technician (EMT) may conduct a physical body cavity search (Penal Code § 4030(k)).

(d) Except for the above mentioned licensed medical personnel, persons present must be of the same sex as the person being searched. Privacy requirements, including restricted touching of body parts, are the same as the strip search standard.

902.7 TRAINING

The Training Sergeant shall ensure members have training in, at a minimum (28 CFR 115.115):

- Conducting searches properly in a professional and respectful manner and in the least intrusive manner possible, consistent with security needs.
- Conducting cross-gender searches.
- Conducting searches of transgender and intersex prisoners.

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Processing and Handling of Arrestees

903.1 PURPOSE AND SCOPE

To establish procedures for the safe handling and processing of arrestees.

903.2 POLICY

Although recommended for most arrest situations, handcuffing is a discretionary procedure and not an absolute rule of the Department. The arresting officer should consider the circumstances leading to the arrest, the attitude of the arrested person, and the age, sex, and health of the person before handcuffing. It must be recognized that officer safety is the primary concern.

It is not the intent of the Department to dissuade officers from handcuffing all persons they believe warrant that degree of restraint, nor is it the intent of this policy to create the atmosphere that in order to avoid risk, an officer should handcuff all persons regardless of the circumstances. In most situations handcuffs should be applied with the hands behind the person. Handcuffs should be removed as soon as the arrested person is safely confined within the jail.

Arrestees should be handcuffed and relieved of all personal property while held in any secure interview area. Arrestees not handcuffed, for the purposes of interviewing or processing, are the sole responsibility of the officers who have custody of the arrestee. Arrestees will be checked periodically and will not be left unattended for more than five minutes.

903.3 DEFINITIONS

Secure Interview Room - Any enclosed area located within the District designated for the temporary detention of arrestees being processed and/or interviewed.

Zone Facility - Any police substation or remote-reporting location.

Arrestee - Any person detained for investigation of a criminal incident.

903.4 PROCEDURES

All persons placed under physical arrest shall be handcuffed with the hands to the rear, and the handcuffs shall be double-locked and checked for comfort. Arrestees shall remain cuffed from the time of arrest until that person is turned over to the custody of a jail facility or other competent authority, unless the person is being interviewed, processed, treated at a medical facility or granted toilet privileges.

Arrestees may be handcuffed to the front only when it is necessary due to medical reasons or due to the physical size of the person. Complaints of handcuff irritation shall be checked as soon as practicable. Prior to granting toilet privileges, the facility or restroom must be checked for security and privacy. Officers are required to accompany arrestees into the restroom to maintain visual control. Arrestees shall be accompanied by an officer(s) of the same sex.

Whenever possible, officers bringing arrestees into the Police Department at Lake Merritt shall use the entrance door at the corner of 9th and Madison Street. Violent arrestees may be brought

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into the Lake Merritt Administration Building via the 8th Street freight elevator and escorted directly to a secure interview room.

When a arrestee is detained in any secure interview area, all personal property that could be used as a weapon or device to attempt suicide, shall be removed from the arrestee prior to placing the arrestee in the secure interview area.

No items which could be used as a weapon shall be placed in the secure interview area.

Officers entering any secure interview room for the purposes of interviewing, fingerprinting or photographing arrestees shall secure their firearms in the designated gun locker at the respective zone facility prior to taking the handcuffs off any arrestee.

Violent arrestees shall be restrained by use of ankle cuffs and/or an approved restraint method to minimize self-inflicted injuries and injury to department personnel. Officers using a restraint method shall closely monitor the arrestee's vital signs to minimize any injury.

Whenever a secure interview room is occupied, the lock shall remain engaged.

Anytime a person is arrested and released pursuant to 849 (b)(1) or (3) PC, the person shall be issued a certificate-of-release (BART Police form #0462) signed by the releasing officer or supervisor, describing the action as a detention.

903.4.1 CUSTODY OF PRISONERS

Officers charged with the custody of prisoners shall observe all laws and Departmental orders regarding this activity. Prisoners shall be kept secure, treated fairly and humanely, and shall not be subjected to unnecessary force. Member shall strictly observe the laws of arrest and the following provisions when making arrests:

- Only necessary restraint to assure safe custody and the safety of the officer shall be employed.
- The arresting officer is responsible for the safety and protection of the arrested person while in his custody. He shall notify the transporting officers of any injury, apparent illness, or other condition which indicates the arrested person may need special care.
- The arresting officer is responsible for the security of personal property in the possession of the arrested person under his control at the time of arrest. This responsibility transfers to the transporting officers when they accept custody of the arrested person except for vehicles.
- The officer's supervisor shall be notified in all arrest situations prior to booking.

903.4.2 TRANSPORTATION OF PRISONERS

Officers transporting prisoners shall do so in accordance with Departmental policy.

(a) The transporting officer shall search the prisoner's person and belongings prior to transportation to a booking or medical facility.

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(b) Prisoners requiring medical attention shall be delivered to the appropriate emergency hospital, and the transporting officers shall be responsible for the security of the prisoner until properly relieved, unless otherwise directed by a higher ranking officer.

(c) Prisoners and their property shall be surrendered at the jail to custodial officers or as directed otherwise by supervisory personnel.

(d) Any prisoner transported to a hospital in an ambulance shall be accompanied and guarded by an officer unless police emergencies dictate otherwise.

(e) Any Department vehicle used for transporting an arrested person is to be searched for contraband or weapons prior to and following such transportation.

903.4.3 ASSISTING CRIMINALS

Employees shall not communicate in any manner, directly or indirectly any information which might assist persons suspected of committing criminal acts to escape arrest or punishment or which may enable them to dispose of or secrete evidence of unlawful activity or money merchandise, or other property unlawfully obtained.

903.4.4 ACTING AS BAILOR PROHIBITED

Employees cannot act as bailers for any person in BART Police custody, except relatives, and in no case where any fee, gratuity or reward is solicited or accepted.

903.4.5 RECOMMENDING ATTORNEYS AND BAIL BOND BROKERS PROHIBITED

Employees shall not suggest, recommend, advise or otherwise counsel the retention of any attorney or bail bond broker to any person coming to their attention as a result of department business.

903.4.6 MONIES ACCEPTANCE OF

Officers shall not accept money as bailer in payment of a fine except as provided in Departmental orders.

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Chapter 10 - Personnel

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Recruitment and Selection

1000.1 PURPOSE AND SCOPE

The employment policy of the department shall provide equal opportunities for applicants and its employees regardless of race, sexual orientation, age, pregnancy, religion, color, national origin, ancestry, physical or mental handicap, marital status, veteran status, or sex, and shall not show partiality or grant any special favors to any applicant, employee or group of employees. The rules governing employment practices for this department are maintained by the BART Human Resources Department.

1000.2 APPLICANT QUALIFICATIONS

Candidates for job openings will be selected based on merit, ability, competence and experience.

All peace officer candidates must meet the minimum standards described in California Government Code § 1031 in addition to the employment standards established by this department.

1000.2.1 VETERAN'S PREFERENCE

Qualifying veterans of the armed forces of the United States shall receive a veteran's preference as applicable. Preference points shall be added after the applicant has received a passing score on an entrance exam and is qualified for placement on the employment list (Government Code § 18978).

1000.3 STANDARDS

Employment standards shall be established for each job classification and shall include minimally, the special training, abilities, knowledge and skills required to perform the duties of the job in a satisfactory manner. The BART Human Resources Department maintains standards for all positions.

The dilemma facing the department is one of developing a job-valid and non-discriminatory set of policies which will allow it to lawfully exclude persons who do not meet the department or State of California hiring standards. 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.

The following standards have been adopted for public safety applicants:

1000.3.1 OPERATION OF A MOTOR VEHICLE

(a) The ability to possess a valid California driver's license

(b) The ability to drive safely

(c) The ability to control a motor vehicle at high speeds

(d) The ability to operate a motor vehicle in all types of weather conditions

(e) The following shall be disqualifying:

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1. Receipt of three or more moving violations (or any single violation of a potential life threatening violation, such as reckless driving, speed contest, suspect of a pursuit, etc.) within three years prior to application. Moving violations for which there is a factual finding of innocence shall not be included.
2. Involvement as a driver in two or more chargeable (at fault) collisions within three years prior to date of application.
3. A conviction for driving under the influence of alcohol and/or drugs within three years prior to application or any two convictions for driving under the influence of alcohol and/or drugs.

1000.3.2 INTEGRITY

(a) Refusing to yield to the temptation of bribes, gratuities, payoffs, etc.

(b) Refusing to tolerate unethical or illegal conduct on the part of other law enforcement personnel

(c) Showing strong moral character and integrity in dealing with the public

(d) Being honest in dealing with the public

(e) The following shall be disqualifying:

1. Any material misstatement of fact or significant admission during the application or background process shall be disqualifying, including inconsistent statements made during the initial background interview (Personal History Statement or Supplemental Questionnaire) or polygraph examination or discrepancies between this background investigation and other investigations conducted by other law enforcement agencies.
2. Any forgery, alteration, or intentional omission of material facts on an official employment application document or sustained episodes of academic cheating.

1000.3.3 CREDIBILITY AS A WITNESS IN A COURT OF LAW

(a) The ability to give testimony in a court of law without being subject to impeachment due to his/her honesty or veracity (or their opposites) or due to prior felony conviction.

(b) The following shall be disqualifying:

1. Conviction of any criminal offense classified as a misdemeanor under California law within three years prior to application
2. Conviction for two or more misdemeanor offenses under California law as an adult
3. Conviction of any offense classified as a misdemeanor under California law while employed as a peace officer (including military police officers)

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4. Admission(s) of having committed any act amounting to a felony (including felony-misdemeanor offenses) under California law, as an adult, within five years prior to application or while employed as a peace officer (including military police officers)
5. Admission(s) of administrative conviction of any act while employed as a peace officer (including military police officers) involving lying, falsification of any official report or document, or theft
6. Admission(s) of any act of domestic violence as defined by law, committed as an adult
7. Admission(s) of any criminal act, whether misdemeanor or felony, committed against children including but not limited to: molesting or annoying children, child abduction, child abuse, lewd and lascivious acts with a child, or indecent exposure. Acts of consensual unlawful intercourse accomplished between two minors shall not be included, unless more than four years difference in age existed at the time of the acts
8. Any history of actions resulting in civil lawsuits against the applicant or his/her employer may be disqualifying

1000.3.4 DEPENDABILITY

(a) Having a record of submitting reports on time and not malingering on calls, etc.

(b) A record of being motivated to perform well

(c) A record of dependability and follow through on assignments

(d) A history of taking the extra effort required for complete accuracy in all details of work

(e) A willingness to work the hours needed to complete a job

(f) The following shall be disqualifying:

1. Missing any scheduled appointment during the process without prior permission
2. Having been disciplined by any employer (including military) as an adult for abuse of leave, gross insubordination, dereliction of duty, or persistent failure to follow established policies and regulations
3. Having been involuntarily dismissed (for any reason other than lay-off) from two or more employers as an adult
4. Having held more than seven paid positions with different employers within the past four years, or more than 15 paid positions with different employers in the past ten years (excluding military). Students who attend school away from their permanent legal residence may be excused from this requirement

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5. Having undergone personal bankruptcy more than once, having current financial obligations for which legal judgments have not been satisfied, currently having wages garnished, or any other history of financial instability
6. Resigning from any paid position without notice shall be disqualifying, except where the presence of a hostile work environment is alleged.
7. Having any outstanding warrant of arrest at time of application.

1000.3.5 LEARNING ABILITY

(a) The ability to comprehend and retain information

(b) The ability to recall information pertaining to laws, statutes, codes, etc.

(c) The ability to learn and to apply what is learned

(d) The ability to learn and apply the material, tactics and procedures that are required of a law enforcement officer

(e) The following shall be disqualifying:

1. Being under current academic dismissal from any college or university where such dismissal is still in effect and was initiated within the past two years prior to the date of application
2. Having been academically dismissed from any POST certified basic law enforcement academy wherein no demonstrated effort has been made to improve in the deficient areas, except: subsequent successful completion of another POST basic law enforcement academy shall rescind this requirement

1000.3.6 PERSONAL SENSITIVITY

(a) The ability to resolve problems in a way that shows sensitivity for the feelings of others.

(b) Empathy

(c) Discretion, not enforcing the law blindly

(d) Effectiveness in dealing with people without arousing antagonism

(e) The ability to understand the motives of people and how they will react and interact

(f) The following shall be disqualifying:

1. Having been disciplined by any employer (including the military and/or any law enforcement training facility) for acts constituting racial, ethnic or sexual harassment or discrimination
2. Uttering any epithet derogatory of another person's race, religion, gender, national origin or sexual orientation
3. Having been disciplined by any employer as an adult for fighting in the workplace

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1000.3.7 JUDGMENT UNDER PRESSURE

(a) The ability to apply common sense during pressure situations

(b) The ability to make sound decisions on the spot

(c) The ability to use good judgment in dealing with potentially explosive situations

(d) The ability to make effective, logical decisions under pressure

(e) The following shall be disqualifying:

1. Admission(s) of administrative conviction or criminal convictions for any act amounting to assault under color of authority or any other violation of federal or state Civil Rights laws

2. Any admission(s) of administrative conviction or criminal conviction for failure to properly report witnessed criminal conduct committed by another law enforcement officer

1000.3.8 ILLEGAL USE OR POSSESSION OF DRUGS

(a) The following examples of illegal drug use or possession will be considered automatic disqualifiers for public safety applicants, with no exceptions:

1. Any adult use or possession of a drug classified as a hallucinogenic within seven years prior to application for employment

2. Any adult use or possession of marijuana within one year prior to application for employment

3. Any other illegal adult use or possession of a drug not mentioned above (including cocaine) within three years prior to application for employment

4. Any illegal adult use or possession of a drug while employed in any law enforcement capacity, military police, or as a student enrolled in college-accredited courses related to the criminal justice field

5. Any adult manufacture or cultivation of a drug or illegal substance

6. Failure to divulge to the Department any information about personal illegal use or possession of drugs

7. Any drug test of the applicant, during the course of the hiring process, where illegal drugs are detected

(b) The following examples of illegal drug use or possession will be considered in relationship to the overall background of that individual and may result in disqualification:

1. Any illegal use or possession of a drug as a juvenile

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2. Any illegal adult use or possession of a drug that does not meet the criteria of the automatic disqualifiers specified above (e.g., marijuana use longer than one year ago or cocaine use longer than three years ago.)
3. Any illegal or unauthorized use of prescription medications

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Evaluation of Employees

1002.1 PURPOSE AND SCOPE

The objective of the evaluation system is to record work performance for both the Department and the employee giving recognition for good work and providing a guide for improvement where needed. The employee performance evaluation report is a gauge in measuring performance and is used for making personnel decisions relating to reassignment, promotion and progressive discipline,. The system also provides a guide for mutual work planning and review and an opportunity to convert general impressions into a more objective history of work performance based on job standards.

1002.2 POLICY

The Bay Area Rapid Transit Police Department utilizes a performance evaluation report to measure performance and to use as a factor in making personnel decisions that relate to merit increases, promotion, reassignment, discipline, demotion and termination. The evaluation report is intended to serve as a guide for work planning and review by the supervisor and employee. It gives supervisors a way to create an objective history of work performance based on job standards.

The Department evaluates employees in a non-discriminatory manner based upon job-related factors specific to the employee's position, without regard to sex, race, color, national origin, religion, age, disability or other protected classes.

1002.3 TYPES OF PERFORMANCE EVALUATIONS

Permanent employees are subject to three types of performance evaluations and reviews. These evaluations shall be prepared on the approved department evaluation form.

a. Regular - An Employee Performance Evaluation shall be completed every six (6) months by the employee's immediate supervisor. The process completion date for the six month evaluation will be the first Monday of January and the first Monday of July. Evaluations should be completed prior to this date and forwarded to the Administrative Civilian Supervisors office, arriving no later than those first Mondays in January and July

b. Quarterly - A quarterly review shall be completed by the first Monday in April and the first Monday in September. This quarterly review shall consist of sitting with the employee and reviewing their performance during the first approximate 90 days of the evaluation process. Supervisors will use the face page of the evaluation sheet to write about the employee's performance and discussions about how the employee can improve over the remaining evaluation time. This can include an action plan outlining any requested training, remedial training, retraining etc..

c. Transfer - If an employee who has been transferred from one assignment to another is due for an evaluation, then the evaluation shall be completed by the current supervisor, provided that the current supervisor has directly supervised the employee for at least three months. Other supervisors who exercised supervisory responsibility over the affected employee during the

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evaluation period should also provide their input. In the event that an employee has had multiple supervisors during the evaluation period, the employee's commanding officer will determine which supervisor will complete the evaluation.

1002.4 RATING OF BPOA AND BPMA EMPLOYEES

When completing the semi-annual and quarterly BPOA 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:

a. Superior - Work performance is consistently above the standard requirements for this position. Justification must be presented in writing to substantiate this rating. b. Competent - Is the performance of a fully competent employee. It means satisfactory performance that meets the standards required of the position. c. Improvement Needed - 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. d. 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 narrative section. This section allows the rater to document the employee's strengths, weaknesses, and suggestions for improvement. Any rating under any job dimension marked improvement needed, unsatisfactory or outstanding shall be substantiated in the rater comments section

When completing the semi-annual and quarterly BPMA Mangers Performance Appraisal, 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:

a. Superior - Work performance is consistently above the standard requirements for this position. Justification must be presented in writing to substantiate this rating. b. Effective ''' Manager adequately accomplishes tasks, producing expected result. c. Marginal ''' Generally meets job standards however improved performance is required in specific area. d. 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 on the next page of the evaluation in the rater narrative section. This section allows the rater to document the employee's strengths, weaknesses, and suggestions for improvement. Any rating under any job dimension marked marginal, unsatisfactory or superior shall be substantiated in the rater comments section. All pages of the evaluation need to be signed by the employee, rater and any co-raters.

1002.4.1 EVALUATION INTERVIEW

When the supervisor has completed the quarterly and semi-annual 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

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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 promotion, special assignments and training opportunities. The supervisor and employee will sign and date the evaluation. The rated employee shall have 30 days within which to file a written response, via the chain of command, to any adverse comment written in the evaluation. Such written responses shall be attached to, and shall accompany, the evaluation.

1002.5 EVALUATION REVIEW AND DISTRIBUTION

After the supervisor finishes the discussion with the employee, the signed performance evaluation is forwarded to the rater's supervisor (Lieutenant, Bureau Deputy Chief, and Chief of Police). The reviewing manager shall review the evaluation for fairness, impartiality, uniformity, and consistency. The reviewing manager shall evaluate the supervisor on the quality of ratings given and return the evaluation within EDR file promptly to the Administrative Civilian Supervisor.

The original performance evaluation shall be maintained in the employee's personnel file in the Support Services Supervisor's office for the tenure of the employee's employment. A copy will be given to the employee and a copy will be forwarded to District Human Resources Department

1002.6 EMPLOYEE DEVELOPMENT RECORD - EDR

Tracking employee activity through documentation of quality performance, performance deficiencies, training needs, etc. is a critical part of the supervisor's job. An effective system for storing and maintaining information that may be used in an employee's quarterly performance review and semi-annual evaluation is an essential part of this process. Employee Development Records (EDRs) shall be used as a storage location for documents to be used to substantiate evaluation ratings. Such documents should include written commendations, monthly statistical sheets, supervisory notes forms, training bulletins, uniform inspection forms, report reviews as well as any documentation that can be used to assist in the evaluation of the employee's performance.

The EDR will include and employee resource form and prior evaluation in front. The employee's new supervisor shall review and update the employee's resource form, with the employee, at the beginning of every sign-up. He/she shall also review the employee's last evaluation to identify areas in which the employee would like to improve as well as discuss the expectations of the supervisor during the evaluation period.

All shift's EDRs shall be kept within one centralized cabinet in the zone supervisor's office. This will allow easy location of the files to any visiting supervisor who has the opportunity to add a comment to an employee's EDR file. All sergeants EDR files will be located in the Watch Commanders office. Lieutenant's EDR files will be assigned to their respective Deputy Chief.

EDR files shall be kept under strict control of the supervisor's on-duty. They are not to be shared with other employees at any time. Employees are allowed to review their EDR file at anytime upon request to a supervisor.

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1002.7 SUPERVISORY NOTES FORM- SNF

A standardized form should be used to document employee conduct, work performance and attendance. The following procedure sets forth the proper method for documenting employee performance issues in compliance with Government Code § 3305, which says in part that public safety officers shall not have adverse comments entered into their personnel files without the opportunity to read and sign the instrument containing the comments. For purposes of this procedure, one "instrument" used to place information in the employee's shift file is the Supervisory Notes Form (SNF). Other "instruments" may include letters, summaries of conversations, copies of reports etc

Any comments or actions that amount to Progressive Discipline is outside the scope of this procedure and should be addressed pursuant to § 344 of this manual.

1002.7.1 SUPERVISORY NOTES FORM PROCEEDURE

Supervisors will use the SNF to document favorable as well as adverse comments as soon as possible after receiving the supporting information or making personal observations. Favorable comments include but are not limited to: praise of the employee based on personal observation; comments received by the employee's peers and coworkers; compliments from citizens or others with who the officer has had contact; and written correspondence. Adverse comments include but are not limited to: synopsis of informal training given by the supervisor in response to inappropriate behavior on the employee's part; educational reminders; review of department policy and procedure in light of the employee's performance during a particular incident; critique of the employee's safety practices and field tactics; critique of written work; and statements concerning the employee's investigative skills.

When available, supervisors should attach supporting documents, whether favorable or adverse in nature, to the SNF.

Once the supervisor has discussed the information on the SNF with the employee, he/she shall request the employee sign the form. Once signed, the supervisor will give the employee a copy of the comment form and any attached documents. If the employee refuses to sign the form, the supervisor should note the refusal in the employee signature box, and request the employee to initial next to the signature box. The supervisor will advise his/her supervisor if the employee has refused to sign.

When an SNF is completed employees shall be advised that they have 30 days to respond, in writing, to any adverse comments and that any such written response will be attached to the SNF.

While an employee performance evaluation is being completed, the supervisor conducting the evaluation will check the employee's EDR file and consider all SNF's, as well as any other documentation, when completing the evaluation. The SNF's will then remain in the EDR file until the evaluation is reviewed by the Bureau Deputy Chief. The EDR file will then be purged of all documents except the employee's resource form and a copy of their last evaluation. All purged documents shall be returned to the employee.

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1002.8 EVALUATION FREQUENCY

Employee evaluations are based on the following chart;

POSITION	EVALUATION EVERY THREE MONTHS	EVALUATION EVERY SIX MONTHS	LENGTH OF PROBATION
Probationary Employee	x		One year
Non-probationary employees		x	
BPMA new appointments	x		One year

1002.8.1 NEW EMPLOYEES AND PROMOTIONAL APPOINTMENTS

New hire sworn and non-sworn employees have a 12 month probationary period beginning with the date they are sworn-in. Newly appointed BPMA members have a one year probationary period beginning with the date of the appointment. Evaluations shall be completed every three months by a designated supervisor for probationary employees. This is in addition to daily Field Training Evaluations during training. Probationary employees may be evaluated daily, weekly and monthly.

Per association agreements probation may be extended at the discretion of the Chief of Police.

1002.8.2 EVALUATION PREPARATION

The Administrative Civilian Supervisor shall be the control person for all evaluations. He/she shall inspect all Employee Development Reports (EDR's) to insure they are purged and contain only the employee's last evaluation and personnel sheet.

EDR's will be distributed to the team Lieutenants who will distribute them to their team supervisors. The team supervisors will follow the policy. Upon the completion of the evaluation process they will return the EDR's with the new evaluations and all supporting documentation to their Lieutenant for review. The Lieutenant will forward the evaluations to their Bureau Deputy Chief who will also review evaluation. The Chief of Police, at his discretion, may ask to review selected employee evaluations. The EDR's will be returned to the Support Services Supervisor who will ensure that all material is purged and returned to employees. Only the updated employee resource form and the last evaluation will be included in the re-distributed EDR files. Those files will once again be distributed to the Lieutenants for re-distribution to the zone sergeants.

Supervisors are encouraged to complete this evaluation process prior to the actual due date. Those that will not be able to do so shall write a memo to their Bureau Deputy Chief via the chain of command notifying him/her as to why the evaluation is delinquent.

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Performance Improvement Plans

1003.1 PURPOSE AND SCOPE

The Performance Improvement Plan (PIP) is intended to be a positive approach designed to assist employees who have demonstrated substandard performance or behavior and who may benefit from intervention before it results in discipline or other negative consequences. The PIP is not intended as discipline. Rather, it is intended to aid employees by implementing a structured, written intervention plan focused on achieving desirable performance or behavior outcomes. In addition, the PIP serves as an integral tool of the performance appraisal process in that it provides for timely, constructive feedback while creating opportunities for an employee(s) to receive supervisory guidance and assistance to correct deficient work. This proactive strategy reflects the BART Police Department's commitment to maintaining employee performance and behavior to the standards reflected in the Department's performance evaluation dimensions and policies.

1003.1.1 DEFINITION

The Performance Improvement Plan (PIP) is a written and structured intervention plan designed to assist employees to achieve acceptable performance/behavior outcomes when they have demonstrated a pattern of substandard performance or behavior.

1003.2 PROCEDURE

The components of the Performance Improvement Plan include Identification and Selection, Plan Development, and Plan Administration.

1003.2.1 IDENTIFICATION AND SELECTION

The purpose of identification and selection is to first recognize a pattern of performance and/or behavior which fails to meet published performance expectations or policy standards. Supervisors and managers are charged with continuously evaluating subordinate work and to identify those employees who may benefit from a performance or behavior intervention. Furthermore, supervisors and managers are expected to analyze the substance of substandard performance and/or behavior to determine the most appropriate course of corrective action. The PIP is not intended to replace disciplinary intervention when supervisors and managers determine discipline to be the most appropriate course of action.

In most cases when there is a minor policy violation or performance deficiency supervisors and managers may institute progressive intervention. Progressive intervention may include, but is not limited to verbal counseling, training, monitoring or other strategies. Intervention efforts should be documented on a Supervisor Notes and Observations form or other memorandum. The supervisor(s) and manager of the affected employee may consider selection for a Performance Improvement Plan once progressive intervention efforts fail to produce desired results. Should the manager choose to select an employee to participate in a PIP, s/he shall first seek the approval of the affected employee's Deputy Chief. Upon approval of the Deputy Chief, the manager and/or supervisor(s) shall notify the affected employee of their intention to implement a PIP as soon as practical.

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1003.2.2 PLAN DEVELOPMENT

The affected employee's supervisor(s) and manager will be responsible to author the content of the PIP unless otherwise directed by the responsible Deputy Chief. The PIP document will consist of six distinct categories in memorandum format as follows:

(a) **Summary:** Provide a brief description of the pattern of performance or behavior demonstrated by the affected employee and how it fails to meet published performance expectations or policy standards.

(b) **Specific Circumstances:** This section of the PIP should detail the circumstances and specific examples of the affected employee's performance or behavior that established a pattern of concern warranting supervisory intervention. Additionally, previous intervention efforts should be referenced in support of cause to select the affected employee for PIP participation.

(c) **Substandard Performance and/or Policy Violations:** This section of the PIP should identify the specific performance dimension(s) or policy standards and how the affected employee failed to meet them.

(d) **Impact of Employee's Performance and/or Behavior:** This section of the PIP should help the affected employee understand the impact and associated consequences of their substandard performance or behavior.

(e) **Strategies to Achieve Desirable Performance and/or Behavior Outcomes:** This section of the PIP is intended for the author(s) and the affected employee to work together in crafting objectives intended to map a successful outcome. Objectives should be SMART:

1. **Specific:** Write expectations that are clear and concise to help ensure the employee grasps an understanding of them.
2. **Measurable:** Install benchmarks so that progress or lack thereof is readily discernible.
3. **Attainable:** Make reasonable efforts to ensure the employee has ample opportunity and resources to meet the expectations of the objective.
4. **Relevant:** Draw a clear nexus between the expectation and named performance dimension(s) or policy standard(s).
5. **Time Based:** Develop a reasonable timeline to help define expectations and motivate positive progress.

(f) **Performance Improvement Plan Terms:** This section of the PIP defines the duration of the plan, identifies the PIP administrator(s), prescribes supervisor feedback intervals, and other necessary terms. The following guidelines should apply to the PIP terms:

1. **Duration:** The duration of a PIP should be no longer than three months unless the affected employee's Deputy Chief determines an extension, not to exceed an additional three months, is likely to benefit both the affected employee and the

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Department. The PIP may be tolled to compensate for employee leave of absence and resume upon their return to full duty.

2. **Feedback Intervals:** The PIP administrator is expected to provide timely feedback and ongoing guidance to the affected employee. The administrator should make reasonable efforts to meet with the employee no less than biweekly unless circumstances require a change of administrator or other unanticipated need(s).

3. **Other Necessary Terms:** Other necessary terms may include, but are not limited to the following:

   (a) The employee may be required to attend training prescribed by the PIP administrator.

   (b) The employee may submit to a voluntary assignment transfer.

   (c) The PIP administrator may limit or restrict the affected employee from participating in work activities outside the scope of their primary assignment including, but not limited to ancillary responsibilities, voluntary overtime assignments, or other work that the PIP administrator reasonably believes may impede the employee's progress or success.

   (d) Employees who are participating in a PIP will not be placed into a special assignment.

1003.2.3 PLAN ADMINISTRATION

The Performance Improvement Plan will be administered in the following manner:

(a) **Supervisor Responsibilities:**

1. Once an employee is selected for a PIP intervention, his/her supervisor and/or manager should meet with the affected employee to receive input on the content of the PIP.

2. The supervisor/manager should prepare a draft PIP and forward it through the chain of command to the affected employee's Deputy Chief for approval.

3. The affected employee's supervisor should summarize the PIP intervention in the employee's performance evaluation within the same rating period as the PIP intervention.

(b) **PIP Administrator Responsibilities:**

1. The supervisor charged with administering the PIP will be known as the PIP administrator. The PIP administrator may be different than the affected employee's supervisor based on, but not limited to the terms of the PIP, needs of the employee or the Department, unanticipated absence, or change of assignment.

2. The PIP administrator should present the final version of the PIP to the affected employee to explain its content, expectations, and terms.

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3. The PIP administrator is expected to execute the terms of the PIP.
4. The PIP administrator will document counseling sessions, feedback, employee progress or lack thereof, final review, or any other relevant information on a Supervisor Notes and Observations form or other memoranda and attach it to the PIP.

(c) **Deputy Chief Responsibilities:**

1. Review the draft PIP, make changes or recommendations as necessary, and provide final approval to execute the PIP.
2. Review written rebuttals properly delivered in the manner described below and direct changes or recommendations to the PIP as deemed necessary.
3. Ensure feedback memoranda, final review, written rebuttals or other relevant documents are attached to the PIP.
4. Forward the PIP and related attachments to the Office of Ethical Standards where it can be maintained in the affected employee's personnel file until eligibility to be expunged as described below.

(d) **Employee Responsibilities:**

1. The affected employee will meet with his/her supervisor as directed and provide input into the development of the PIP in a reasonable and constructive manner.
2. The employee will review and acknowledge s/he has read the final version of the PIP by signing his/her name and date in the designated area of the PIP.
3. The employee maintains the opportunity to prepare a written rebuttal to the PIP and forward it through his/her chain of command to the responsible Deputy Chief. The written rebuttal must be presented by midnight on the seventh day after the start date of the PIP.
4. The employee will honor the terms of the PIP to the best of his/her ability.

1003.3 RECORD RETENTION

Once the PIP is completed, it will be retained in the affected employee's Employment Development Record personnel file for six months. The affected employee's Deputy Chief will determine if the PIP may be expunged from the affected employee's personnel file if the following qualifications apply:

(a) The affected employee has successfully satisfied the terms of the PIP and has not repeated a pattern of similar substandard behavior and/or performance.

(b) The affected employee continues to meet performance standards established by published Department policy and/or performance evaluation dimensions following the administration of the PIP for a period of three years.

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(c) The affected employee is not being investigated by the Department for alleged misconduct.

(d) The affected employee is not a party to a civil suit in their capacity as an employee of the city.

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Processing of Voluntary/Involuntary Resignations

1005.1 PURPOSE AND SCOPE

To provide guidelines for the administrative processing of voluntary resignations or involuntary resignations, i.e., probationary/disciplinary discharges.

1005.2 VOLUNTARY RESIGNATIONS

An employee intending to resign from his/her position with the BART Police Department will submit a memorandum to the Chief of Police, via the chain of command, at least two weeks prior to his/her resignation. The memorandum shall state the actual last working date of the employee, which must be a weekday, excluding holidays.

Upon the approval of the Chief of Police, voluntary resignations shall be processed by the Support Services Bureau as follows:

(a) Upon receipt of a resignation or retirement memo, the Administration Bureau will return to the member/employee a letter acknowledging receipt of the resignation or retirement decision.

(b) Resigning employee will be transferred to the Support Services Bureau for his/her last work day.

(c) An inter-office communication from the Chief will be forwarded to the Employee Relations Department notifying them of the upcoming resignation.

(d) Upon receipt of Form No. 0694, Termination. from the Employee Relations Department, the immediate supervisor of the resigning employee will conduct the "Supervisor's Evaluation" portion of the form and forward same to the Support Services Deputy Chief.

(e) On the employee's last working day, the Administrative Sergeant, or his/her designee, will check in all BART issued equipment which the resigning employee was issued. The Administrative Sergeant will complete that section of Form No. 0694 relative to equipment clearance.

(f) An exit interview will be conducted by the Administrative Deputy Chief on the last working day of the employee. The Support Services Deputy Chief will complete Form No. 0694, Exit interview.

(g) The resigning employee will check out with the BART Employment Office, signing any necessary termination papers and will, be given his/her termination check.

(h) The Training Officer will complete a POST Notice of Appointment/Termination form on all peace officers.

(i) A Personnel Order announcing the resignation shall be prepared by Support Services Bureau.

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1005.3 INVOLUNTARY RESIGNATION/DISCHARGE

Upon receipt of written notification from the Chief of Police that an employee is to be discharged, the following procedure shall be adhered to:

(a) An inter-office communication shall be forwarded from the Chief of Police to the Employee Relations Department notifying them of the discharge.

(b) The employee to be discharged shall be notified in writing that he/she will report to the Support Services Deputy Chief at a specific date and time for final processing.

(c) The Administrative Sergeant, or his/her designee, will check in all equipment belonging to the District that was issued to the employee.

(d) The employee will check out with the BART Employment Office, signing any necessary paperwork, and will make arrangements with the Department to receive any payments due him/her.

(e) The Training Officer will complete a POST Notice of Appointment/Termination form on all peace officers.

(f) A Personnel Order announcing the resignation/discharge shall be prepared by the Support Services Bureau.

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Request For Employee Address, Phone and Name Changes

1007.1 PURPOSE AND SCOPE

To establish a uniform procedure to record of address, phone, and name changes by police employees.

1007.2 PROCEDURE

All personnel will inform the department immediately of any address, phone or name changes.

Employees will complete District Form #1102 (revised 7189), entitled "Personnel Transaction Form A."

The completed form will be forwarded to the Support Services Division for processing. Support Services personnel will update all related files to indicate the appropriate change. New identification cards and name tags will be ordered for name changes.

Employees may elect to use P.O. boxes where District mail can be sent. Police employees must also report actual residence-address information.

Support Services personnel will forward "Personnel Transaction Form A" to the Human Resources Department for official District notification and filing, with a copy maintained n the employee's administrative file.

The Support Services Division and Communications Section will maintain a record of each employee's current address and phone number.

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Reporting of Employee Convictions

1010.1 PURPOSE AND SCOPE

Convictions of certain offenses may restrict or prohibit an employee's ability to properly perform official duties. Therefore, all employees shall be required to promptly notify the Department of any past and current criminal convictions.

The Support Services Supervisor shall submit in a timely manner a notice to the Commission on Peace Officer Standards and Training (POST) of any appointment, termination, reinstatement, name change or status change regarding any peace officer, reserve peace officer, public safety dispatcher and records supervisor employed by this department (11 CCR 1003).

The Support Services Supervisor shall submit in a timely manner a notice to POST of a felony conviction or Government Code § 1029 reason that disqualifies any current peace officer employed by this department or any former peace officer if this department was responsible for the investigation (11 CCR 1003).

1010.2 DOMESTIC VIOLENCE CONVICTIONS AND RESTRAINING ORDERS

California and federal law prohibit individuals convicted of certain offenses and individuals subject to certain court orders from lawfully possessing a firearm. Such convictions and court orders often involve allegations of the use or attempted use of force or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC § 922; Penal Code § 29805).

All members are responsible for ensuring that they have not been disqualified from possessing a firearm by any such conviction or court order and shall promptly report any such conviction or court order to a supervisor, as provided in this policy.

1010.3 OTHER CRIMINAL CONVICTIONS

Government Code § 1029 prohibits any person convicted of a felony from being a peace officer in the State of California. This prohibition applies regardless of whether the guilt was established by way of a verdict, guilty or nolo 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.

Moreover, while legal restrictions may or may not be imposed by statute or by the courts upon conviction of any criminal offense, criminal conduct by members of this department may be inherently in conflict with law enforcement duties and the public trust.

1010.4 REPORTING PROCEDURE

All members of this department and all retired officers with an identification card issued by the Department shall promptly notify their immediate supervisor (or the Chief of Police in the case of

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retired officers) in writing of any past or current criminal arrest or conviction regardless of whether or not the matter is currently on appeal and regardless of the penalty or sentence, if any.

All members and all retired officers with an identification card issued by the Department shall further promptly notify their immediate supervisor (or the Chief of Police in the case of retired officers) in writing if the member or retiree becomes the subject of a domestic violence restraining order or similar court order.

Any member whose criminal conviction unduly restricts or prohibits that member from fully and properly performing his/her duties may be disciplined including, but not limited to, being placed on administrative leave, reassignment and/or termination. Any effort to remove such disqualification or restriction shall remain entirely the responsibility of the member on his/her own time and expense.

Any member failing to provide prompt written notice pursuant to this policy shall be subject to discipline.

1010.5 PROCEDURE FOR RELIEF

Pursuant to Penal Code § 29855, a peace officer may petition the court for permission to carry a firearm following a conviction under state law. Federal law, however, does not provide for any such similar judicial relief and the granting of a state court petition under Penal Code § 29855 will not relieve one of the restrictions imposed by federal law. Therefore, relief for any employee falling under the restrictions imposed by federal law may only be obtained by expungement of the conviction. Each employee shall seek relief from firearm restrictions on their own time and through their own resources.

Pursuant to Family Code § 6389(h), an individual may petition the court for an exemption to any restraining order, which would thereafter permit the individual to carry a firearm as a part of their employment. Relief from any domestic violence or other restriction shall also be pursued through the employee's own resources and on the employee's own time.

Pending satisfactory proof of relief from any legal restriction imposed on an employee's duties, the employee may be placed on administrative leave, reassigned or disciplined. The Department may, but is not required to return an employee to any assignment, reinstate any employee or reverse any pending or imposed discipline upon presentation of satisfactory proof of relief from any legal restriction set forth in this policy.

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Alcohol and Drug Use Policy

1012.1 PURPOSE AND SCOPE

The intent of this policy is to deter the misuse or abuse of legal or illegal substances that create a threat to the safety and health of any employee or member of the public. The Bay Area Rapid Transit Police Department discourages alcohol and drug abuse and strives to achieve a workforce free from the influence of drugs and alcohol.

1012.2 POLICY

It is the policy of this department to provide a drug- and alcohol-free workplace for all members.

1012.2.1 USE OF PRESCRIBED MEDICATIONS

Any employee who is required to take any medication with side effects which might impair his/her ability to fully and safely perform all requirements of the position shall report the need for such medication to the immediate supervisor prior to commencing any on-duty status. No employee shall be permitted to work or drive a department-owned or department-leased vehicle while taking such potentially impairing medication 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 GENERAL GUIDELINES

All types of District drug and alcohol testing including Pre-employment, Reasonable Cause, Post-Accident, Random, Return to Duty and Follow-up in compliance with federal mandates and negotiated District policy are coordinated through Employee Services. Random testing is conducted on site at all job locations, 24-hours a day/7 days a week including weekends and holidays. For more information about drug and alcohol testing, contact the Drug Testing Coordinator at 510-287-4761, or call 510-464-6198.

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.

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1012.3.2 SUBSTANCE ABUSE REHABILITATION

There may be available a voluntary employee assistance program to assist employees who wish to seek help for alcohol and drug problems. There is also available a variety of insurance coverage which provide treatment for drug and alcohol abuse. Employees may contact the Human Resources Department, their insurance provider, or the Employee Assistance Program for additional information.

Employees who experience drug or alcohol problems are encouraged to seek referral for rehabilitation through the Employee Assistance Programs or their insurance provider. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

Substance abuse rehabilitation services are available to all employees, including part-time and probationary. The District offers two types of admission into substance abuse rehabilitation, Voluntary and Mandatory.

(a) Voluntary admission occurs when an employee comes forward and requests assistance prior to, and separate from, any type of drug testing. With Voluntary admission BART pays all treatment costs and salary continuation for up to a maximum of 90 days.

(b) Mandatory admission occurs following a positive drug or alcohol test. In this situation, the employee is required to use sick or vacation leave for time off work and rehabilitation costs are borne by the employee and/or paid by his/her insurance plan. With both plans the employee will be monitored from one to five years upon his/her return to work.

Confidential contact for admission to these services is through 510-464-6198.

1012.3.3 CONFIDENTIALITY

The Department recognizes the confidentiality and privacy due employees, and disclosure of any information relating to chemical abuse treatment, except on a need to know basis, shall only be with the expressed written consent of the employee involved or pursuant to lawful process.

1012.4 MEMBER RESPONSIBILITIES

Members shall report for work in an appropriate mental and physical condition. Members are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on department premises or on department time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

Members who are authorized to consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance.

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.

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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 Human Resources 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.

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.

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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 and Attendance Control

1014.1 PURPOSE AND SCOPE

Employees of this department are provided with a sick leave benefit that gives them continued compensation during times of absence due to personal or family illness. The number of hours available is detailed in the employee's respective personnel manual or applicable collective bargaining agreement.

This policy is not intended to cover all types of sick or other leaves. For example, employees may be entitled to additional paid or unpaid leave for certain family and medical reasons as provided for in the Family and Medical Leave Act (FMLA) , the California Family Rights Act or for organ or bone marrow donor procedures (29 CFR 825; Government Code § 12945.2; Labor Code § 1510).

1014.2 EMPLOYEE RESPONSIBILITIES

It shall be the policy of this department to adhere to the following standards and requirements regarding sick leave and its various components. Sick leave may only be used in instances as set forth in this directive. Employees are required to maintain a satisfactory attendance record. Unsatisfactory attendance due to tardiness or the excessive use or abuse of sick leave will result in corrective action as described in this directive.

1014.3 DEFINITIONS

(a) **Personal/Family Sick Leave:** That leave provided by the District to be available for use by employees in the following circumstances:

1. When the employee is ill, injured, quarantined, or similarly exposed to a contagious disease (when industrial injury benefits do not apply);
2. Required attendance upon a seriously ill spouse, child, mother, or father;
3. To attend verifiable medical or dental appointments which cannot be scheduled outside the normal working hours of the employee, provided that a minimum of 48 hours advance notice is given and provided subsequent confirmation that the appointment was kept is given, if requested, by management.

(b) **AB 109 Leave:** Assembly Bill 109 requires employers to allow their employees to use a portion of accrued annual sick leave in order to care for a sick child, spouse, or parent. The following stipulations apply:

1. For District employees , up to six (6) days of accrued sick leave per calendar year may be used;
2. AB 109 leave may be used in less than full-day increments.

(c) **Family and Medical Leave Act of 1993 (FMLA):** This legislation provides qualified employees with leave for specified family and/or medical reasons while protecting the

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employee's job and health benefits. For employees to be eligible for FMLA leave, one of the following circumstances must apply:.

1. An employee's own serious health condition that makes him/her unable to perform one or more of the position's essential job functions;
2. To care for a spouse, child, parent, or domestic partner with a serious health condition [i.e., an illness, injury, impairment, or physical or mental condition that falls within one of the following six major types: hospital care; absence plus treatment; chronic conditions requiring treatment; long-term conditions requiring supervision; multiple treatments (non-chronic); and, pregnancy];
3. To care for a newborn child of the employee;
4. For placement of a child with the employee for adoption or foster care.

(d) **Tardy:** The failure to report for duty at the time and place specified, unless prior authorization is obtained or mitigating circumstances are accepted. Tardiness is a form of absenteeism.

1014.4 SUPERVISOR RESPONSIBILITY

When reporting an absence for duty due to illness or injury, or in order to care for a sick spouse, child, or parent, the employee shall report the absence to the Department as soon as practicable and not less than 45 minutes, if possible, prior to the employee's scheduled start time. That notification should be made to the watch commanders office. [Note: it shall be at the discretion of the employee when caring for a sick family member if AB 109 leave will be used , pending the availability of AB 109 time (see AB 109 Leave).]

When notifying the Department of a sick-leave absence, the employee shall attempt to make contact with the on-duty watch commander. If the watch commander is not availalble a message should be left at the watch commanders general number, x7020 and a follow-up call should be made to the Communication Center also advising of the absense.

The employee is required to advise that he/she is ill or injured, along with the expected duration of absence. The employee is not required to report what the illness or injury is and the supervisor/dispatcher shall not inquire. If the duration of the illness or injury is for more than one shift, the employee is required to call-in daily to report the continued absence, unless the exact duration is known and medical documentation indicating a return date is provided to the department.

The watch commander/dispatcher documenting the use of sick leave shall complete an Absence Report and report the absence to the appropriate supervisor, if applicable, as soon as possible. The completed absence form will be forwarded to the employee's regular supervisor for review and to obtain the employee's signature upon his/her return.

Per current BPOA and BPMA collective-bargaining agreements, an employee's use of personal/family sick leave may only be verified by a supervisor when there is a suspected or identifiable pattern of abuse. Under these circumstances, sick leave may be verified by telephone or by personal visit during the affected employee's scheduled duty hours.

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If, after three attempts during the employee 's regular shift hours, an employee cannot be contacted at the address/telephone number provided at the time the employee reported the illness, the supervisor will request a memorandum from the employee explaining his/her whereabouts on the day and time in question. In addition to this memo, a supervisor may request medical verification of the illness. The affected employee must respond within seven (7) calendar days and the absence will remain denied until acceptable verification has been received.

Employees whose use of personal/family sick leave shows evidence of being excessive or a pattern shall be subject to having future absences verified by acceptable medical documentation. Such medical verification may be required from the employee for a specified period of time, as determined by the employee's supervisor.

If the employee fails to report the use of sick leave within four (4) hours after the start of the affected shift, the employee will be considered absent without leave (AWOL).

1014.4.1 AB 109 LEAVE

When reporting an AB 109 absence to care for a sick child, spouse or parent, the employee shall report the absence to the department as soon as practicable and not less than 45 minutes, if possible, prior to the employee's scheduled start time.

When notifying the department of an AB 109 absence, the employee will attempt to make contact with the watch commander. If the watch commander is not available a message should be left at x7020 and a follow-up call should be made to the Communication Center to also advising of the absence.

When using AB 109 leave, the employee needs only to identify which of the aforementioned family members is ill. The illness does not need to be stated and, again, the watch commander taking the call shall not ask. The employee also needs to state the expected duration of absence and must call-in each day if the absence continues. The supervisor/dispatcher documenting the use of AB109 leave shall complete the Absence Report and report the absence to the appropriate supervisor, if applicable, as soon as possible. The completed absence form will be forwarded to the employee's supervisor for review and to obtain the employee's signature upon his/her return.

AB 109 leave may not be verified by calling, visiting, or requiring the employee to furnish medical documentation regarding the illness. This does not, however, preclude management from investigating an incident that comes to the department's attention in which the employee reportedly did not use the time-off to care for a family member, as reported. If the employee fails to report the use of AB 109 leave within four (4) hours after the start of the affected shift, the employee will be considered absent without leave (AWOL).

1014.4.2 FAMILY AND MEDICAL LEAVE ACT OF 1993 (FMLA)

FMLA leave allows employees to use sick leave, vacation, recovery or floating holidays for specified family and/or medical reasons. Up to 12 work weeks of leave during any 12-month period may be used for qualifying circumstances. In order to qualify, an employee must have worked at least 1,250 hours immediately proceeding the commencement date of the leave. Regular work

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hours, compensatory time, and overtime hours count toward the 1,250 hours, while vacation, sick leave, and holidays taken do not.

The District has an established procedure for employees to follow in order to use FMLA leave. For further information regarding eligibility, regulations, and to obtain the Request for Family Medical Leave form, employees must contact the District's Human Resources Department.

1014.4.3 CORRECTIVE ACTION

Management will take appropriate corrective action for abuse of sick leave. Any of several criteria may be used to indicate excessive sick leave use or abuse by an employee. Criteria to be evaluated by management include, but are not limited to: the use of sick leave in a regular and/or patterned manner, such as sick leave usage in conjunction with regular days-off at regular intervals, or on special-event days; or, the use of sick leave which exceeds 40 hours in any six-month period, and/or 80 hours or more of sick leave utilized in four or more instances during a 12-month period, when not supported by medical documentation. The employee's total sick-leave

record may be reviewed and the entire pattern and amount of usage will be considered in determining the appropriateness of usage. Management retains the right to initiate corrective action if it determines that sick-leave usage is excessive or abusive, and the decision as to whether or not counseling or further action is appropriate will be the determination of the employee's supervisor or higher-level management in the employee's chain of command.

1014.4.4 TARDINESS

Employees who are tardy will be docked for actual time lost. Employees who are tardy 15 minutes or more shall prepare a written memorandum explaining the reason for the tardiness and submit it to their supervisor. Employees who are tardy two times in a six-month period may receive an Attendance Discussion. Further cases of tardiness may result in disciplinary action. Nothing in this directive prohibits a supervisor from counseling an employee for the first instance of tardiness.

1014.4.5 ATTENDANCE DISCUSSION

An Attendance Discussion may be used as the initial step of the corrective process regarding excessive or abusive sick-leave usage or tardiness. An Attendance Discussion shall be pre-disciplinary in nature, documented on an Attendance Discussion Form, and iwill nclude the following information:

(a) The discussion is pre-disciplinary and informative only;

(b) An improvement in the attendance record is required of the employee or the formal process of the Progressive Discipline System may be initiated;

(c) As appropriate, for a specified time period, each future absence may require satisfactory written medical verification as to the necessary and compelling reasons for the employee's absence;

(d) The supervisor is ready and willing to provide reasonable assistance if there is a particular problem for which assistance can be offered;

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(e) The purpose of the discussion is to bring the matter of absenteeism to the attention of the employee so that he/she can correct it, avoiding any further need for corrective action.

The Attendance Discussion form will be retained in the employee's EDR file until the next performance evaluation.

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Communicable Diseases

1016.1 PURPOSE AND SCOPE

This policy is intended to provide guidelines for department personnel to assist in minimizing the risk of contracting and/or spreading communicable diseases and to minimize the incidence of illness and injury. The policy will offer direction in achieving the following goals:

(a) To manage the risks associated with blood borne pathogens (BBP), aerosol transmissible diseases, and other potentially infectious substances.

(b) To assist department personnel in making decisions concerning the selection, use, maintenance, limitations, storage, and disposal of personal protective equipment (PPE).

(c) To protect the privacy rights of all department personnel who may be exposed to or contract a communicable disease during the course of their duties.

(d) To provide appropriate treatment and counseling should an employee be exposed to a communicable disease.

1016.2 PROCEDURES FOR EXPOSURE TO BLOOD, BODILY FLUIDS OR AEROSOL TRANSMISSIBLE DISEASES

All department personnel who are exposed to another person's blood, bodily fluids or an aerosol transmissible disease (e.g., during an altercation or while attending to any injured person) shall follow these procedures and guidelines.

Exposure to blood or other potentially infectious materials includes, but is not limited to, the contact of such substances with the eye, mouth, other mucous membranes, non-intact skin, needle sticks, human bites, cuts or abrasions or any exposure that otherwise qualifies under Health and Safety Code § 121060.1 or 8 CCR § 5193.

Exposure to an aerosol transmissible disease is any event in which all of the following have occurred (8 CCR 5199):

(a) An employee has been exposed to an individual who is a case or a suspected case of a reportable aerosol transmissible disease, or to a work area or to equipment that is reasonably expected to contain aerosol transmissible pathogens associated with a reportable aerosol transmissible disease.

(b) The exposure occurred without the benefit of applicable exposure controls required by this policy.

(c) It reasonably appears from the circumstances of the exposure that transmission of disease is sufficiently likely to require medical evaluation.

1016.2.1 EXPOSURE CONTROL OFFICER

The Chief of Police will assign a person as the Department's Exposure Control Officer. The ECO shall be responsible for the following:

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(a) The overall management of the bloodborne pathogen Exposure Control Plan (ECP).

(b) Establishing written procedures and a training program related to aerosol transmissible diseases, as required by 8 CCR § 5199.

(c) Working with management to develop and administer any additional related policies and practices necessary to support the effective implementation of this plan.

(d) Remaining current on all legal requirements concerning bloodborne pathogens and other communicable diseases, as required by 8 CCR § 5193.

(e) Acting as a liaison during OSHA inspections, conducting program audits to maintain an up-to-date ECP and ensuring exposure report forms are available and adequate for employees to properly report incidents of exposure.

(f) Maintaining an up-to-date list of police personnel requiring training. Developing and implementing a training program, maintaining class rosters and quizzes, and periodically reviewing and updating the training program.

(g) Reviewing and updating the ECP annually (on or before January 1 of each year).

Department supervisors are responsible for exposure control in their respective areas. They shall work directly with the ECO and any affected employees to ensure that the proper exposure control procedures are followed.

1016.2.2 UNIVERSAL PRECAUTIONS

All human blood and body fluids such as saliva, urine, semen, and vaginal secretions are to be treated as if they are known to be infectious. Where it is not possible to distinguish between body fluid types, all body fluids are to be assumed potentially infectious.

1016.2.3 PERSONAL PROTECTIVE EQUIPMENT

Personal protective equipment is the last line of defense against communicable disease. Therefore, it is recommended that personnel carry the following equipment to assist in the protection against such exposures:

- Not less than two pair disposable latex gloves.
- Safety glasses or goggles
- Rescue mask with a one-way valve
- Alcohol (or similar substance) and/or alcohol-hand wipes to disinfect skin at emergency site.

1016.2.4 IMMUNIZATIONS

All department personnel who, in the line of duty, may be exposed to or have contact with a communicable disease shall be offered appropriate treatment immunization.

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1016.2.5 WORK PRACTICES

All personnel shall use the appropriate barrier precautions to prevent skin and mucous membrane exposure whenever contact with blood or body fluid is anticipated.

Disposable gloves shall be worn on all medical emergency responses. Disposable gloves shall be worn before making physical contact with any patient and/or when handling items (e.g., evidence, transportation vehicle) soiled with blood or other body fluids. Should one's disposable gloves become contaminated with blood or other body fluids, the gloves shall be disposed of as contaminated waste. Care should be taken to avoid touching other items (e.g., pens, books, and personal items in general) while wearing the disposable gloves in a potentially contaminated environment.

All procedures involving blood or other potentially infectious materials shall be done in a way to minimize splashing, spraying, or otherwise generating droplets of those materials.

Eating, drinking, smoking, applying lip balm, and handling contact lenses shall be prohibited in areas where a potential for an exposure exists.

1016.3 DISPOSAL AND DECONTAMINATION

The following procedures will apply to the disposal and decontamination after responding to an event that involved contact with a person's blood or body fluids:

1016.3.1 USE OF WASTE CONTAINERS

Officers shall dispose of biohazard with the on-scene fire response vehicle, or at the attending clinic/hospital with their approval, or in an appropriately marked biohazard waste container at the station immediately upon arrival.

The biohazard waste container located at the station shall be collapsible, leakproof, red in color or appropriately labeled with a biohazard warning and routinely emptied.

1016.3.2 DECONTAMINATION OF SKIN AND MUCOUS MEMBRANES

Personnel shall wash their hands immediately (on-scene if possible), or as soon as possible following the removal of potentially contaminated gloves. Antibacterial soap and warm water or an approved disinfectant shall be used to wash one's hands, paying particular attention to the fingernails.

If an employee's intact skin contacts someone else's blood or bodily fluids or other potentially infectious materials, the employee shall immediately wash the exposed part of his/her body with soap and warm water and/or an approved disinfectant, as soon as possible. If the skin becomes grossly contaminated, body washing shall be followed by an approved hospital strength disinfectant. If large areas of the employee's skin are contaminated, the employee shall shower as soon as possible, using warm water and soap and/or an approved disinfectant. Medical treatment should be obtained.

Contaminated non-intact skin (e.g., injured skin, open wound) shall be cleaned using an approved disinfectant and then dressed or bandaged as required. Medical treatment is required.

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All hand, skin, and mucous membrane washing that takes place in the station shall be done in the designated cleaning or decontamination area. Cleaning shall not be done in the kitchen, bathrooms, or other locations not designated as the cleaning or decontamination area.

1016.3.3 SHARPS AND ITEMS THAT CUT OR PUNCTURE

All personnel shall avoid using or holding sharps (needles) unless needed to do so while assisting a paramedic, or collecting them for evidence. Unless required for evidentiary reasons related to evidence preservation, employees are not to recap sharps. If recapping is necessary, a one-handed method shall be employed to avoid a finger prick. Disposal, when practicable, shall be into a puncture proof biohazard container.

All sharps and items that cut or puncture (e.g., broken glass, razors, and knives) shall be treated cautiously to avoid cutting, stabbing, or puncturing one's self or any other person. In addition, if a sharp object contains known or suspected blood or other bodily fluids, that item is to be treated as a contaminated item. If the item is not evidence, touching it with the hands shall be avoided. Rather, use a device such as tongs, or a broom and a dustpan to cleanup debris. If the material must be hand held, protective gloves must be worn.

1016.3.4 DISPOSABLE PROTECTIVE EQUIPMENT

Contaminated disposable supplies (gloves, dressings, CPR mask) shall be transported with the patient or suspect in the ambulance or police vehicle. The waste material shall then be disposed of in a biohazard waste container at the hospital or police station. Disposable gloves are to be worn while placing the waste into the waste biohazard container, placing the gloves in with the waste when through.

1016.3.5 DECONTAMINATION OF PERSONAL PROTECTIVE EQUIPMENT

After using any reusable personal protective equipment, it shall be washed or disinfected and stored appropriately. If the personal protective equipment is non-reusable (e.g., disposable gloves), it shall be discarded in a biohazard waste container as described in Policy Manual § 1016.3.4.

Any personal protective equipment that becomes punctured, torn, or loses its integrity, shall be removed as soon as feasible. The employee shall wash up and replace the personal protective equipment if the job has not been terminated. If this situation resulted in a contaminated non-intact skin event, Policy Manual § 1016.3.2 shall be implemented.

Contaminated reusable personal protective equipment that must be transported prior to cleaning it shall be placed into a biohazard waste bag and transported in the ambulance, paramedic truck or police vehicle. Gloves shall be worn while handling the biohazard waste bag and during placement into the biohazard waste container, and then included in with the waste.

1016.3.6 DECONTAMINATION OF NON-DISPOSABLE EQUIPMENT

Contaminated non-disposable equipment (e.g., flashlight, gun, baton, clothing, portable radio) shall be decontaminated as soon as possible. If it is to be transported, it shall be done by first placing it into a biohazard waste bag.

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Grossly contaminated non-disposable equipment items shall be transported to a hospital, fire station, or police station for proper cleaning and disinfecting. Porous surfaces such as nylon bags and straps shall be brushed and scrubbed with a detergent and hot water, laundered and allowed to dry. Non-porous surfaces (e.g., plastic or metal) shall be brushed and scrubbed with detergent and hot water, sprayed with a bleach solution, rinsed, and allowed to dry. Delicate equipment (e.g., radios) should be brushed and scrubbed very carefully using a minimal amount of a type of germicide that is approved by Environmental Protection Agency (EPA) .

While cleaning equipment, pay close attention to handles, controls, portable radios, and corners (tight spots). Equipment cleaning shall not be done in the kitchen, bathrooms, or other areas not designated as the cleaning/decontamination area.

Contaminated equipment should be cleaned using an approved EPA germicide or a 1:100 solution of chlorine bleach (one-quarter-cup of bleach per one gallon of water) while wearing disposable gloves and goggles. Large particles of contaminants such as, vomit, feces, blood clots, etc. should first be removed (using a disposable towel or other means to prevent direct contact) and properly disposed of.

1016.3.7 DECONTAMINATION OF CLOTHING

Contaminated clothing such as uniforms and undergarments shall be removed as soon as feasible and rinsed in cold water to prevent the setting of bloodstains. If the clothing may be washed in soap and hot water, do so as soon as possible. If the clothing must be dry cleaned, place it into a biohazard waste bag and give it to the Exposure Control Officer. The ECO will secure a dry cleaner that is capable of cleaning contaminated clothing, and inform them of the potential contamination. This dry cleaning will be done at the Department's expense.

Contaminated leather boots shall be brushed and scrubbed with detergent and hot water. If the contaminant soaked through the boot, the boot shall be discarded.

1016.3.8 DECONTAMINATION OF VEHICLES

Contaminated vehicles and components such as the seats, radios, and doors shall be washed with soap and warm water and disinfected with an approved germicide as soon as feasible.

1016.3.9 DECONTAMINATION OF STATION AND CLEANING AREA

The ECO shall designate a location at the station that will serve as the area for cleaning/ decontamination. This area is to be used to keep equipment clean and sanitary and for the employees to wash any potential contamination from their bodies. This area is to be thoroughly cleaned after each use and to be maintained in a clean and sanitary order at all times between each use. The application of cosmetics, smoking cigarettes, consuming food and drink are prohibited in this designated area at all times.

1016.4 POST-EXPOSURE REPORTING AND FOLLOW-UP REQUIREMENTS

In actual or suspected exposure incidents, proper documentation and follow-up action must occur to limit potential liabilities and to ensure the best protection and care for the employee(s).

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1016.4.1 EMPLOYEE RESPONSIBILITY TO REPORT EXPOSURE

To provide appropriate and timely treatment should exposure occur, all employees shall verbally report the exposure to their immediate supervisor and complete a written exposure report as soon as possible following the exposure or suspected exposure. That report shall be submitted to the employee's immediate supervisor. Additionally, employees should document in the exposure report whether they would like the person who was the source of the exposure to be tested for communicable diseases.

1016.4.2 SUPERVISOR REPORTING REQUIREMENTS

The supervisor on-duty shall investigate every exposure that occurs as soon as possible following the incident, while gathering the following information:

(a) Name and social security number of the employee(s) exposed.

(b) Date and time of incident.

(c) Location of incident.

(d) What potentially infectious materials were involved.

(e) Source of material or person.

(f) Current location of material or person.

(g) Work being done during exposure.

(h) How the incident occurred or was caused.

(i) PPE in use at the time of the incident.

(j) Actions taken post-event (e.g., clean-up, notifications).

The supervisor shall advise the employee of the laws and regulations concerning disclosure of the identity and infectious status of a source, and Policy § 1016.5, which addresses source testing.

If the ECO is unavailable to seek testing of the person who was the source of the exposure, it is the responsibility of the exposed employee's supervisor to ensure testing is sought (Policy § 1016.5).

1016.4.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT

Any employee who was exposed or who suspects he/she was exposed to HIV or to hepatitis B or C should be seen by a physician or qualified health care provider as soon as possible. The doctor or qualified health care provider should be provided with the supervisor's report and the employee's medical records relevant to the visit and examination. The blood of the exposed employee shall be tested.

The health care professional will provide the ECO and/or the District's Risk Manager with a written opinion/evaluation of the exposed employee's medical condition. This opinion should only contain the following information:

- If a post-exposure treatment is indicated for the employee.

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- If the employee received a post-exposure treatment.
- Confirmation that the employee received the evaluation results.
- Confirmation that the employee was informed of any medical condition resulting from the exposure incident and whether further treatment or evaluation will be required.
- Whether communicable disease testing from the source is warranted, and if so, which diseases should the testing include.

All other findings or diagnosis shall remain confidential and are not to be included in the written report.

1016.4.4 COUNSELING
The Department shall provide the exposed employee (and his/her family if necessary) the opportunity for counseling and consultation.

1016.4.5 CONFIDENTIALITY OF REPORTS
Most of the information involved in this process must remain confidential. The ECO shall ensure that all records and reports are kept in the strictest confidence.

The ECO shall be responsible for maintaining records containing the employee's treatment status and the results of examinations, medical testing and follow-up procedures.

The Risk Manager shall be responsible for maintaining the name and social security number of the employee and copies of any information provided to the consulting health care professional.

This information is confidential and shall not be disclosed to anyone without the employee's written consent (except as required by law). Test results from persons who may have been the source of an exposure are to be kept confidential as well.

1016.5 SOURCE TESTING

Testing for communicable diseases of a person who was the source of an exposure should be sought when it is desired by the exposed employee or when it is otherwise appropriate. There are five methods to obtain such testing. It is the responsibility of the ECO to ensure that the proper testing and reporting occur. These methods are:

(a) Obtaining voluntary consent from any person who may be the source of an exposure to cover testing for any communicable disease.

(b) Filing a report with the county health officer when an employee is exposed to the bodily fluids of an arrestee. The county health officer may pursue testing for HIV or hepatitis B or C (Penal Code § 7510 et seq.).

(c) Seeking consent for testing or applying for a court order for HIV, hepatitis B and hepatitis C testing (Health and Safety Code § 121060 et seq.).

(d) Seeking a court order when the person who may be the source of an exposure will not consent to testing and the exposure does not fall under the statutory schemes for testing.

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This covers testing for any communicable disease as deemed appropriate by a health care professional and documented in the request for the court order.

(e) Under certain circumstances, a court may issue a search warrant for the purpose of HIV testing an adult or juvenile when an employee of the Bay Area Rapid Transit Police Department qualifies as a crime victim (Penal Code § 1524.1).

1016.5.1 EXPOSURE FROM A NON-ARRESTEE

Upon notification of an employee's exposure to a person who was not arrested, the ECO should attempt to determine if the person who was the source of the exposure will voluntarily consent to testing. If consent is indicated, the following steps should be taken:

(a) A licensed health care provider should notify the person to be tested of the exposure and make a good faith effort to obtain voluntary informed consent from the person or his/her authorized legal representative to perform a test for HIV, hepatitis B, hepatitis C and other communicable diseases the health care provider deems appropriate.

(b) The voluntary informed consent obtained by the health care provider must be in writing and include consent for three specimens of blood for testing. The ECO should document the consent as a supplement to the Exposure Control Report.

(c) The results of the tests should be made available to the source and the exposed employee.

If consent is not obtained, the ECO should promptly consult with General Counsel and consider requesting that a court order be sought for appropriate testing.

1016.5.2 EXPOSURE FROM AN ARRESTEE

Upon notification of an exposure to an employee by a person who was arrested, the ECO should take the following steps:

(a) Comply with the statutory scheme of Health and Safety Code § 121060. This includes seeking consent from the person who was the source of the exposure and seeking a court order if consent is not given.

(b) Take reasonable steps to immediately contact the County Health Officer and provide preliminary information regarding the circumstances of the exposure and the status of the involved individuals to determine whether the County Health Officer will order testing (Penal Code § 7510).

(c) In all cases, comply with the reporting and testing scheme of Penal Code § 7510 et seq. This includes completing a State Department of Health Services Form CDPH 8479 and submitting it to the County Health Officer with a copy of the Exposure Control Report by the end of the employee's shift. If submission by the end of the shift is not practicable, it must occur as soon as possible but no later than two days after the incident. The exposed employee's name should not appear on this form.

(d) Remain in contact with the County Health Officer to determine whether testing of the arrestee will occur and whether the testing satisfies the medical needs of the employee.

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(e) The results of the tests should be made available to the donor and the exposed employee.

Since there is potential for overlap between the two statutory schemes, the ECO is responsible for coordinating the testing with the County Health Officer to prevent unnecessary or duplicate testing.

In the rare event that the exposed employee is not covered by either statutory scheme, the ECO should seek consent or a court order in the same manner as for a non-arrestee.

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Smoking and Tobacco Use

1018.1 PURPOSE AND SCOPE

This policy establishes limitations on the use of tobacco products by employees and others while on-duty or while in Bay Area Rapid Transit Police Department facilities or vehicles.

1018.2 POLICY

The Bay Area Rapid Transit Police Department recognizes that tobacco use is a health risk and can be offensive to other employees and to the public. It is the policy of the Bay Area Rapid Transit Police Department to prohibit the use of tobacco by employees while on-duty or at any time the employee is acting in an official capacity for the Department.

1018.3 EMPLOYEE USE

Tobacco use by employees is prohibited anytime employees are in public view representing the Department.

Smoking and the use of other tobacco products is not permitted inside any District facility, office or vehicle (California Labor Code § 6404.5).

It shall be the responsibility of each employee to ensure that no person under his/her supervision smokes or uses any tobacco product inside District facilities and vehicles.

1018.4 ADDITIONAL PROHIBITIONS

No person shall use tobacco products within 20 feet of a main entrance, exit, or operable window of any public building (including any department facility), or buildings on the campuses of the University of California, California State University and California community colleges, whether present for training, enforcement, or any other purpose (Government Code § 7596 et seq.).

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Early Warning System

1019.1 PURPOSE AND SCOPE

The purpose of this order is to establish policy and procedure for an informal performance review and intervention program, the "Early Warning System" (EWS). The program monitors employee performance that may be inconsistent with professional police conduct and cooperatively engages employees to resolve areas of concern. The goal of EWS is early identification of employee performance issues and correction of these issues through constructive counseling sessions, intervention, and/or training rather than the formal disciplinary process

1019.2 POLICY

It is the policy of the BART Police Department to maintain an Early Warning System to provide early intervention to possible problematic behaviors so that changes can be made prior to discipline being the only corrective option. The EWS is one method by which employees may be identified as possibly needing assistance with performance and/or stress related problems. The EWS is intended as an approach to highlight tendencies that may otherwise be overlooked.

All employees shall participate in the EWS program and comply with the guidelines set forth in this policy. Participation in the EWS program shall not be deemed punitive, nor a formal disciplinary process. Notwithstanding the initiation of the EWS process, the Department retains its right and responsibility with regard to investigation of policy violation and enforcement of employee discipline.

1019.3 PROCEDURE

EWS is a non-disciplinary tool that does not relieve supervisors and managers of their responsibility to directly monitor the performance of their subordinates and take appropriate action in response to performance or behavioral issues.

Employee behavior or performance that is subject to EWS review includes, but is not limited to:

(a) Administrative Internal Affairs investigations

(b) Formal citizen complaints

(c) Informal citizen complaints

(d) Use of force incidents

(e) Obstructing/resisting arrest incidents

(f) Preventable Vehicle collisions

(g) Negligent discharge (firearm/TASER)

(h) Substandard conduct/performance concerns observed by a supervisor or manager

(i) Attendance discussion or corrective action as defined in Policy 1014

(j) Late activation or non-activation of AXON Flex when activation is required by Policy 451.5

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(k) Negligent discharge of TASER (not to include training scenarios)

Personnel assigned to the Internal Affairs Unit shall maintain records of the above incidents. When a designated threshold level is met for a single category or for the sum of all categories, Internal Affairs will notify the involved employee that a threshold level has been met and will be reviewed for potential initiation of the EWS program. The review will be conducted within the employee's chain of command and/or the Internal Affairs Unit. Incidents of obstructing/resisting arrest on the part of suspects will also be analyzed during the review to determine if there is anything associated with the employee's performance and/or conduct that may be eliciting resistance from suspects.

Threshold levels that will generate an alert are designated as follows:

Category	Threshold Level
Administrative Investigation	2 in 12 months
Formal Citizen Complaint	3 in 12 months
Informal Citizen Complaint	3 in 12 months
Use of Force	7 in 12 months
Preventable Vehicle Collisions	2 in 24 months
Negligent Discharge of a Firearm	1 in 12 months
Attendance Discussion or Corrective Action	2 in 12 months
Late Activation or Non-activation of AXON Flex	2 in 6 months
Negligent Discharge of a TASER (not to include training scenarios)	1 in 12 months
Overall	11 in 12 months

Supervisors and managers shall monitor the activity of their subordinate employees to identify actual or perceived unprofessional behavior and/or substandard performance that is subject to EWS review. They shall communicate such information to the Chief of Police via the Chain of Command. The EWS may be initiated based on cause, even when none of the listed threshold levels have been met.

The Office of the Chief of Police shall be responsible for aggregation and administrative management of information and records associated with the EWS program. The Administrative Analyst assigned to the Office of the Chief of Police shall be responsible for preparing quarterly reports summarizing information and activities associated with the EWS program. The reports will contain documentation as to whether or not EWS was implemented for the employee, and the associated reasoning.

Information and records associated with the EWS program are used for personnel purposes. Accordingly, they are confidential personnel files and not public records. Documents, data, and records shall be maintained by the Office of the Chief for a period of two (2) years.

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Access to EWS records shall be restricted to the Office of the Chief. An individual employee shall be granted access to EWS records that pertain to that employee. The employee will give the Office of the Chief a reasonable amount of notice before having access to the file.

1019.4 ADMINISTRATIVE REVIEW BOARD

The Chief of Police shall convene a quarterly Review Board comprised of the Divisions Deputy Chiefs and the Internal Affairs Lieutenant, to review program records to determine if initiation of the EWS Program is recommended. Upon consideration of the Review Board's recommendation, the Chief of Police may direct an employee to participate in the EWS program. The Board may also convene as needed to review situations of relative urgency.

1019.5 INITIATION OF THE EWS PROGRAM

Upon direction of the Chief of Police, an informal counseling meeting shall be held that may include:

(a) The subject employee

(b) The Chief of Police and/or his designee.

(c) The employee's Bureau Deputy Chief and/or his/her designee.

(d) The employee's direct supervisor.

The subject employee may have one fellow employee accompany him/her to the counseling meeting. The accompanying employee's presence is allowed to offer general support to the subject employee, not to be an active participant in the counseling meeting.

Unless impractical, the counseling meeting shall be held during the employee's regularly scheduled working hours.

The meeting shall not be deemed a punitive or disciplinary proceeding against the employee. In the meeting, the employee shall be informed of the behavioral and/or performance concern(s) at issue, and he/she shall be allowed an opportunity to offer a response. If applicable, the employee may be required to attend necessary training. The employee may also be given information regarding the BART District Employee Assistance Program.

If the subject employee requests training, the Chief of Police may grant the request if the training is relevant and appropriate.

The content of the meeting, and/or resulting training for the employee, may be documented for placement into the employee’s personnel file and/or Employee Development Record (EDR). Training issues may also be documented in an employee evaluation. All quarterly reviews and meetings shall be maintained in the strictest confidence and shall not be discussed with other employees without an authorized need to know. Purging of material in personnel files shall be governed by applicable law and the collective bargaining agreement.

If EWS is initiated multiple times for the same employee, additional training, referral, and/or other responsive action may be directed as appropriate.

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Early Warning System

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Internal Investigation of Allegations of Misconduct

1020.1 PURPOSE AND SCOPE

The Department's internal investigative process is critically important to preserve the integrity and morale of the Department. It fosters public trust and confidence in law enforcement, and ensures accountability at all levels of the Department.

This policy incorporates the Department's values, with commitment to the following:

- Fair and impartial enforcement of laws, ordinances and District Resolutions, and respect for fundamental human rights;
- High ideals of honor and integrity to maintain the respect and confidence of superiors, peers, subordinates, the public, District employees, and other government and criminal justice agencies;
- Friendly and courteous service by striving to improve communications and relationships with all District employees and patrons at all times seeking improvement in the quality and image of public service.

The purpose of this policy is to provide guidelines for receiving, classifying, investigating, and determining the disposition of allegations of misconduct regarding members of this department.

1020.1.1 DEFINITIONS

Personnel complaints shall be defined as 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. When an allegation warrants investigation, such complaints will be referred to the Internal AffairsUnit for assignment.

If a person alleges or raises an issue that does not constitute a violation of Department policy, procedure, rules, regulations, or the law, the Department will classify the issue as an inquiry.

Definitions:

(a) **Allegation**: An unproven accusation that a member of the Police Department violated Department/District policy or procedure, or the law.

(b) **Misconduct**: An act or omission by a Department member that is a violation of Department/ District policy or procedure, or the law; which if sustained, could result in disciplinary action.

(c) **Formal Complaint**: An expression of dissatisfaction or disapproval in regards to the performance of a Police Department employee.

(d) **Informal Complaint**: A comment on the actions of a Department employee, where the reporting party expressly states that he or she does not feel that the matter should be formally

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investigated with the understanding that an Informal Complaint does not hold the potential to result in disciplinary action against the employee.

(e) **Supervisor Referral**: For instances involving an Informal Complaint, the Internal Affairs Unit may address the issue through a Supervisor Referral. An assigned supervisor would then address the issue informally with the involved employee and document the content of the conversation in a memorandum to the Internal Affairs Unit.

1. If the alleged involved employee cannot be identified by the complainant or through investigation by Internal Affairs, then the Supervisory Referral will be attributed to “unknown” employee.

1. If the involved employee has a repeated history of similar complaints, the incident may be formally investigated.

2. If the nature of the allegation(s) warrants investigation, then a formal investigation will be conducted.

3. Generally, the following will not be addressed through a Supervisory Referral: allegations of excessive/improper force, racial animus, bias-based policing, or workplace discrimination (exceptions may only be approved by the Chief of Police or his/her designee).

(f) **Complaint Mediation Program**: For instances involving an Informal Complaint, the issue may also be addressed through Complaint Mediation as defined and specified in Policy 1021. Internal Affairs personnel will advise complainants of the Mediation Program option if the complaint is eligible for mediation.

1. Participation in the Complaint Mediation Program must be voluntary for both the complainant(s) and the involved employee(s).

2. Complaints that include any of the following allegations will not be eligible for the Complaint Mediation program:

   (a) Use of Deadly Force

   (b) Suspicious and Wrongful Deaths

   (c) Unnecessary or Excessive Use of Force

   (d) Truthfulness

   (e) Racial Animus

   (f) Bias-Based Policing and/or Racial Profiling

   (g) Sexual Orientation Bias

   (h) Sexual Harassment

   (i) Arrest or Detention

   (j) Search or Seizure

   (k) Reporting Misconduct

   (l) l.Workplace Discrimination/Harassment

   (m) Supervision

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(n) Substantial injury suffered by any of the involved parties

3. The Chief of Police, or the Chief's designee, at his or her discretion, may deem any complaint ineligible for mediation.

(g) Inquiry: A question or comment regarding the actions of a Department employee or the implementation of Department policy, with no allegation of misconduct. An inquiry could also be a circumstance where a complainant initiates a complaint with Internal Affairs; however it is later determined that the involved party is not a BART Police employee. The case will be referred to the correct agency or department. The BART inquiry will be Administratively Closed.

(h) Service Review: When a citizen/customer raises a concern pertaining to a global practice throughout the Department such as Department policy, procedure and/or tactics. Depending on the circumstances, the concern may be evaluated and addressed through a Service Review conducted by Internal Affairs, a designated review committee, or a member of Command Staff. When appropriate, a Service Review could result in a change to Department policy, training and/or tactics.

(i) Administrative Closure: Allegations that are received and documented; however the Chief of Police or his/her designee determines, based on a preliminary investigation, that further investigation in not warranted. Under these circumstances, the complaint will be Administratively Closed and documented in a summary memorandum to the case file. Employees will be documented as witnesses only, not as subjects to the complaint. Internal Affairs will send a letter to the complainant notifying them that the case was closed following a preliminary investigation.

A case may be administratively closed under (but not limited to) the following circumstances:

- The complaint fails to articulate an act, or failure to act, which would constitute a violation of policy, procedure or law that could lead to discipline if proven true.
- The complaint is received after one year or more has elapsed from the date of the incident, making it difficult to investigate the incident in a thorough, fair, and complete manner. (Particularly, allegations such as courtesy or minor procedural violations may be Administratively Closed if the Department is not made aware of the complaint in a timely manner.)
- The complaint lacks specificity and the complainant either refuses to cooperate or becomes unavailable to provide information necessary to investigate the incident.
- Complaints limited to parking or infraction citations, where there is no allegation of misconduct, shall be referred to the parking citation appeals process or the respective court.
- Complaints that appear to not be based in reality may be administratively closed, including but not limited to the following:
    - The complaint appears hallucinatory and/or fantastical, and there does not appear to be facts available to ground the complaint in reality.
    - The complaint is grossly illogical and/or incomprehensible.
    - The complaint centers on the alleged existence of a broad conspiracy; however there are no articulated facts to be investigated.

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- The complaint is largely similar in content and/or nature to a previous complaint brought by the same complainant, and the previous complaint resulted in a finding of “Unfounded.”

If a complaining party initiates a complaint but then either refuses to cooperate with the investigation or becomes unavailable, the Internal Affairs Unit will exercise due diligence and proceed with an investigation. Based on a lack of information, the Chief of Police or his/her designee may determine that a matter does not need to be classified as a personnel complaint and the investigation may be administratively closed. However, depending on the seriousness of the complaint and the availability of information, further investigation may be conducted by the Internal Affairs Unit.

1020.1.2 ALLEGATION CLASSIFICATIONS

The following classifications of allegations will be used. The purpose of these classifications is to objectively characterize the potential misconduct while avoiding the use of value-laden words that could prejudice the investigation.

(a) **Arrest or Detention:** An allegation that an arrest lacked probable cause or a detention lacked reasonable suspicion.

(b) **Bias-Based Policing:** An allegation that a Department member engaged in conduct based on a person's race, religion (religious creed), age, marital status, national origin, ancestry, sex, sexual orientation, actual or perceived gender identify, medical condition, or disability.

(c) **Courtesy:** An allegation that a Department member inappropriately used profane or derogatory language, obscene gesture, or an unprofessional demeanor during a contact with a member of the public.

(d) **Conduct Unbecoming:** An allegation that a member's conduct, either on or off-duty, was conduct that a reasonable person would find unbecoming a police employee. The nature of the conduct could potentially reflect adversely upon the Department.

(e) **Force**: An allegation that the amount of force used by a Department member was not objectively reasonable.

(f) **Neglect of Duty:** An allegation that a Department member neglected his/her duties and failed to take action as required by law, or by Department policy or procedure, or in compliance with a lawfully given order from a supervisor.

(g) **Performance of Duty:** An allegation that a Department member did not exercise an appropriate amount of effort to meet Department expectations in the performance of his/her duty per Department policy, practice or procedure.

(h) **Policy/Procedure:** An allegation that action taken by a Department member did not follow appropriate Department/District policy, procedures or guidelines.

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(i) **Policy Complaint:** An allegation regarding a current Department policy that was properly implemented by a Department member; but which the complainant believes is inappropriate or not valid. A policy complaint is not grounds for discipline.

(j) **Reporting Misconduct:** An allegation that a Department member failed to notify a Department supervisor of misconduct that threatens the rights of private persons and/or the well being and reputation of the Department.

(k) **Racial Animus:** An alleged expression or act of animosity toward an individual or group based on race or ethnicity.

(l) **Supervision:** An allegation that a supervisor did not detect a pattern of misconduct by a Department member that he/she reasonably should have known about; and/or an allegation that a supervisor did not properly supervise and take corrective action for misconduct that he/she knows or reasonably should have known about.

(m) **Search Or Seizure:** An allegation that a search or seizure was conducted by a Department member in violation of the 4th Amendment.

(n) **Truthfulness:** An allegation that a Department member knowing made a false statement or purposely omitted pertinent facts to a supervisor, in a police report, court testimony, or investigative interview conducted by the Department; or the fabrication or destruction of evidence.

(o) **Workplace Discrimination and (WH) Workplace Harassment:** See BART Operations Rules and Procedures Manual section 1307.

The definitions of Discrimination and Harassment only apply to workplace interactions between BART employees and to Department Initiated Investigations that arise from allegations of workplace discrimination and harassment. Discrimination or harassment by Department members toward members of the public shall be characterized as an allegation of BiasBased Policing (BBP) and/or Racial Animus.

1020.2 PROCESS FOR RECEIVING AND DOCUMENTING ALLEGATIONS OF MISCONDUCT

All Department members will accept allegations from any source, whether made in person, by mail, by telephone, or by e-mail. Furthermore, the Department shall comply with Penal Code § 832.5 which reads, "Each department or agency in this state that employs peace officers shall establish a procedure to investigate complaints by members of the public against the personnel of these departments or agencies, and shall make a written description of the procedure available to the public."

Anonymous complaints and third party complaints will be accepted and investigated to the extent that sufficient information is provided.

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1020.2.1 AVAILABILITY OF COMPLAINT FORMS

Complaint forms will be maintained in all patrol vehicles, police reporting facilities, and in all station agent booths throughout the District. Forms will be made readily available to the public upon request.

1020.2.2 SOURCE OF COMPLAINTS

(a) A Department employee becoming aware of alleged misconduct shall immediately notify a supervisor.

(b) A supervisor shall receive a complaint from any source alleging misconduct of an employee which, if true, could result in disciplinary action.

(c) Anonymous complaints and third party complaints should be accepted and investigated to the extent that sufficient information is provided.

1020.2.3 ACCEPTANCE OF COMPLAINTS

A complaint may be filed in person, in writing, by e-mail, or by telephoning the Department.

(a) Any Department employee who is informed of potential misconduct shall immediately notify a supervisor.

(b) During normal operational hours, allegations of misconduct shall be referred to the Internal Affairs Unit. When an Internal Affairs investigator is unavailable, the complainant will be put in contact with a Watch Commander, or lastly a Zone Sergeant.

(c) Depending on the urgency and seriousness of the allegations involved, complaints from juveniles should generally be taken only with their parents or guardians present and after the parents or guardians have been informed of the circumstances prompting the complaint.

(d) Supervisors shall receive and document all complaints from any source alleging misconduct of an employee.

    1. If the reporting party states that they would like to make a Formal Complaint, the supervisor shall use a complaint intake form to document the reporting person's contact information and the nature of the allegation. The supervisor shall then forward the information to the Internal Affairs Unit.

    2. If the reporting person makes an Informal Complaint, the receiving supervisor will forward the information to the Internal Affairs Unit.

    3. Even in the absence of a Formal or Informal Complaint request, if the nature of the allegation(s) warrants investigation and/or could result in discipline, then the statements made by the reporting person and their contact information shall be documented on a complaint intake form and forwarded to the Internal Affairs Unit

(e) When a complainant is intoxicated to a degree that his/her physical state may significantly inhibit his/her ability to give a thorough and complete statement, a supervisor should not attempt to take a detailed statement at that time. Instead, the supervisor should take a brief recorded statement, obtain the complainant’s contact information, and give the complainant a complaint form for future reference. The Office of Internal Affairs will take appropriate actions to contact the complainant and take a detailed statement at a time when the complainant is no longer impaired due to intoxication.

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1020.2.4 ALLEGATION DOCUMENTATION

Complaints of alleged misconduct shall be documented on a complaint form either by the complainant, or by a supervisor. The receiving supervisor shall ensure that the nature of the complaint is defined as clearly as possible as well as the contact information for the reporting party.

(a) When a complainant completes a complaint form in person, they should legibly write a detailed narrative of the complaint. If circumstances indicate that this is not feasible, the complaint may be dictated to the receiving supervisor. Whether handwritten or dictated, the complainant should sign the complaint form, although refusal to sign shall not alone be grounds to disregard the complaint.

(b) The complainant shall be provided with a copy of his/her own original complaint per Penal Code § 832.7. The Office of Internal Affairs will additionally provide complaints with a brochure from the BART Office of Independent Police Auditor.

(c) Whenever possible, the supervisor should record the complainant's verbal statement. A refusal by the complainant to be recorded shall not alone be grounds to disregard the complaint.

1020.2.5 DEPARTMENT INITIATED INVESTIGATIONS

Allegations of misconduct generated within the police department that cannot be addressed at the supervisory level will be investigated through the Internal Affairs Unit.

(a) Any Department employee who witnesses potential misconduct shall immediately notify a supervisor.

(b) Allegations of misconduct may be reported to the Department by employees, union representatives, or supervisors.

(c) The Internal Affairs Unit may initiate an allegation of misconduct based on cause.

(d) If an investigation discloses misconduct or improper job performance which was not included in the original allegation(s), the investigation will address the additional allegation(s).

1020.3 SUPERVISOR RESPONSIBILITY

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the Internal Affairs Unit. The Chief of Police or his or her designee may, however, assign the investigation to a police supervisor or to a contracted entity. The investigator shall be responsible for the following:

(a) A supervisor receiving or initiating a complaint involving allegations of serious misconduct shall ensure that the Watch Commander and the Internal Affairs Lieutenant are notified as soon as practicable.

(b) A supervisor receiving a complaint shall ensure that a complaint form has been completed as fully as possible. The original complaint form will then be directed via the chain of command to

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the employee's a command level supervisor, who will then forward the complaint to the Internal Affairs Unit for further action.

1. During the preliminary intake of any complaint, the supervisor should make every reasonable effort to obtain names, addresses and telephone numbers of additional witnesses.

2. Once immediate medical attention has been provided, photographs of alleged injuries as well as accessible areas of non-injury should be taken.

3. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the employee's Division Deputy Chief or the Chief of Police who will initiate appropriate action.

(c) A supervisor interacting with an accused employee shall ensure that the procedural rights of the employee are followed pursuant to Government Code § 3303, et seq. When a supervisor is aware that an employee is the subject of an investigation which could lead to discipline, the following shall take place prior to asking the employee to document the incident in a memorandum and/or verbal questioning.

1. The employee will be notified of the nature of the allegation(s).

2. The employee will be informed of the rank, name, and command of the officer in charge of the interrogation, the interrogating officers, and all other persons to be present during the interrogation.

3. Upon request, the employee will be notified that the investigation could result in discipline.

4. Upon request, subject employees will be allowed representation. (Witness employees are not strictly entitled to representation.)

(d) When the nature of a personnel complaint relates to sexual, racial, ethnic, or other forms of prohibited harassment or discrimination, the supervisor receiving the complaint shall promptly notify the Chief of Police. The Chief may elect to contact the BART Office of Civil Rights for direction regarding their role in investigation and/or addressing the complaint.

1020.4 ASSIGNMENT TO ADMINISTRATIVE LEAVE

A department employee may be placed on administrative leave under the following circumstances:

(a) When an allegation of misconduct is of a particularly serious nature;

(b) Retaining the person on active duty would impose an unreasonable risk to the Department, the employee, other employees, or the public.

Personnel may be assigned to administrative leave pending further investigation, completion of the investigation, or the filing of administrative charges. It shall be the responsibility of the assigning supervisor to promptly notify the employee's Division Deputy Chief and the Chief of Police.

1020.4.1 ADMINISTRATIVE LEAVE

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(a) Under such circumstances, an employee placed on administrative leave shall continue to receive regular pay and benefits pending the imposition of any discipline.

(b) An employee placed on administrative leave may be required by a supervisor to relinquish any badge, departmental identification, assigned weapon(s) and any other departmental equipment.

(c) An employee placed on administrative leave may be ordered to refrain from taking any action as a departmental employee or in an official capacity. The employee shall be required to continue to comply with all policies, lawful orders of a supervisor, and court orders.

(d) An employee placed on paid administrative leave may be temporarily reassigned to a different shift (generally normal business hours) during the pendency of the investigation and the employee will be required to remain available for contact at all times during such shift and report as ordered.

(e) At such time as any employee placed on administrative leave is returned to full and regular duty, the employee shall be returned to their regularly assigned shift with all badges, identification card and other equipment returned.

1020.5 ALLEGATIONS OF CRIMINAL CONDUCT

Where an employee of this Department is accused of potential criminal conduct, a separate supervisor or assigned detective may be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

(a) The Chief of Police shall be notified as soon as practical when an employee is formally accused of criminal conduct. In the event of serious criminal allegations, the Chief of Police may request a criminal investigation by an outside law enforcement agency.

(b) An employee accused of criminal conduct shall be provided with all rights and privileges afforded to a civilian and the employee may not be administratively ordered to provide any information to a criminal detective.

(c) No information or evidence administratively coerced from an employee may be provided to a criminal detective.

(d) Any law enforcement agency is authorized to release information concerning the arrest or detention of a peace officer, which has not led to a conviction, however, no disciplinary action, other than paid administrative leave shall be taken against the accused employee based solely on an arrest or crime report (Labor Code § 432.7(b)). An independent administrative investigation shall be conducted based upon the allegations in the report in accordance with Department policy.

1020.6 INTERNAL INVESTIGATION OF ALLEGED MISCONDUCT

Whether conducted by the Internal Affairs Unit, an assigned supervisor, or authorized entity, the following procedures shall be followed with regard to the accused employee(s):

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(a) Interviews of accused employees shall be conducted during reasonable hours and, if the employee is off-duty, the employee shall be compensated (Government Code § 3303(a)).

(b) No more than two interviewers may ask questions of an accused employee (Government Code § 3303(b)).

(c) Prior to any interview, an employee shall be informed of the nature of the investigation (Government Code § 3303(c)).

(d) All interviews shall be for a reasonable period and the employee's personal needs shall be accommodated (Government Code § 3303(d)).

(e) No employee shall be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers. Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively or be subject to discipline for insubordination. (Nothing administratively ordered may be provided to a criminal investigator.) The employer shall not cause the public safety officer under interrogation to be subjected to visits by the press or news media without his or her express consent nor shall his or her home address or photograph be given to the press or news media without his or her express consent. (Government Code § 3303(e)).

(f) Absent circumstances preventing it, the interviewer should record all interviews of employees and witnesses. The subject employee may also record the interview. If the subject employee has been previously interviewed, a copy of that recorded interview shall be provided to the employee prior to any subsequent interview (Government Code § 3303(g)).

(g) If the allegations involve potential criminal conduct, the employee shall be advised of his/her Constitutional rights pursuant to Lybarger. This admonishment shall be given administratively whether or not the employee was advised of these rights during any separate criminal investigation. (Government Code § 3303(h)).

(h) All employees subjected to interviews that could result in punitive action shall have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual employee's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed (Government Code § 3303(i)).

(i) All employees shall provide complete and truthful responses to questions posed during interviews.

(j) No employee may be compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Government Code § 3307).

1020.6.1 ADMINISTRATIVE SEARCHES

An employee of this Department may be administratively ordered to submit to a blood, breath, or urine test for alcohol and drugs under any of the following circumstances:

(a) When the employee, whether on or off-duty, is involved in a shooting or police related death.

(b) When the employee is involved in an injury or fatal accident while on duty.

(c) When the employee is involved in an injury or fatal accident while operating any District owned or leased vehicle whether on or off-duty.

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(d) When the employee is found to be exhibiting objective symptoms of intoxication or drug influence while on duty.

The use of compelled testing results shall be restricted to the administrative investigation.

Any employee may be compelled to disclose personal financial information pursuant to proper legal process; if such information tends to indicate a conflict of interest with official duties, or, if the employee is assigned to or being considered for a special assignment with a potential for bribes (Government Code § 3308).

Employees shall have no expectation of privacy when using telephones, computers, radios or other communications provided by the Department.

Assigned lockers and storage spaces may only be administratively searched in the employee's presence, with the employee's consent, with a valid search warrant or where the employee has been given reasonable notice that the search will take place (Government Code § 3309).

All other departmentally assigned areas (e.g., desks, office space, assigned vehicles) may be administratively searched by a supervisor, in the presence of an uninvolved witness, for non-investigative purposes. (e.g., obtaining a needed report or radio). An investigative search of such areas shall only be conducted upon a reasonable suspicion that official misconduct is involved.

1020.6.2 INTERNAL AFFAIRS INVESTIGATION FORMAT

Internal investigations shall be detailed, complete and essentially follow this format:

(a) Complainant name(s) and contact information

(b) Identity of involved Department personnel

(c) Classification of allegations

(d) Associated police report numbers

(e) Witness name(s) and contact information

(f) Background

1. Brief synopsis including the initial date, source, and nature of complaint
2. Assigned Internal Affairs investigator(s)

(g) Investigation

1. Statements
2. Dispatch audio
3. Video
4. Police reports
5. Additional evidence

(h) Department policy

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(i) Summary and conclusion

(j) Exhibits

1020.6.3 INTERNAL AFFAIRS INVESTIGATION PROCESS

(a) The Internal Affairs Unit shall be the principal entity for receiving, classifying, assigning, investigating, and filing allegations of misconduct. All allegations of misconduct will be forwarded to the Internal Affairs Unit.

(b) The Internal Affairs Unit is responsible for case tracking and the assignment of due dates for allegation of misconduct investigations. The assigned investigator is expected to complete each investigation in a timely manner. The investigator will conduct a thorough, accurate, and objective investigation.

(c) The Internal AffairsUnit will apprise the Chief of Police of all allegations of misconduct and status of investigations.

(d) If a command-level officer is the subject of an allegation of misconduct, the Chief of Police will review the allegation and assign an appropriate investigator. If the Chief of Police is the subject of an allegation, the BART General Manager will review the allegation and assign an appropriate investigator.

1020.7 DISPOSITION OF INTERNAL INVESTIGATIONS

Upon completion of the investigative report, the investigator will include a recommendation of finding for each allegation in the investigation report based on the preponderance of evidence.

The investigator's recommended findings will be reviewed through the chain of command, and the Chief of Police will determine a finding of disposition for each allegation based on the preponderance of evidence as follows:

(a) **Unfounded** - The investigation clearly established that the allegation is not true, or that the complaint was frivolous per Penal Code § 832.5(c).

(b) **Exonerated** - The investigation clearly established that the act, which provided the basis for the allegation of misconduct, did occur but was justified, lawful, and proper.

(c) **Sustained** - The investigation disclosed sufficient evidence that the act occurred and that it did constitute misconduct.

(d) **Not-Sustained** - The investigation established that there is not sufficient evidence to either sustain the allegation or to fully exonerate the employee. This includes situations in which the reporting party and/or witness(es) fail to cooperate in disclosing information needed to further the investigation, or they are no longer available.

1020.8 COMPLETION OF INVESTIGATIONS

(a) 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

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within six months from the date of discovery by an individual authorized to initiate an investigation. In the event that an investigation cannot be completed within one year of discovery, the assigned investigator or supervisor shall ensure that an extension or delay is warranted within the exceptions set forth in Government Code § 3304(d) or Government Code § 3508.1. If the nature of the allegations dictate that confidentiality is necessary to maintain the integrity of the investigation, the involved employee(s) need not be notified of the pending investigation unless and until the employee is interviewed or formally charged within one year of discovery.

(b) Upon completion, the investigator will make a recommendation of finding based on the preponderance of evidence and forward the report through the Internal Affairs Unit to the Chief of Police who will make a determination of finding and associated disciplinary action when applicable.

(c) The subject employee will receive a notice of finding from the Chief of Police, which will be signed by the employee and filed in the Internal Affairs Unit. If the employee refuses to sign, that fact will be noted on that document and signed or initialed by the employee as set forth in Government Code § 3304(d).

(d) Within 30 days of the final review by the Chief of Police, written notice of the findings shall be sent to the complaining party. This notice shall indicate the findings, however, will not disclose the amount of discipline, if any imposed. The complaining party will also have been provided with a copy of his/her own original complaint (Penal Code §832.7).

(e) Any complaining party who is not satisfied with the findings of the Department concerning their complaint may contact the Office of the Independent Police Auditor or the Chief of Police to discuss the matter further.

1020.8.1 CONFIDENTIALITY OF PERSONNEL FILES

All investigations of personnel complaints shall be considered confidential peace officer personnel files. The contents of such files shall not be revealed to other than the involved employee or authorized personnel except pursuant to lawful process.

In the event that an accused employee (or the representative of such employee) knowingly makes false representations regarding any internal investigation and such false representations are communicated to any media source, the Department may disclose sufficient information from the employee's personnel file to refute such false representations (Penal Code § 832.5).

All Formal Complaints shall be maintained for a period of no less than five years, or as governed by the collective bargaining agreement. (Penal Code § 832.5) All Informal Complaints shall be maintained for a period of no less than five years, or as governed by the collective bargaining agreement. All non-citizen (e.g., those that originate internally) initiated complaints shall be maintained no less than two years, or as governed by the collective bargaining agreement. (Government Code § 34090 et seq.).

1020.8.2 ACCESS TO INTERNAL AFFAIRS RECORDS

Only those members of the Department authorized by the Chief of Police will be allowed access to Internal Affairs records. Information within the record shall be kept with strict confidentiality.

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The following personnel are authorized access to a member's personnel file, with the indicated limitations:

(a) The member: Members may review their own personnel file during normal business hours, after making the request through the Office of the Chief of Police.

(b) Internal Affairs personnel: Any member assigned to the Internal Affairs Unit may review another member's Internal Affairs records for the purpose of effectively completing an internal investigation.

(c) Outside requests: Any requests to review a member's Internal Affairs records by an outside agency must be approved by the BART Legal Department in accordance with California Evidence Code Section 1043, or requested pursuant to a Federal court order.

1020.8.3 INTERNAL AFFAIRS TRAINING

The below training is listed in the Department's Training Plan and is either mandatory, essential or desirable for personnel assigned to Internal Affairs. The Training Plan is located within the G/ drive, Training Unit folder.

Mandatory training for Internal Affairs lieutenant and sergeants - Internal Affairs investigations course.

Essential training for Internal Affairs lieutenant and sergeants - Internal Affairs update, interview and interrogation, law enforcement liability update, citizen's oversight training, POBAR class, Pitchess Motion and Brady course.

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Complaint Mediation Program

1021.1 PURPOSE AND SCOPE

Alternative dispute resolution in the form of mediation can often yield the optimal outcome of an incident involving alleged misconduct, both for the complainant and the involved employee. It may be the most effective way for a complainant to feel that his or her concern was genuinely listened to, and it presents an opportunity for an employee to share his or her views about the incident that gave rise to the complaint in a non- interrogatory setting. By maximizing the chance that each party will listen to the other's point of view, mediation often makes it possible for both sides to gain a new understanding of each other and of why the interaction between them might have escalated into a conflict in the first place.

Mediation is based on voluntary participation by all parties to a dispute, and it focuses on understanding, problem solving, and reconciliation rather than fact finding, determining guilt or innocence, and assigning responsibility.

1021.2 ELIGIBILITY FOR MEDIATION

The eligibility of complaints for inclusion in the Complaint Mediation Program is detailed in this section. As a corollary, any complaints that are not eligible for inclusion in the program, for any reason, shall be handled as complaints pursuant to Department Policy1020 and/or the BART Citizen Oversight Model, as applicable.

1021.2.1 CASE ELIGIBILITY

Participation in the Complaint Mediation Program must be voluntary for both the complainant(s) and the involved employee(s). Before the actual mediation process begins, all such parties must consent to the process in writing. Without written consent from all complainants and involved employees, the case is ineligible for inclusion in the program. Written consent may be obtained from the parties at the site of mediation, prior to the mediation session beginning.

(a) Complaints that include the below-listed allegations and/or alleged circumstances are ineligible for the Complaint Mediation Program, regardless of the consent of the involved parties; when a complaint involves any of these allegations and/or alleged circumstances, as well as other allegations and/or alleged circumstances not on this list, the entire complaint is ineligible for the Complaint Mediation Program:

1. Use of Deadly Force
2. Suspicious and Wrongful Deaths
3. Unnecessary or Excessive Use of Force
4. Truthfulness
5. Racial Animus
6. Bias-Based Policing and/or Racial Profiling
7. Sexual Orientation Bias

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8. Sexual Harassment
9. Arrest or Detention
10. Search or Seizure
11. Reporting Misconduct
12. Workplace Discrimination/Harassment
13. Supervision
14. Substantial injury suffered by any of the involved parties

(b) Subject to all of the exclusions listed above, the types of allegations eligible for inclusion in the Complaint Mediation Program include, but are not necessarily limited to:

1. Performance of Duty
2. Conduct Unbecoming an Officer
3. Courtesy
4. Policy/Procedure
5. Policy Complaint*

*When a complaint is eligible for mediation, but the complaint is against a Department policy and not a specific employee, the Department may designate an employee that it feels is appropriate to participate in the mediation as a Department representative.

1021.2.2 OFFICER ELIGIBILITY

Any new complaint is ineligible for the Complaint Mediation Program when any involved employee who is being accused of misconduct in the complaint:

(a) Has had any allegation of misconduct Sustained against him or her within the 12 months prior to the date that the new complaint was initiated; or

(b) Has been accused of misconduct in a Citizen Complaint, Administrative Investigation, or Comment of Non-Complaint, or any combination thereof, on three or more occasions within the 12 months prior to the date that the new complaint was initiated; or

(c) Has participated in the Complaint Mediation Program, as an employee being accused of misconduct, on three or more occasions within the 12 months prior to the date that the new complaint was initiated.

1021.2.3 DISCRETION OF THE CHIEF OF POLICE

The Chief of Police, or the Chief's designee, at his or her discretion, may deem any complaint ineligible for mediation. The Chief shall promptly notify the Office of the Independent Police Auditor (OIPA) upon making such a determination.

1021.3 COMPLAINT MEDIATION PROGRAM PROCEDURES

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1021.3.1 INTAKE OF NEW COMPLAINTS BY INTERNAL AFFAIRS SECTION

Upon receiving a new complaint of misconduct that does not, on its face, fall into the prohibited categories listed in Section 1021.2.1, the Internal Affairs Section shall inform the complainant that his or her complaint may be eligible for the Complaint Mediation Program in lieu of an investigation.

Internal Affairs shall also inform the complainant of his or her option, regardless of eligibility for mediation, to have the complaint handled in accordance with the procedures laid out in Department Policy 1020. If the complainant prefers to pursue mediation, Internal Affairs shall forward the complainant's contact information to OIPA, which shall then be responsible for contacting the involved employee(s) pursuant to Section1021.3.3.

Internal Affairs shall continue its practice of recording all new complaints in its case database, including the assignment of a case number to each complaint. All cases that end up being a part of the Complaint Mediation Program shall be categorized as "Citizen Complaints."

Internal Affairs shall attempt to identify and gather all evidence about the new complaint that is known or reasonably should be known to be perishable, even if all parties to a complaint indicate their consent to have it handled through the Complaint Mediation Program. The gathering of such evidence is important if mediation does not ultimately take place, in which case a formal investigation may be required to be completed instead.*

*It is acknowledged that even with the requirement to collect perishable evidence, Internal Affairs may not be made aware of as much information about the circumstances giving rise to the complaint as they would be by conducting a series of formal interviews; their ability to discover some of the evidence, perishable or not, that is relevant to the complaint may therefore be curtailed to some degree.

1021.3.2 INTAKE OF NEW COMPLAINTS BY THE OFFICE OF THE INDEPENDENT POLICE AUDITOR

Upon receiving a new complaint of misconduct that does not, on its face, fall into the prohibited categories listed in Section 1021.2.1, OIPA shall inform the complainant that his or her complaint may be eligible for the Complaint Mediation Program in lieu of an investigation . OIPA shall also inform the complainant of his or her option, regardless of eligibility for mediation, to have the complaint handled in accordance with the procedures laid out in Department Policy 1020. If the complainant prefers to pursue mediation, OIPA shall notify Internal Affairs of the information about the complaint it has learned at that point (as is already done with other complaints received by OIPA). OIPA shall then be responsible for contacting the involved employee(s) pursuant to Section 1021.3.3.

Internal Affairs shall attempt to identify and gather all evidence about the new complaint that is known or reasonably should be known to be perishable, even if all parties to a complaint indicate their consent to have it handled through the Complaint Mediation Program. The gathering of such evidence is important if mediation does not ultimately take place, in which case a formal investigation may be required to be completed instead.*

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*It is acknowledged that even with the requirement to collect perishable evidence, Internal Affairs may not be made aware of as much information about the circumstances giving rise to the complaint as they would be by conducting a series of formal interviews; their ability to discover some of the evidence, perishable or not, that is relevant to the complaint may therefore be curtailed to some degree.

1021.3.3 CONSENT FROM ALL INVOLVED EMPLOYEES

Once a complainant has indicated a preference to pursue mediation of an eligible complaint, OIPA shall determine whether all involved employees are eligible for mediation in accordance with Section 1021.2.2. If any involved employees are ineligible, OIPA will inform the complainant that mediation is not a viable option for that complaint, which will instead be handled in accordance with BPD Policy 1020. If all involved employees are eligible for mediation, OIPA shall contact each of them to determine whether they consent to mediation of the complaint against them. In making such contact, OIPA shall notify each involved employee of the nature of the allegation(s) raised against him or her. Contact with the employees will be made by OIPA via email message, with a copy to each employee's supervisor.*

*OIPA shall make good faith efforts to establish contact with all involved employees via any means it deems effective and appropriate. The use of email is meant to be the single mandated method of contact in each case. Email is the preferred mandatory method because it lends itself to easy documentation and record-keeping.

If any one of the involved employees decline to consent to mediation, the complaint will be deemed as ineligible for the Complaint Mediation Program. OIPA shall notify IA of this, and IA shall handle the complaint pursuant to BPD Policy 1020.

Once the required email notification has been sent to the involved employees, if OIPA does not subsequently receive a response from any one (or more) of the employees for more than 7 calendar days after that employee was last on-duty, the complaint will be deemed as ineligible for the Complaint Mediation Program. OIPA shall notify the complainant and IA of this, and IA shall handle the complaint pursuant to BPD Policy 1020.

If any employees are involved who are unable to be identified through the best efforts of OIPA, the complaint will be deemed as ineligible for the Complaint Mediation Program. OIPA shall notify IA of this, and IA shall handle the complaint pursuant to BPD Policy 1020.

If all of the involved employees have been successfully identified and deemed eligible for mediation, and all of them have indicated their consent to mediation of the complaint involving them, then the mediation process shall continue pursuant to Section 1021.3.4.

1021.3.4 REFERRAL TO SEEDS

OIPA shall contact the SEEDS Community Resolution Center (SEEDS) to initiate mediation proceedings. OIPA will also be responsible for providing SEEDS with whatever information they require about the complaint at issue. In accordance with standard SEEDS operating procedure, SEEDS will then establish contact with the involved parties and schedule a date and time for the

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mediation to take place. BPD employees shall be allowed to attend mediation while on-duty, but they shall inform their immediate supervisor as far in advance as is reasonably feasible before doing so. BPD employees who attend mediation while off- duty shall be compensated for their time.

As noted above in Section 1021.2.1, all parties to mediation must document their consent to the mediation process in writing. Once such documentation has been submitted to either IA, OIPA, or SEEDS (i.e. – at the site of mediation) by all parties, the subsequent failure of the complainant to attend a mediation session scheduled by SEEDS shall not result in any further investigation by IA into the underlying complaint; conversely, the subsequent failure of any of the involved BPD employees to attend a mediation session scheduled by SEEDS shall result in the termination of mediation efforts with respect to the underlying complaint, which will be then be handled by IA pursuant to BPD Policy 1020.

If, for any reason, SEEDS is unable to schedule a date for the mediation that is within 90 days of the date that the underlying complaint was initiated, OIPA will notify SEEDS to cease further attempts at scheduling the mediation. IA shall then handle the complaint pursuant to BPD Policy 1020.

Upon completion of its mediation efforts, SEEDS will contact OIPA to inform it of the outcome of those efforts. OIPA will, in turn, notify IA of the outcome.

If SEEDS reports that mediation occurred, IA shall indicate the disposition of the underlying Citizen Complaint as “Mediated.” No further investigation will be conducted by IA with regard to the mediated complaint, and the complaint shall not be relied upon, in any way, as a basis for disciplinary proceedings or in the evaluation of an employee. This does not preclude a mediated complaint from being considered when determining officer eligibility for a separate mediation, in accordance with Section 1021.2.2.

If SEEDS reports that mediation did not occur, SEEDS will also send a “No Mediation Letter” to the party that was requesting the mediation.

Involved BPD employees in receipt of such a letter may forward a copy to IA, which shall include the copy in the file for the associated case. IA shall also indicate the disposition of the underlying Citizen Complaint as “Mediated.” No further investigation will be conducted by IA with regard to the mediated complaint, and the complaint shall not be relied upon, in any way, as a basis for disciplinary proceedings or in the evaluation of an employee. This does not preclude a mediated complaint from being considered when determining officer eligibility for a separate mediation, in accordance with Section 1021.2.2.

Complainants in receipt of such a letter may forward a copy to IA, which shall include the copy in the file for the associated case. IA shall then handle the complaint pursuant to BPD Policy 1020.

1021.3.5 CONDUCT OF MEDIATION

The mediation itself shall be conducted according to the rules established for Community Mediation by SEEDS. Neither OIPA nor IA shall have any role in conducting any of the mediation sessions, nor shall they be present during any such sessions.

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Pursuant to SEEDS standard practice, requests by either party in a mediation to be accompanied by a representative or another person must be made directly to SEEDS prior to the mediation session; this is so that consent can be sought by SEEDS from the opposite party before the request is granted to the requesting party.

Exclusive of any materials it deems confidential in line with its standard operating procedures, SEEDS shall deliver all of the materials it has related to the mediation proceeding (i.e. - written consent to the mediation from the involved parties) to OIPA. OIPA shall deliver a copy of all such materials to IA.

1021.3.6 COST OF MEDIATION

OIPA shall be responsible for the payment of all fees arising out of the mediation services provided by SEEDS pursuant to the Complaint Mediation Program.

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Seat Belt Procedure

1022.1 PURPOSE AND SCOPE

The use of seat belts and other safety restraints significantly reduces the chance of death or injury in case of a traffic collision. This policy establishes guidelines for seat belt and child safety seat use to promote maximum operator and passenger safety, thus reducing the possibility of death or injury as the result of a motor vehicle crash. This policy will apply to all employees operating or riding in department vehicles (Vehicle Code § 27315.5).

1022.2 WEARING OF SAFETY RESTRAINTS

All employees shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this department while on- or off-duty or in any privately owned vehicle while on-duty. The employee driving such a vehicle shall ensure that all other occupants, including non-employees, are also properly restrained.

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a seat belt would endanger the officer or the public. Employees must be prepared to justify any deviation from this requirement.

1022.2.1 TRANSPORTING CHILDREN

Children under the age of 8 should be transported in compliance with California's restraint system requirements (Vehicle Code § 27360).

A child may be transported by sworn personnel without the use of a child passenger restraint system in an authorized emergency vehicle if a child passenger restraint system is unavailable and the child is secured by a seat belt (Vehicle Code § 27363(b) and Vehicle Code § 165).

Members should deactivate, if available, the passenger side airbag when appropriate, such as when transporting a rear-facing infant or child in the front seat.

1022.3 TRANSPORTING PRISONERS

Whenever possible, prisoners should be secured in the prisoner restraint system in the rear seat of the patrol vehicle or, when a prisoner restraint system is not available, by seat belts. The prisoner should be in seating position for which seat belts have been provided by the vehicle manufacturer. The prisoner restraint system is not intended to be a substitute for handcuffs or other appendage restraints.

1022.4 INOPERABLE SEAT BELTS

No person shall operate a department vehicle in which the seat belt in the driver's position is inoperable. No person shall be transported in a seating position in which the seat belt is inoperable.

No person shall modify, remove, deactivate or otherwise tamper with the vehicle safety belts, except for vehicle maintenance and repair staff who shall do so only with the express authorization of the Chief of Police.

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Seat Belt Procedure

Employees who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

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Body Armor

1024.1 PURPOSE AND SCOPE

Practical safety measures should be used to reduce the risks and hazards associated with police work. The department provides soft body armor for personnel in an effort to improve safety.

1024.2 POLICY

It is the policy of the Bay Area Rapid Transit Police Department to maximize officer safety through the use of body armor in combination with prescribed safety procedures. While body armor provides a significant level of protection, it is not a substitute for the observance of officer safety procedures.

1024.2.1 WEARING OF BODY ARMOR

All sworn officers and RPG's working in a patrol assignment shall wear body armor, unless a doctors note is on file with the Support Services Supervisor releasing the officer from wearing body armor for a medical purpose. Command level personnel who are assigned to an administrative or office position, and wear a uniform, are not required to wear body armor. Doctors notes are to be updated on an annual basis.

1024.3 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 Files

1026.1 PURPOSE AND SCOPE

This section governs the maintenance, retention and access to peace officer personnel files in accordance with established law. It is the policy of this department to maintain the confidentiality of peace officer personnel records pursuant to Penal Code § 832.7.

1026.2 PERSONNEL FILES DEFINED

Pursuant to Penal Code § 832.8, peace officer personnel records shall include any file maintained under an individual officer's name relating to:

(a) Personal data, including marital status, family members, educational and employment history, or similar information.

(b) Medical history including medical leave of absence forms, fitness for duty examinations, workers compensation records, medical releases and all other records which reveal an employee's past, current or anticipated future medical conditions.

(c) Election of employee benefits.

(d) Employee advancement, appraisal, or discipline.

(e) Complaints, or investigations of complaints, concerning an event or transaction in which the officer participated, or which the officer perceived, and pertaining to the manner in which the officer performed official duties.

(f) Any other information the disclosure of which would constitute an unwarranted invasion of personal privacy.

1026.3 EMPLOYEE RECORD LOCATIONS

Employee records will generally be maintained in any of the following:

Administrative File - That file which is maintained in the office of the Chief of Police as a permanent record of a sworn officer's employment with this department.

Supervisory File - Any file which is separately maintained internally by an employee's supervisor(s) within an assigned bureau for the purpose of completing timely performance evaluations.

Employee Development Record (EDR) - Any written comment, excluding actual performance evaluations, made by a supervisor concerning the conduct of an employee of this department.

Training File - Any file which documents the training records of an employee.

Internal Affairs Files - Those files that contain complaints of employee misconduct and all materials relating to the investigation into such allegations, regardless of disposition.

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Medical File - That file which is maintained separately that exclusively contains material relating to an employee's medical history.

1026.4 CONFIDENTIALITY OF ALL PERSONNEL FILES

Pursuant to Penal Code § 832.7, all of the above-defined personnel records shall be deemed confidential and shall not be subject to disclosure except pursuant to the discovery procedures set forth in Evidence Code § 1043, et seq. or in accordance with applicable federal discovery laws. Nothing in this section is intended to preclude review of personnel files by the General Manager, General Counsel or other attorneys or representatives of the District in connection with official business.

1026.5 REQUESTS FOR DISCLOSURE

Only written requests for the disclosure of any information contained in any peace officer personnel record will be considered. Since the format of such requests may be strictly governed by law with specific responses required, all such requests shall be promptly brought to the attention of the Watch Commander, the Custodian of Records or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected employee(s) as soon as practicable that such a request has been made (Evidence Code § 1043(a)).

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this will require assistance of approved and available legal counsel.

All requests for disclosure, which result in access to an employee's personnel file(s), shall be logged in the corresponding file.

1026.5.1 RELEASE OF CONFIDENTIAL INFORMATION

Except as provided by this policy or pursuant to lawful process, no information contained in any confidential peace officer personnel file shall be disclosed to any unauthorized person(s) without the expressed prior consent of the involved officer or written authorization of the Chief of Police or his or her designee.

Any person who maliciously, and with the intent to obstruct justice or the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any member of this department may be guilty of a misdemeanor (Penal Code § 146e).

Pursuant to Penal Code § 832.7(e), the disposition of any citizen's complaint shall be released to the complaining party within 30 days of the final disposition. This release shall be limited to the disposition and shall not include what discipline, if any was imposed.

The Department may also release any factual information concerning a disciplinary investigation if the officer who is the subject of the investigation (or the officer's representative) publicly makes a statement which is published in the media and which the officer (or representative) knew to be

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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(d)).

1026.6 EMPLOYEE ACCESS TO OWN FILE

Any employee may request access to his/her own personnel file(s) during the normal business hours of the individual(s) responsible for maintaining such file(s), provided that three (3) business day advanced notice is given. Additionally, an employee may authorize, in writing, that an Association representative can access the administrative file provided the same three (3) day advance notice is given. Any employee seeking the removal of any item from his/her personnel file shall file a written request to the Chief of Police through the chain of command. The Department shall thereafter remove any such item if appropriate or within 30 days provide the employee with a written explanation why the contested item will not be removed (Government Code 3306.5). If the contested item is not removed from the file, the employee's request and the department's written response shall be retained with the contested item in the employee's personnel file.

Employees may be restricted from accessing files containing any of the following information:

(a) Ongoing Internal Affairs investigations to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the employee of the intent to discipline.

(b) Confidential portions of Internal Affairs files which have not been sustained against the employee

1026.7 TYPES OF PERSONNEL FILES

Peace officer personnel files can be located in any of the following places:

1026.7.1 DEPARTMENT FILE

The administrative file should contain, but is not limited to, the following:

(a) Performance evaluation reports regularly completed by appropriate supervisor(s) and signed by the affected employee shall be permanently maintained

(b) Records of all training (original or photocopies of available certificates, transcripts, diplomas and other documentation) and education

    1. It shall be the responsibility of the involved employee to provide the training officer or immediate supervisor with evidence of completed training/education in a timely manner.

    2. The training officer or supervisor shall ensure that copies of such training records are placed in the employee's administrative file.

(c) Disciplinary action:

    1. Disciplinary action resulting from sustained internally initiated complaints or observation of misconduct shall be maintained in the individual employee's

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administrative file in accordance with the department's disciplinary policies and procedures and in accordance with applicable law.

2. Disciplinary action resulting from a sustained citizen's complaint shall be maintained in the individual employee's administrative file at least five years (Penal Code § 832.5)

3. Investigations of complaints which result in a finding of not-sustained, unfounded or exonerated shall not be placed in the employee's administrative file, but will be separately maintained for the appropriate retention period in the Internal Affairs file.

(d) Adverse comments such as supervisor log entries may be retained in the administrative file or supervisory file after the employee has had the opportunity to read and initial the comment and for a period up to two years Government Code § 3305)

1. Once an employee has had an opportunity to read and initial any adverse comment prior to entry into a file, the employee shall be given the opportunity to respond in writing to such adverse comment within 30 days (Government Code § 3306)

2. Any such employee response shall be attached to and retained with the original adverse comment.

3. If an employee refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment. Such a refusal, however, shall not be deemed insubordination nor shall it prohibit the entry of the adverse comment into the employee's file.

(e) Commendations shall be retained in the employee's administrative file,with a copy provided to the involved employee(s)

(f) Personnel orders reflecting assignments, promotions and other changes in the employee's employment status

(g) A photograph of the employee

1026.7.2 DIVISION FILE

The supervisory file should contain, but is not limited to, the following:

(a) Supervisor log entries, notices to correct and other materials intended to serve as a foundation for the completion of timely performance evaluations.

1. All materials intended for this interim file shall be provided to the employee prior to being placed in the file in accordance with Government Code §§ 3305 and 3306.

2. Duplicate copies of items that will also be included in the employee's administrative file may be placed in this interim file in anticipation of completing any upcoming performance evaluation.

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3. Once the permanent performance evaluation form has been made final, the underlying foundational material(s) and/or duplicate copies may be purged in accordance with this policy.

(b) All rules of confidentiality and disclosure shall apply equally to the supervisory file.

1026.7.3 INTERNAL AFFAIRS FILE

Internal affairs files shall be maintained under the exclusive control of the Internal Affairs Section in conjunction with the office of the Chief of Police. Access to these files may only be approved by the Chief of Police or the supervisor of the Internal Affairs Section. These files shall contain:

(a) The complete investigation of all formal complaints of employee misconduct, regardless of disposition

1. Each investigation file shall be sequentially numbered within a calendar year (e.g., yy-001, yy-002).

2. Each investigation file arising out of a formal citizen's complaint or a complaint involving a discriminatory harassment or hostile work environment shall be maintained no less than five years (Penal Code § 832.5(b)). Investigation files arising out of other internally generated complaints shall be maintained no less than two years (Government Code § 34090).

(b) Investigations that result in other than a sustained finding shall be maintained for the minimum statutory period but may not be used by the Department to adversely affect an employee's career (Penal Code § 832.5 (c)).

1026.7.4 TRAINING FILES

An individual training file shall be maintained by the Internal Affairs Section for each employee. Training files will contain records of all training (original or photocopies of available certificates, transcripts, diplomas and other documentation) and education.

(a) It shall be the responsibility of the involved employee to provide the Training Sergeant or immediate supervisor with evidence of completed training/education in a timely manner

(b) The Training Sergeant or supervisor shall ensure that copies of such training records are placed in the employee's Training File

1026.7.5 MEDICAL FILE

A medical file shall be maintained separately from all other files and shall contain all documents relating to the employee's medical condition and history, including but not limited to the following:

(a) Materials relating to medical leaves of absence.

(b) Documents relating to workers compensation claims or receipt of short or long term disability benefits.

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(c) Fitness for duty examinations, psychological and physical examinations, follow-up inquiries and related documents.

(d) Medical release forms, doctor's slips and attendance records which reveal an employee's medical condition.

(e) Any other documents or material which reveals the employee's medical history or medical condition, including past, present, or future anticipated mental, psychological, or physical limitations.

1026.8 PURGING OF FILES

Formal citizen complaints and all related files not pending litigation or other ongoing legal proceedings may be purged no sooner than five years from the underlying complaint date (Penal Code § 832.5).

All other disciplinary files and investigations of non-citizen initiated complaints not pending litigation or other ongoing legal proceedings may be purged no sooner than two years from the underlying complaint date (Government Code § 34090; Government Code § 26202).

(a) Each supervisor responsible for completing the employee's performance evaluation shall also determine whether any prior sustained disciplinary file should be retained beyond the statutory period for reasons other than pending litigation or other ongoing legal proceedings.

(b) If a supervisor determines that records of prior discipline should be retained beyond the applicable statutory period, approval for such retention shall be obtained through the chain of command from the Chief of Police.

(c) During the preparation of each employee's performance evaluation, all complaints and discipline should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development. If, in the opinion of the Chief of Police, a complaint or disciplinary action beyond the statutory retention period is no longer relevant, all records of such matter may be destroyed pursuant to resolution.

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Senior Officer Progression and Master Officer Program

1027.1 PURPOSE AND SCOPE-SENIOR OFFICER PROGRESSION AND MASTER POLICE OFFICER

To provide a uniform procedure for the submission and processing of requests for consideration for advancement to the position of Senior Police Officer and Master Police Officer Status.

1027.2 DEFINITIONS-SENIOR POLICE OFFICER

(a) **Senior Police Officer -** That classification which a police officer may progress to, or continue to be ranked as, when all requirements as set forth by the BART Police Department are satisfied. There are two (2) levels of Senior Police Officer:

1. Senior Officer Intermediate, and
2. Senior Officer Advanced. (Each level requires different minimum qualifications.)

(b) **Non-Credit Time -** Time that does not count toward service-time experience in determining senior officer progression eligibility. Non-credit time includes the following:

1. Any non-paid leave of absence
2. Employee receiving disability insurance after thirty-one (31) continuous days
3. Any suspensions of more than fifteen (15) days
4. Employee is placed on industrial injury disability leave (4850 time) after thirty-one (31) continuous days
5. Employee placed on Temporary Modified Duty Assignment or on an extended leave of absence after thirty-one (31) continuous days on industrial or non-industrial injury disability
6. Employees on Administrative Leave after thirty-one (31) continuous days

1027.3 MINIMUM REQUIREMENTS-SENIOR OFFICER PROGRESSION

Only full-time paid status is applicable in determining years of service-time experience for senior officer progression. All time, based on days, weeks or months on non-credit status shall be deducted from the total service-time experience. All candidates seeking final approval for senior officer progression must have received an annual rating of "competent" or better in all categories on his/her Employees Performance Evaluation within six months of his/her request for senior officer progression; a positive recommendation by the Support Services Deputy Chief; and have met the qualifications for Senior Officer Intermediate or Advanced described below.

(a) **Senior Officer Intermediate:**

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1. Entry-level officers or police officers with less than one (1) year prior police service-time experience must have completed the following:
    (a) A twelve (12) month probationary period and an additional thirty-six (36) month non-probationary period as a police officer with the BART Police Department. Officers sent to a police academy by the BART Police Department shall have a probationary period of one (1) year from their date of graduation from the police academy.
2. Police Officers with more than one (1) year prior police service-time must have completed the following:
    (a) Completion of the twelve (12) calendar month probationary period and an additional twenty four (24) calendar month non-probationary period as a police officer with the BART Police Department.
    (b) Possession of an Intermediate P.O.S.T. Certificate.

(b) **Senior Officer Advanced:**

(a) Police Officers must have completed the following:
    (a) Completion of six (6) years service-time experience as a sworn police officer, including completion of the twelve (12) month probationary period and twenty-four (24) months of non-probationary police service-time experience with the BART Police Department
    (b) Possession of an Advanced P.O.S.T. Certificate.

1027.4 REQUESTING OFFICER'S RESPONSIBILITY

A qualified police officer desiring progression to senior officer status shall submit a memorandum of request for Senior Officer Intermediate or Advanced status and a copy of his/her Intermediate or Advanced P.O.S.T. Certificate via the chain of command to the Support Services Deputy Chief.

An officer may apply for an Intermediate or Advanced Certificate from P.O.S.T. up to thirty (30) days in advance of his/her actual date of eligibility. Upon meeting the required service time for advancement to Senior Officer Intermediate or Advanced and receiving a competent or better rating on his/her Employee Performance Evaluation, the officer shall submit a memorandum of request and a copy of his/her application for a P.O.S.T. Certificate, signed by the Chief of Police, to the Support Services Bureau Deputy Chief and retain a copy of each document for himself/herself. Upon receipt of his/her certificate, the officer shall forward a copy of the P.O.S.T. Certificate to the Support Services Bureau Deputy Chief.

Memorandums requesting progression to senior officer will not be accepted prior to the actual date of eligibility.

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Fully completed and qualifying senior officer progression shall be retroactive to the date when the request was received by the officer's immediate supervisor, or in his/her absence, a command-level officer.

The requesting officer shall include the following information in a memorandum of request to his/her immediate supervisor for review and approval:

- His/her date of hire as a police officer with the BART Police Department, the date he/she completed probation and the actual date of eligibility;
- The names and dates of service of all police department(s) where he/she was previously employed as a sworn police officer;
- All dates involving non-credit time.

1027.5 SUPERVISOR'S RESPONSIBILITY

The officer's immediate supervisor at the time of application shall be responsible for the following:

(a) Signing and dating receipt of the required documents submitted by the officer for progression and returning a copy of same to the officer for his/her records;

(b) Verifying the officer's service time by contacting the Administrative Services Supervisor to obtain records of non-credit status time. The supervisor shall confirm the officer's date of hire as a police officer with the BART Police Department and the total service time. Any non-credit status time shall be noted and subtracted from the total service time;

(c) Verifying all prior service time. as a sworn police officer, including the names of the agencies and the dates of service. Only service time as a full-time paid non-probationary police officer shall be counted. Service time as a reserve officer or non-sworn classification (e.g. cadet, aide, dispatcher, jailer, parking control aide or community service assistant) shall not be counted;

(d) Verifying that the correct P.O.S.T. Certificate has been attached to the memorandum of request or a copy of the officer's application for a P.O.S.T Certificate signed by the Chief of Police has been attached to the request;

(e) Ensuring that the officer has received an annual evaluation within six months of the memorandum of request. If no evaluation is on file, the supervisor will complete an evaluation within ten (10) calendar days of the receipt of the memorandum of request;

(f) Forwarding the completed memorandum of request and supporting documentation to the Support Services Deputy Chief via the chain-of-command.

1027.6 SENIOR OFFICER REVIEW -SUPPORT SERVICES BUREAU

Memorandums of request to senior officer status will be reviewed and processed by the Support Services Bureau Deputy Chief. If the officer meets the qualifications for progression, the application shall be approved and processed accordingly. The Deputy Chief will review the officer's

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request and performance evaluation to confirm that the officer is rated competent or better in all performance categories, and approve the necessary certification documents. The decision to grant progression will be made within 30 calendar days of the receipt of the completed senior officer application package and in accordance with applicable BPOA Bargaining Agreement language.

Progression shall be contingent upon merit and completion of the requirements for either step of the classification and approval of necessary certification documents. Merit eligibility shall be determined by a competent or better performance rating in all applicable performance categories.

In the event an officer is denied progression, he or she will be informed of the reason (s) for denial with within 30 days of the decision.

1027.7 OFFICE OF THE CHIEF

The Chief of Police or his/her designee shall review all documents relating to the officer and will make the final determination whether an officer is awarded Senior Officer status.

1027.8 SUPPORT SERVICES BUREAU

The Support Services Deputy Chief will notify the Human Resources Department when an officer is granted a Senior Police Officer status as determined by the Chief of Police. A copy of such determination will be placed in the affected officer's personnel file.

1027.9 CONTINUED RANKING

Once attained, senior officer status shall become permanent.

1027.10 MASTER OFFICER PROGRAM

The Master Officer Program was established to encourage experienced officers to increase their professional skill by serving in special, specialized and non-patrol assignments. To qualify for Master Police Officer status, an officer must satisfactorily meet all of the criteria.

(a) Ten (10) full years of experience as a sworn police officer, seven (7) full years of which must be as a Senior Advanced Officer and five (5) full years of which must have been in patrol with the Bay Area Rapid Transit District.

(b) Work in and completion of two (2) full calendar year special, specialized or non-patrol assignments, one (1) of which must be a non-patrol assignment. The Officer must remain in the non-patrol assignment for a minimum of three (3) years. Any alteration of this requirement must be approved by the Chief of Police. Each of the following assignments qualify as one (1) assignment credit toward completion of the requirements needed to attain Master Police Officer status:

1. Background Investigator **
2. Bicycle Patrol
3. Canine Handler

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4. Crime Analyst **
5. Defensive Tactics Instructor
6. Detective **
7. Dispatch Qualified Officer
8. FBI Joint Terrorism Task Force **
9. Field Training Officer
10. Firearms Range Officer
11. First Aid/CPR Instructor
12. Hostage Negotiator
13. I.D. Technician *
14. Juvenile Officer */**
15. Motorcycle Officer *
16. Personnel & Training Officer **
17. Special Enforcement Team (SET) **
18. Special Investigation Unit */**
19. Special Problems Unit */**
20. SWAT Team
21. Tactical Team
22. Together Against Graffiti (TAG) Team **
23. Traffic Officer **
24. Train Team */**
25. Community Service Police Officer (Added August 2010 by Chief of Police)

The Chief of Police retains the sole discretion to make assignments consistent with the BPOA MOU, Special Assignments. In the event an assignment is terminated by the Chief of Police, an officer who has worked one hundred eighty (180) days or more in a qualifying assignment shall receive credit for completion of the assignment.

The Chief of Police, at his discretion, may add assignments/ categories to the qualifying list.

Receipt of an "Effective" or higher rating in the officer's annual performance evaluations and no active discipline at the time of application for Master Police Officer status. Officers applying for Master Police Officer status who have not received an annual evaluation within the last six (6) months shall receive a written performance evaluation for the purpose of qualification for Master Police Officer status. Officers who are rated less than "Effective" and wish to appeal their

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disqualification shall have recourse to the Chief of Police for the purpose of qualification for Master Police Officer status only. The written appeal shall contain a brief outline of the facts and reasons giving rise to the appeal.

Achievement of Master Police Officer status shall be contingent upon meeting the requirements as set forth in criteria 1 and 2 along with the presentation and approval of the necessary documents. Once Master Officer status is attained it becomes permanent. Officers achieving Master Police Officer status shall receive a two percent (2%) increase to their base wage.

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Special Assignments, Non-Patrol and Specialized Job Assignments

1028.1 PURPOSE AND SCOPE

To provide a vehicle for interested employees to declare their intent for special assignments, non-patrol and specialized job assignments, and to provide a fair and impartial process for selecting personnel for these assignments.

1028.1.1 DEFINITIONS

Special Assignment - Short-term job assignment filled by officers assigned to Patrol.

Non-Patrol Assignment - Job assignments outside of Patrol (e.g., Detectives, SPU, Traffic). Non-patrol special assignments are normally three (3) years in length but may be extended by two additional six month extensions at the request of the employee and the discretion of the Chief.

Employees selected for the Detective Section will have a five (5) year assignment.

Specialized Job Assignment - Job assignments that require special skills or training (e.g., Range Officer, Canine Handler, FTO, ID technician).

1028.2 MEMORANDUMS-OF-INTEREST

Personnel may submit memorandums-of-interest (MOIs) for a special assignment, non-patrol or specialized job assignment when a position is announced. The employee should list his/her qualifications, including but not limited to, all experience, education and training that is relevant to the desired assignment. Memos are due by the deadline listed in the announcement and should be sent via the chain-of-command to the Bureau Deputy Chief or other person listed in the bulletin. Candidates must be eligible for the assignment by the MOI deadline date.

1028.2.1 SUPERVISORY RESPONSIBILITY

Supervisors who receive an MOI should complete a recommendation for the candidate regarding the assignment desired. Supervisors must comment on the following areas regarding a candidate's qualifications and suitability for any particular assignment:

- Attendance
- Discipline
- EDR file review
- Compliance with minimum qualifications

Additionally, the supervisor should include a recommendation (positive or negative) and any other information that would be relevant to making a selection.

Recommendations should normally be completed by the candidate's immediate supervisor, provided that he/she has directly supervised the candidate for at least three (3) months. Other

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supervisors who provided supervisory responsibility over the candidate during last 12 months may also provide input.

1028.3 TESTING PROCESS (IF APPLICABLE)

If a testing process is included in the selection of a candidate(s), the testing process will be outlined in the original announcement bulletin. A testing process may consist of any or all of the following:

- Interview panel (consisting of a command-level officer, person in-charge of the unit, section, or team being tested, and a member from and approved by the BPOA as per the BPOA agreement)
- Written exam (minimum passing score of 75%)
- Practical exercise

Prior to the testing process, the weight of each phase should be announced. An overall score of 75% is required to be placed onto an eligibility test.

1028.4 SELECTION PROCESS

Unless otherwise stated, a pool of five (5) candidates that have been deemed qualified for the position (through the selection process) will be established for any given assignment. An exception to this may be if the assignment was a one-time selection for a given period. Additionally, if less than five candidates are deemed qualified, the pool will only consist of those qualified. Any additional candidates beyond the pool of five should be ranked and listed numerically. When a person is selected from the pool of five, the first ranked person from beyond the pool then moves into the pool.

A candidate's qualifications, work performance, attendance record, active discipline, sustained IA complaints, prior and current assignments, passing test results, and any recommendations from the oral panel should be presented to the command staff as a personnel issue for discussion prior to the selection of any individual(s). The final selection will be made by the Chief of Police.

A bulletin will be issued announcing the selection of an employee to any special assignment, non-patrol or specialized job assignment. The eligibility list should remain in effect until exhausted or as long as indicated in the announcement bulletin. The Chief of Police may extend the length of the eligibility list.

1028.5 REMOVAL FROM ASSIGNMENT

An employee may be removed from an assignment for any of the following reasons:

- Fails to perform the required tasks satisfactorily
- Fails to meet or exceed standards in all categories of his/her Employee Performance Evaluation
- Demonstrates a pattern of unsafe or unacceptable practices
- For any reason identified by the Chief of Police, which may include a disciplinary finding

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- Voluntary request in writing by the employee, with a 30-day notice, unless waived by the deputy chief of the affected chain of command
- The time-limit for the assignment expires

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Bilingual Certification Procedure

1029.1 PURPOSE AND SCOPE

To establish a procedure to identify BART police personnel who are fluent in a non-English language frequently used by non-English speaking BART patrons.

1029.2 POLICY

The Chief of Police shall determine the foreign language(s) most commonly used by the communities served by BART; and the certification process for those active employees who seek compensation by the District for utilization of their foreign language skills.

Compensation for BPOA members certified by the department shall be in accordance with section 51, III, B., of the current BPOA Labor agreement with the District.

1029.3 DEFINITIONS

Bilingual Examination Panel - A departmentally-approved panel consisting of two examiners for each language.

Designated Language - A Language or dialect designated by the Chief of Police for purposes of the bilingual certification process. The current languages are Cantonese, Mandarin, Spanish, Tagalog, Japanese, Hindi, Urdu, Cambodian, Thai, Ibo and American Sign Language.

1029.4 PROCEDURES

The department shall establish a bilingual examination panel consistent with section 1029.3 of this policy.

BPOA members who want to be certified as bilingual in the designated languages for compensation shall complete a "Request for Bilingual Certification" form and forward it to the Support Services Deputy Chief. **Applicants seeking certification for the first time may be tested no later than the last day of the February, following the receipt of the written request.**

Two examiners will test applicants in their respective languages. Applicants must demonstrate that they are fluent in a particular designated language. The duration of the examination will not be for any specified time. Under certain circumstances, applicants may be sent to an outside facility for certification (e.g., a school that teaches American sign language). When feasible, the examiners wilt make an audio or video tape of the examination. The exam will include, but is not necessarily limited to, sufficient dialog to obtain information necessary to complete a page one of a BART Police Department crime report (form 0489-1).

If the applicant is determined to be fluent in the tested Language, the examiners shall complete a "Letter of Bilingual Certification" and forward it, the tape, and any supporting documents to the Support Services Deputy Chief. Unsuccessful applicants may retest in one year.

The Support Services Deputy Chief will notify the applicant of the results of the examination, and a memo requesting compensation will be sent to the Human Relations Department.

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Bilingual Certification Procedure

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Employee Commendations

1030.1 PURPOSE AND SCOPE

Special recognition may be in order whenever an employee performs his/her duties in an exemplary manner. This procedure provides general guidelines for the commending of exceptional employee performance.

1030.2 WHO MAY MAKE COMMENDATIONS

A written commendation may be made by any supervisor regarding any other employee of the Department, provided the reporting person is superior in rank or is the person-in-charge of the individual being commended. Additionally, investigating officers may commend uniformed officers for exceptional assistance in investigative functions, with approval from the investigator's supervisor. Any employee may recommend a commendation to the supervisor of the employee subject to commendation.

1030.3 COMMENDABLE ACTIONS

A meritorious or commendable act by an employee of this department may include, but is not limited to, the following:

- Superior handling of a difficult situation by an employee
- Conspicuous bravery or outstanding performance by any employee of the Department
- Any action or performance that is above and beyond the typical duties of an employee

1030.3.1 COMMENDATION INCIDENT REPORT

A "To/From" memorandum entitled "Letter of Commendation" shall be used to document the commendation of the employee and shall contain the following:

(a) Employee name, bureau, and assignment at the date and time of the commendation

(b) A brief account of the commendable action shall be documented on the form with report numbers, as appropriate

(c) Signature of the commending supervisor

Completed reports shall be forwarded to the appropriate Bureau Deputy Chief via the chain of command for his/her review. The Bureau Deputy Chief shall sign and forward the report to the Chief of Police for his/her review.

The Chief of Police will return the commendation to the employee for his/her signature. The report will then be returned to Support Services for entry into the employee's personnel file.

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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 Watch Commander or employee's available Bureau Deputy Chief, a determination should be made whether or not the employee should be temporarily relieved from his/her duties.

(e) The Chief of Police shall be promptly notified in the event that any employee is relieved from duty.

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1032.4 NON-WORK RELATED CONDITIONS

Any employee suffering from a non-work related condition which warrants a temporary relief from duty may be required to use sick leave or other paid time off (PTO) in order to obtain medical treatment or other reasonable rest period.

1032.5 WORK RELATED CONDITIONS

Any employee suffering from a work related condition which warrants a temporary relief from duty shall be required to comply with personnel rules and guidelines for processing such claims.

Upon the recommendation of the Watch Commander or unit supervisor and concurrence of a Bureau Deputy Chief, any employee whose actions or use of force in an official capacity result in death or serious injury to another may be temporarily removed from regularly assigned duties and/or placed on paid administrative leave for the wellbeing of the employee and until such time as the following may be completed:

(a) A preliminary determination that the employee's conduct appears to be in compliance with policy and, if appropriate.

(b) The employee has had the opportunity to receive necessary counseling and/or psychological clearance to return to full duty.

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 Human Resources 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 (Civil Code § 56.10 (c)(8)(A)). If the employee places his/her condition at issue in any subsequent or related administrative action/grievance, the examining physician or therapist may be required to disclose any and all information which is relevant to such proceeding (Civil Code § 56.10(c)(8)(B)).

(c) In order to facilitate the examination of any employee, the Department will provide all appropriate documents and available information to assist in the evaluation and/or treatment.

(d) All reports and evaluations submitted by the treating physician or therapist shall be part of the employee's confidential personnel file.

(e) Any employee ordered to receive a fitness for duty examination shall comply with the terms of the order and cooperate fully with the examining physician or therapist regarding any clinical interview, tests administered or other procedures as directed. Any failure to comply

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with such an order and any failure to cooperate with the examining physician or therapist may be deemed insubordination and shall be subject to discipline up to and including termination.

(f) Once an employee has been deemed fit for duty by the examining physician or therapist, the employee will be notified to resume his/her duties.

1032.7 LIMITATION ON HOURS WORKED

Absent emergency operations members should not work more than:

- 20 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.

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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 District employees that has been established by the General 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 officers shall request clearance from the Communications Center prior to taking a meal period. Uniformed officers shall take their breaks within the District limits unless on assignment outside of the District.

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- or five-hour work period, as applicable per an eight- or ten-hour work day. Only one 15 minute break shall be taken during each four- or five-hours of duty. No breaks shall be taken during the first or last hour of an employee's shift unless approved by a supervisor.

Field officers will take their breaks in their assigned areas, subject to call and shall monitor their radios. When field officers take their breaks away from their vehicles, they shall do so only with the knowledge and clearance of the Communications Center.

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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 (29 USC § 207 and Labor Code §§ 1030-1032).

1035.2 POLICY

It is the policy of this department to provide, in compliance with the Fair Labor Standards Act, reasonable break time and appropriate facilities to accommodate any employee desiring to express breast milk for her nursing infant child (29 USC § 207 and Labor Code § 1030).

1035.3 LACTATION BREAK TIME

A rest period should be permitted each time the employee has the need to express breast milk (29 USC § 207). In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time. Such breaks, if feasible, should be taken at the same time as the employee's regularly scheduled rest or meal periods.

While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled and paid break time will be unpaid (Labor Code § 1030).

Employees desiring to take a lactation break shall notify the Communications Center or a supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt department operations (Labor Code § 1032).

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

1035.4 PRIVATE LOCATION

The Department will make reasonable efforts to accommodate employees with the use of an appropriate room or other location to express milk in private. Such room or place should be in close proximity to the employee's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view and free from intrusion from co-workers and the public (29 USC § 207 and Labor Code § 1031).

Employees occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other employees should avoid interrupting an employee during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.

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1035.5 STORAGE OF EXPRESSED MILK

Any employee storing expressed milk in any authorized refrigerated area within the Department shall clearly label it as such and shall remove it when the employee ends her shift.

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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 a Permit for Outside Employment (form #0269). Additionally, the employee must have the potential outside employer complete an Outside Employer's Liability Agreement (forms #0271 and 0271-1). Both completed forms shall be submitted to the employee's immediate supervisor. The application and liability forms 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 Permit for Outside Employment form and an Outside Employer's Liability Agreement 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)).

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1040.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

If an employee's Outside Employment Application is denied or withdrawn by the Department, the employee may file a written notice of appeal to the Chief of Police within ten days of the date of denial.

If the employee's appeal is denied, the employee may file a grievance pursuant to the procedure set forth in the current Memorandum of Understanding (MOU).

1040.2.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT PERMITS

Any outside employment permit may be revoked or suspended under the following circumstances:

(a) Should an employee's performance at this department decline to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of competency, the Chief of Police may, at his or her discretion, revoke any previously approved outside employment permit(s). That revocation will stand until the employee's performance has been reestablished at a satisfactory level and his/her supervisor recommends reinstatement of the outside employment permit

(b) Suspension or revocation of a previously approved outside employment permit may be included as a term or condition of sustained discipline

(c) If, at any time during the term of a valid outside employment permit, an employee's conduct or outside employment conflicts with the provisions of department policy, the permit may be suspended or revoked

(d) When an employee is unable to perform at a full duty capacity due to an injury or other condition, any previously approved outside employment permit may be subject to similar restrictions as those applicable to the employee's full time duties until the employee has returned to a full duty status

1040.3 PROHIBITED OUTSIDE EMPLOYMENT

Consistent with the provisions of Government Code § 1126 and this department's rules and regulations, the department expressly reserves the right to deny any Permit for Outside Employment form 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.

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(d) Involves time demands that would render performance of the employee's duties for this department less efficient.

(e) Involves employment during which the employee would be carrying a concealed or non-concealed firearm.

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.

1040.4 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

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records or databases of this department or other agencies through the use of the employee's position with this department.

1040.4.1 REVIEW OF FINANCIAL RECORDS
Employees approved for outside employment expressly agree that their personal financial records may be requested and reviewed/audited for potential conflict of interest (Government Code § 3308; Government Code § 1126). Prior to providing written approval for an outside employment position, the Department may request that an employee provide his/her personal financial records for review/audit in order to determine whether a conflict of interest exists. Failure of the employee to provide the requested personal financial records could result in denial of the off-duty work permit. If, after approving a request for an outside employment position, the Department becomes concerned that a conflict of interest exists based on a financial reason, the Department may request that the employee provide his/her personal financial records for review/audit. If the employee elects not to provide the requested records, his/her off-duty work permit may be revoked pursuant to § 1040.2.2(c) of this policy.

1040.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS

If an employee terminates his or her outside employment during the period of a valid permit, the employee shall promptly submit written notification of such termination to the Chief of Police through channels. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing to the Chief of Police any material changes in outside employment including any change in the number of hours, type of duties, or demands of any approved outside employment. Employees who are uncertain whether a change in outside employment is material are advised to report the change.

1040.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY

Department members engaged in outside employment who are placed on disability leave or modified/light-duty shall inform their immediate supervisor in writing within five days whether or not they intend to continue to engage in such outside employment while on such leave or light-duty status. The immediate supervisor shall review the duties of the outside employment along with any related doctor's orders, and make a recommendation to the Chief of Police whether such outside employment should continue.

In the event the Chief of Police determines that the outside employment should be discontinued or if the employee fails to promptly notify his/her supervisor of his/her intentions regarding their work permit, a notice of revocation of the member's permit will be forwarded to the involved employee, and a copy attached to the original work permit.

Criteria for revoking the outside employment permit include, but are not limited to, the following:

(a) The outside employment is medically detrimental to the total recovery of the disabled member, as indicated by the District's professional medical advisors.

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(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 this department, a request (in writing) may be made to the Chief of Police to restore the permit.

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On Duty Injuries

1042.1 PURPOSE AND SCOPE

The purpose of this policy is to provide for the reporting of on-duty injuries, occupational illnesses or deaths , to ensure proper medical attention is received, and document the circumstances of the incident. This policy will not supersede the BPOA or BPMA's District Agreement.

1042.2 WORKER'S COMPENSATION FUND REPORTS

1042.2.1 INJURIES REQUIRING MEDICAL CARE

All work related injuries and work related illnesses requiring medical care must be reported to a supervisor. Form 0030, Supervisor's Report of Injury/Illness and form DWC-1, Employees Claim for Workers Compensation Benefits form shall be provided to the injured employee within 24 hours from the time the injury was discovered, excluding weekends and holidays.

1042.2.2 ACCIDENT DEFINED

Accident - is defined as any occurrence from which bodily injury or property damage may result, regardless of whether any injury or damage actually does occur (e.g., exposure where no immediate injury is apparent).

1042.2.3 EMPLOYEE'S RESPONSIBILITY

Any employee sustaining any work-related injury or illness, as well as any employee who is involved in any accident while on duty shall report such injury, illness or accident as soon as practical to his/her supervisor.

Any employee observing or learning of a potentially hazardous condition is to promptly report the condition to his/her immediate supervisor.

Any employee sustaining a work-related injury or illness that requires relief from duty is required to be examined/treated by a doctor.

Any employee sustaining a work-related injury or illness that requires relief from duty is also required to comply with departmental policies and directives relating to the duty to periodically call in during absences, as well as the duty to notify the Department of any change in condition or anticipated duration of the absence.

When appropriate, an employee being treated for an on-duty injury should inform the attending physician that a modified duty assignment may be available at the Department. Temporary modified duty may be available for the employees whose injuries prevent resumption of regular duties. Employees should contact the civilian Administrative Services supervisor to request temporary modified duty.

An injured employee or employee who has suffered a work-related illness shall report as soon as practical to his/her immediate supervisor and the civilian Administrative Services supervisor the medical findings concerning the injury and the extent and duration of any work restrictions if

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they are known. In addition, such employees are required to promptly submit all medical releases, whether partial or full releases, to their supervisor. The medical release need to be faxed to 510-464-7089 prior to returning to work.

1042.2.4 SUPERVISOR'S RESPONSIBILITY
A supervisor learning of any work-related injury, illness or accident shall promptly prepare the appropriate forms as outlined under Policy Manual § 1042.2.1. Updated copies of forms with instructions for completion are kept in the Sergeant's office.

For work-related accidents, injuries or illness not requiring professional medical care, a Supervisor's Report of Injury/Illness form shall be completed in triplicate. All copies of the completed form shall be forwarded to the civilian Administrative Services supervisor, through the chain of command.

When an accident, injury, or illness is reported initially on the Supervisor's Report of Injury/Illness form and the employee subsequently requires professional medical care, the State of California Employer's Report of Occupational Injury or Illness form shall then be completed. The injured employee shall also sign the form in the appropriate location.

Every injured employee must be provided with an Employee's Claim for Workers' Compensation Benefits Form (DWC-1) within 24 hours, regardless of the nature of illness or injury.

Copies of any reports documenting the accident or injury should be forwarded to the civilian Administrative Services supervisor as soon as they are completed.

Both reports shall be faxed to BART Safety at 510-464-7552, Human Resources at 510-464-7511 and the Workers Compensation Administrator at 925-609-5444

1042.2.5 CHIEF OF POLICE RESPONSIBILITY
The Administrative Civilian Supervisor, as designated by the Chief of Police, shall review and forward copies of the report to the Human Resources Department. Any copies of the report and any related documents retained by the Department shall be filed in the employee's confidential medical file and not in the employee's personnel file (see Policy Manual § 1026).

1042.3 INJURY NOT REQUIRING MEDICAL ATTENTION
Those injuries and illnesses not requiring medical attention shall be recorded on a Supervisor's Report of Injury/Illness form. This form shall be completed and signed by a supervisor.

This form shall be signed by the affected employee, indicating that he/she desired no medical attention at the time of the report. By signing this form, the employee will not preclude his/her ability to seek medical attention later.

1042.4 SETTLEMENT OF INJURY CLAIMS
Occasionally, an employee's work-related injury results from the negligent or wrongful acts of another, for which the employee, the District, and/or other insurers are entitled to recover civilly.

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To ensure that the District's interests are protected and that the employee has the benefit of the District's experience in these matters, the following procedure is to be followed:

1042.4.1 EMPLOYEE TO REPORT INITIAL CONTACTS
When an employee sustains work-related injuries caused by another person and is then approached by such person or an agent, insurance company, or attorney and offered a settlement of claims, that employee shall take no action other than to make a written report of this contact to his/her supervisor as soon as possible.

1042.4.2 NO SETTLEMENT WITHOUT PRIOR APPROVAL
No less than ten (10) days prior to accepting and finalizing the settlement of any third party claim arising out of or related to an on duty injury, the employee shall provide the Chief of Police with written notice of the proposed terms of such settlement. In no case shall the employee accept a settlement without first providing such written notice to the Chief of Police. The purpose of such notice to permit the District to determine whether or not the offered settlement will affect any claim the District may have regarding payment for damage(s) to equipment or reimbursement for wages against the person who caused the accident or injury and to protect the District's right of subrogation, while ensuring that the employee's rights to receive compensation for injuries are 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. Employees granted exception by the Chief of Police shall adhere to the personal appearance standards when working outside of their current assignment.

1044.2.1 HAIR

Hairstyles of all members shall be neat in appearance. For male sworn members, hair must not extend below the top edge of the uniform collar while assuming a normal stance.

For female sworn members, hair must be no longer than the horizontal level of the bottom of the uniform patch when the employee is standing erect and shall be worn up or in a tightly wrapped braid or ponytail.

1044.2.2 MUSTACHES

A neatly trimmed mustache may be worn. Mustaches shall not extend beyond the natural hairline of the upper lip.

1044.2.3 SIDEBURNS

Sideburns shall not extend below the bottom of the outer ear opening (the top of the earlobes) and shall be trimmed and neat.

1044.2.4 FACIAL HAIR

Facial hair other than sideburns, mustaches and eyebrows shall not be worn, unless authorized by the Chief of Police.

1044.2.5 FINGERNAILS

Fingernails extending beyond the tip of the finger can pose a safety hazard to officers or others. For this reason, fingernails shall be trimmed so that no point of the nail extends beyond the tip of the finger.

1044.2.6 JEWELRY AND ACCESSORIES

No jewelry or personal ornaments shall be worn by officers on any part of the uniform or equipment, except those authorized within this manual. Jewelry, if worn around the neck, shall not be visible above the shirt collar.

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Earrings shall not be worn by uniformed sworn members, detectives or special assignment personnel without permission of the Chief of Police. Stud earrings will be the only earrings considered for approval. Only one ring may be worn on each hand of the employee while on-duty.

1044.3 TATTOOS

While on duty or representing the Department in any official capacity, tattoos or other body art will not be visible. Acceptable coverings for visible tattoos are: department uniforms, bandaids, skin colored sleeves, ace bandages.

1044.4 BODY PIERCING OR ALTERATION

Body piercing or alteration to any area of the body visible in any authorized uniform or attire that is a deviation from normal anatomical features and which is not medically required is prohibited. Such body alteration includes, but is not limited to:

(a) Tongue splitting or piercing.

(b) The complete or transdermal implantation of any material other than hair replacement.

(c) Abnormal shaping of the ears, eyes, nose or teeth

(d) Branding or scarification.

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Uniform Regulations

1046.1 PURPOSE AND SCOPE

The uniform policy of the BART Police Department is established to ensure that BART Police Department employees will be readily identifiable to the public through the proper use and wearing of department uniforms. Employees should also refer to the following associated Policy Manual sections:

- Section 700 Department Owned and Personal Property Section
- 1024 Body Armor Section
- 1044 Grooming Standards

1046.2 WEARING AND CONDITION OF UNIFORM AND EQUIPMENT

Police employees wear the uniform to be identified as the law enforcement authority. 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) Uniforms 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 sworn officers, CSOs and RPGs 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) All supervisors will perform periodic inspections of their personnel to ensure conformance to these regulations.

(e) Civilian attire shall not be worn in combination with any distinguishable part of the uniform.

(f) 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. The wearing of uniforms at non-work related events must be approved by the Chief of Police or his/her designee.

(g) If the uniform is worn while in transit, except to and from work, other than in a Department vehicle, an outer garment will be worn over the uniform shirt so as not to bring attention to the off duty employee.

(h) Employees are not to purchase or drink alcoholic beverages while wearing a Department uniform.

(i) Mirrored sunglasses will not be worn with any Department uniform.

(j) Visible jewelry, other than those items listed below, shall not be worn with the uniform unless specifically authorized by the Chief of Police or his/her designee. (See Policy Manual § 1044.2.6)

1. Wrist watch

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2. Wedding ring(s), class ring, or other ring of tasteful design. Only one ring/set may be worn on each hand.

3. Medical alert bracelet

4. Memorial 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 the Chief of Police or his/her designee.

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 by the Chief of Police or his/her designee. The Class A uniform is required for all sworn personnel. The Class A uniform includes the standard issue uniform with:

(a) Dress (Ike) jacket

(b) Long sleeve shirt with tie and tie bar

(c) Polished shoes or boots

(d) Dress hat with hat piece

(e) Leather or synthetic black basket weave duty belt

(f) Leather or synthetic holster, sidearm, single handcuff case and four belt keepers

(g) Badge and nameplate on dress jacket. Additional badge and nameplate may be worn on the uniform shirt.

(h) White dress gloves as directed

1046.3.2 CLASS B UNIFORM
All officers will possess and maintain a serviceable Class B uniform at all times.

(a) Duty jacket (optional)

(b) The long or short sleeve shirt may be worn with the collar open. No tie is required

(c) A black crew neck t-shirt must be worn with the uniform

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(d) All shirt buttons must remain buttoned except for the last button at the neck

(e) Black shoes or boots

(f) Leather, synthetic leather, or nylon duty gear (with approval from the Chief of Police or his/her designee) and related equipment.

(g) Ball cap, beanie or dress hat (optional)

1046.3.2(A) PATROL OFFICER - ALTERNATE "PATROL DUTY UNIFORM" (PDU)

The alternate class-B patrol duty uniform (PDU) shall be worn as specified below and in accordance with policy Section 1046.2. The PDU may be worn at any time, unless specifically directed by the Chief of Police or his/her designee. The PDU shall not be worn in combination with any wool uniform or class-A attire. The PDU is authorized for court appearances as described in policy Section 1046.11.2.

The Chief of Police has the final authority to discontinue the wearing of the PDU if he/she deems the uniform is not being worn in accordance with this policy.

Style: The only authorized brand of the PDU is the 5.11 Tactical Series, Patrol Duty Uniform, B-Class. The uniform color is Midnight Navy and is comprised of 65% polyester and 35% cotton twill. The PDU should be professionally laundered and pressed. Dry cleaning of the PDU is not authorized. Dry cleaning will damage the Teflon coating on the uniform causing premature wear and fading.

Long Sleeve Shirt: 5.11 Patrol Duty Uniform, B-Class, Midnight Navy.

Short Sleeve Shirt: 5.11 Patrol Duty Uniform, B-Class, Midnight Navy.

"POLICE" : The word POLICE will be displayed on the back of the uniform shirt. POLICE will be centered on the back of the shirt, with the top edge of the lettering approximately 4 inches below the bottom edge of the horizontal shoulder seam. Spacing between each letter will be approximately 1 inch. The lettering size and font will be 3 ½ inch, Bold Pro-Narrow, lettering. The color of the lettering will be "BART gold" (Lightning Yellow).

Trousers: 5.11 Patrol Duty Uniform, B-Class, Midnight Navy. Trousers shall not be bloused when wearing the PDU.

Patches: BART Police patches are to be sewn on to both shoulders of the uniform shirt as described in policy Section 1046.8.6.

Insignia of Rank: Rank insignia (Chief, Deputy Chief, Captain and Lieutenant) will be embroidered on the collar of the PDU according to current rank. Sergeant and Field Training Officer insignia, as well as service insignia, will be sewn on as described in policy Section 1046.11.3.

Accessories (optional): Optional accessories such as pins, awards etc., are not authorized to be worn on the PDU.

Badge: The Cloth star shall be sewn over the badge holder above the left pocket.

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Name Tag: The wearer shall have their first initial and last name stitched directly above the right pocket of the uniform shirt. Name strips are not authorized for use on the PDU. The color of thread will be Madeira gold 1225. The lettering font will be "Swiss Uppercase." The font size of the lettering is 0.48. SWAT team members are authorized to have, SWAT, embroidered 1/2" above their name over the right uniform pocket.

Undershirts: Black, standard crew-neck design. Black standard turtleneck, black mock turtleneck or black dickey may be worn under the long sleeve shirt.

Patrol Jacket: The department approved patrol jacket may be worn with the PDU as described in policy Section 1046.11.

Patrol Sweater: The department approved patrol sweater may be worn with the PDU as described in policy Section 1046.11.

Ball Cap: The department approved baseball cap may be worn with the PDU as described in policy Section 1046.11.

Beanie: The department approved beanie may be worn with the PDU. The beanie will not be worn with a short sleeve uniform shirt. Exceptions to this are when wearing a department approved patrol jacket or sweater over a short sleeve uniform shirt.

Dress Cap: The dress cap is not authorized to be worn with the PDU.

Ties: Ties are not authorized to be worn with the PDU.

Boots/Shoes: As described in policy Section 1046.11.

Rain Gear: May be worn with the PDU as described in policy Section 1046.11.

Gloves: May be worn with the PDU as described in policy Section 1046.11.

Miscellaneous Apparel and Equipment Regulations: As described in policy Section 1046.11.4.

PDU shirt pockets and trouser pants should not be over stuffed with items which cause pockets to bulge. Citation books should not be carried in the side pant leg trouser pockets of the PDU.

Community Service Officers, dispatchers and administrative personnel are authorized to wear the PDU trousers with their uniform shirt or department approved polo shirt.

1046.3.3 SPECIALIZED UNIT UNIFORMS
The Chief of Police may authorize special uniforms to be worn by personnel in specialized units such as Canine Team, SWAT, Bicycle Patrol, Explorer Program and other specialized assignments.

1046.4 INSIGNIA AND PATCHES

(a) Assignment Insignias ,# Assignment insignias, (SWAT, FTO, etc.) may be worn as designated by the Chief of Police or his/her designee.

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(b) Rank Insignia ,# The designated insignia indicating the employee's rank must be worn at all times while in uniform. The Chief of Police or his/her designee may authorize exceptions. See below for further information on insignias

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) Personnel electing to wear Department issued polo shirts (navy blue, black or grey) may wear them in combination with tan, navy blue or black BDU style pants (i.e. 5.11 style) or tan, navy blue or black slacks.

(e) The following items shall not be worn on duty:

1. T-shirt alone

2. Open toed sandals or thongs

3. Swimsuit, tube tops, or haltertops

4. Short pants

5. Spandex type pants or see-through clothing

6. Distasteful printed slogans, buttons or pins

(f) Variations from this order are allowed at the discretion of the Chief of Police or his/her designee when the employee's assignment or current task is not conducive to the wearing of such clothing.

(g) No item of civilian attire may be worn on duty that would adversely affect the reputation of the BART Police Department or the morale of the employees.

1046.6 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS

Unless specifically authorized by the Chief of 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 this department to do any of the following (Government Code §§ 3206 and 3302):

(a) Endorse, support, oppose, or contradict any political campaign or initiative.

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(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 this policy as optional (except for ball cap/dress hat) or not issued by the Department shall be purchased at the expense of the employee. Maintenance of optional items shall be the financial responsibility of the purchasing employee. For example, repairs due to normal wear and tear.

(b) Replacement of items listed in this policy as optional shall be done as follows:

1. When the item is no longer functional because of normal wear and tear, the employee bears the full cost of replacement.

2. When the item is no longer functional because of damage in the course of the employee's duties, it shall be replaced following the procedures for the replacement of damaged personal property. (Policy Manual § 700)

1046.8 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES

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.

Department employees may not use or carry any safety item, tool or other piece of equipment unless specifically authorized in the Uniform and Equipment Specifications or by the Chief of Police or designee.

1046.9 UNIFORM REPLACEMENT

Replacement or repair of uniforms and equipment authorized by the Department, damaged in the line of duty, will be replaced or reimbursed in accordance with department policy/MOU. An examination of the equipment and the facts surrounding the incident will be made by supervisory personnel. A recommendation will then be forwarded to the appropriate Deputy Chief. When it is determined that an employee's negligence has caused the damage to the uniform or equipment, reimbursement for loss will not be granted.

To file a claim for articles damaged in the line of duty, employees are required to complete a BART Police Department Uniform/Equipment/Personal Property Replacement form, including a report of the circumstances surrounding the damage. To qualify for reimbursement under this program, the circumstances must be those that are related to the employee's scope of employment and beyond his/her control. This would include those situations requiring emergency action, as opposed to those situations of a routine task in which the employee has the time and the opportunity to

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exercise reasonable and prudent care. Items not required by reason of the job, such as jewelry or other adornments, would not qualify for reimbursement. Other items not specifically listed above will be evaluated on the individual merits of the circumstances leading to the damage or loss.

1046.10 DUTY GEAR

All duty gear will be maintained in serviceable condition. It will not be discolored, checked, or cracked. All duty gear will be of one style or another and not mixed, i.e., some basket weave and some nylon duty gear.

Command level personnel will wear black leather or synthetic leather basket weave duty gear with a brass buckle and brass snaps. As an alternative, Command officers may wear black basket weave duty gear with hidden fasteners (e.g., "Velcro") or black snaps.

Command officers will not wear nylon duty gear (only with a doctor's note on file). Command officers will wear leather duty gear with brass buckle and snaps with the class A uniform.

Personnel below the Command level may wear black basket weave leather or synthetic leather gear with hidden fasteners (e.g., "Velcro") or black snaps.

Duty or Gun Belt - "Sam Browne" style without shoulder strap loop holders. **Trouser Belt** - Black Velcro or leather belt, not less than one inch in width. **Holster** - Every officer assigned to Patrol Division operations and guards assigned to Revenue Protection shall wear a holster which matches the duty belt.

(a) "Cross-draw" holsters are prohibited for uniformed personnel. (b) Plainclothes officers may carry shoulder holsters or other safe, concealable holsters. (c) All holsters shall be made for the specific weapon the officer/ RPG wishes to carry in it.

Ammunition Pouches & Extra Duty Rounds - Uniformed officers and RPGs shall carry at least two (2) high capacity or law enforcement only magazines in the duty pouches. Exposed ammunition is prohibited. Plainclothes assignment officers may wear ammunition pouches of their choice. **Baton Holder** ,# The baton ring shall be black plastic or metal, and the snaps shall be black. **Key Holder and Ring** ,# The following items of equipment are authorized to be carried on the key ring and holder, if worn: (a) Department and vehicle key ring. (b) Handcuff key. (c) Other keys needed by the officer within the scope of his/her job function. (d) Whistle

Handcuffs ,# Officers/RPGs will be equipped with handcuffs which shall be carried on the duty belt in a carrier. Uniformed personnel will not wear handcuffs which are visible. At least one handcuff will have a chain. Hinged handcuffs are not authorized. (a) Sworn personnel and RPGs are authorized to carry their choice of one handcuff case, two separate handcuff cases, or a double handcuff case capable of storing two sets of handcuffs. 1. The carrying of handcuffs by Investigators is mandatory unless engaged in pre- planned enforcement duties. 2. Off- duty officers are not required to possess or wear handcuffs. **Handcuff Case** ,# All uniformed sworn personnel and RPGs shall carry at least one handcuff case when wearing the duty gun belt. See above. **Belt Slide Loops (Keepers)** - Belt keepers shall be used to keep the duty belt in place. (a) The

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duty and trouser belts must be parallel while being worn. The duty belt will not be worn at angle so the trouser belt is visible.

Chemical Agent Aerosol and Case ,# Uniformed personnel carrying "OC" chemical agent shall carry the device in an approved carrying case when assigned to uniform patrol duty. See also section 308 regarding OC carry requirements. **Portable Radio Case** - Portable radio cases shall be leather (black basket weave design), plastic or metal, made to closely match the color and style of duty gear carried on the belt. **Flashlight Holders** - If worn on the duty belt, flashlight holders shall be either black leather with basket weave design or black nylon, plastic or metal, made to closely match the color and style of duty gear carried on the belt.

TASER Holder - The Department issued TASER holder or other approved TASER holder will be worn by uniformed personnel in accordance with Policy 309. **Other Items** - Any other equipment case or holder worn on the duty belt (i.e., knife case or glasses case) shall be of black leather in the basket weave design or black nylon, made to closely match the color and style of other duty gear carried on the belt. Cell phone holders may be black plastic. **Non Sworn Personnel Duty Gear** ,# Non-sworn personnel may wear the following duty gear items with their uniforms: trouser belt, OC holder and OC spray, key holder, radio holder, and flashlight holder. In addition to the above listed items, RPGs on uniformed duty are authorized to wear a holster and carry a firearm, magazine pouch, handcuffs and handcuff case(s) and a straight or side handled baton. RPGs who have been trained, may carry an approved collapsible baton.

1046.11 DESCRIPTION OF UNIFORM

See Policy Manual § 1046.3.1 and 1046.3.2 for a description of the Class A uniform and Class B uniform.

RPGs will comply with sworn police officer provisions regarding uniforms with the exceptions of color. (brown, tan) style (utility uniform) and badge. RPGs are not required to possess a Class A uniform. RPG uniforms and gear will be issued per the direction of the Support Services Division.

The shade of blue for sworn uniforms (with the exception of specialized units) is "OPD Blue".

The metal band on the Class A hat for Officers and Sergeants is gold. The cloth band for Command level personnel is gold. The braid on the Class A jacket sleeves for Command level personnel is gold.

Gold stars may be worn above the left sleeve braid for all ranks to signify five (5) years of full time police officer (see §§ 830.1 or 830.2 Penal Code) service. The stars shall be aligned horizontally.

a) **Duty Uniform** ,# When on regular uniform duty, uniform personnel may wear either a long or short sleeved shirt.

1. **Class A Jacket** ,# The sworn personnel Class A jacket is an "Eisenhower" style Jacket. A tie and tie bar must be worn when wearing the dress jacket. The tie bar shall be level with the bottom edge of the pocket flap of the uniform shirt. The metal nameplate and badge will be worn with the

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Class A jacket. Turtleneck t-shirts or dickeys will not be worn with the dress jacket. Every sworn officer will possess a Class A jacket.

2. **Duty Jacket** - The duty jacket for officers and CSOs will be navy blue waist length jacket (UPS brown for RPGs) with a synthetic collar designed for police service. The metal badge shall be worn on the exterior of the jacket. Cloth replica badges may be substituted for the actual metal badge but the replica must be approved by the Chief of Police or his/her designee. Navy colored cloth name tags/strips with gold lettering are authorized for the duty jacket (black name tag/strip with gold lettering for RPGs). Shoulder patches shall be worn.

3. **Uniform Shirt (Long Sleeve)** ,# The uniform long sleeve duty and dress shirt will be made for police service and manufactured of wool or Dacron/wool blend. Uniform shirts will have "military creases". A concealable zipper may be used to fasten the shirt. However, the zipper must be concealed and not change the appearance of the shirt. Dot snaps or Velcro may be placed at the corner of the pockets to suit individual desires. Cuffs on long sleeve shirts must be fastened at all times. Cuffs will not be rolled up.

4. **Uniform Shirt (Short Sleeve)** ,# The uniform short sleeve duty shirt requirements are identical to that of the long sleeve shirt except for the sleeves.

5. **Uniform Trousers** ,# The uniform trousers will be cut to prevailing military style and length. They shall be medium size at the knee and bottom with no cuff, and shall be properly fitted. They shall have a two inch waistband, two side pockets and two hip pockets. There shall also be at least one flashlight pocket. The trousers shall be manufactured of wool or Dacron/wool blend, matching that of the uniform shirt. Trousers will not be pleated.

6. **Undershirt** ,# The only visible color of undershirt authorized to be worn on duty is black. Undershirts will be worn with the uniform except unless specifically authorized by a Deputy Chief. Logos or portions of logos will not be visible beneath the body armor. Shirt sleeves will not protrude beyond short sleeve uniform shirts. Long sleeve t-shirts or turtlenecks will not be worn beneath a short sleeve shirt.

7. **Long Sleeve Shirt** ,# This shirt may be worn with the regulation necktie or with an open collar. If it is worn with an open collar, one of the following must be worn: (a) A black crew neck undershirt. (b) A black turtleneck undershirt or mock turtleneck. (c) A black dickey. (d) The sleeves of an undershirt shall not extend below the sleeve of the uniform shirt.

8. **Necktie** ,# The uniform tie will be black and manufactured of wool or wool/Dacron blend polyester. The tie shall be a "breakaway" style knotted in a Windsor knot at the throat. 9. **Socks** ,# The only visible color of sock authorized to be worn by personnel assigned to uniformed duty shall be navy blue or black with no design.

10. **Shoes and Boots** - All footwear worn with the Department uniform shall be constructed of material that has a smooth texture and that is capable of maintaining a black polished shine at the toe. The footwear will have center lacing free of any decorative punch work and/or ornamentation, and the toe of the footwear must be free of any construction stitching other than that found on

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military regulation boots. All boot hardware must be black and of a muted finish. The soles of the footwear must be constructed of a material that allows for comfort and safety for the employee during all types of weather, while walking and/or running. Ripple or crepe soles (rough textured rubber soles, white to brown in color) are prohibited. Leather soled shoes are not permitted for personnel involved in field duties. Western style boots (high heels, pointed toes) are not permitted. (a) Boots, 8 to 12 inches high, are approved for uniformed duty wear, providing the uniform trouser bottom meets the instep and the body of the boot meets the specifications above regarding the color, toe, style, etc., for shoes. (b) All shoes or boots worn while on duty shall not have any metal or plastic objects, commonly known as "taps", attached to them. (c) All unformed employees will assure that the footwear worn with the uniform is polished to the degree that it is clean and presents a positive image to the public.

11. **Uniform Cap/Beanie** ,# A blue (black for RPGs), all fabric, baseball style cap may be worn at any time. The cap will not be worn during appearances in a courtroom or with the class A uniform. (a) The cap will have the appropriate sized Department patch on its front center. The bill will be moderately curved, but it will not be curved upward. Wearing of this cap is optional. (b) The department approved beanie may be worn during cold and/or inclement weather. The beanie will not be worn during court appearances or with the class A uniform. Wearing of this beanie is optional.

12. **Gloves** - Gloves, when worn, shall be black leather or a black synthetic material and shall have no ornamentation other than finger ribbing. Sap gloves are prohibited. The dress uniform glove is white cotton and will be worn only when so ordered by the Office of the Chief of Police or a Deputy Chief for specified occasions, and only when the dress uniform is worn.

13. **Rain Jacket** ,# Rain gear shall be black, or reversible yellow/black or similar high visibility contrasting colors and shall be similar to a urethane coated nylon or gore-tex. Rain gear shall be single breasted, cut to fingertip length and shall have two side slits, one on each side, to permit access to the officer's gun and radio if the jacket extends below the waist. The rain jacket must have a badge holder in the center of the left breast area. Shoulder patches are optional on the rain jacket. Hooded rain jackets are not permitted. A replica cloth badge may be substituted for the metal badge but the cloth replica must be approved by the Chief of Police.

14. **Rain Pants** ,# Rain pants must conform to the color and material specified for the rain jacket above.

15. **Patrol Sweater** ,# The department approved patrol sweater may be worn by any uniformed personnel. It may be worn with the long-sleeve or short-sleeve uniform shirt and long pants. It may not be worn with the utility uniform or the bicycle uniform. It may be worn with the ball cap or beanie. The sweater comes with a badge holder affixed to the left chest. The wearer may choose to have a cloth badge and name strip sewn on or affix a metal name tag in accordance with 1046.8.6. BART Police patches are to be sewn on to both shoulders in accordance with 1046.8.6. Wearing of this sweater is optional.

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1046.11.1 PLAINCLOTHES INVESTIGATOR'S DRESS STANDARDS
Sworn personnel assigned to the Investigations Division will wear clothing consistent with that of a professional business office.

1046.11.2 DRESS STANDARD FOR COURT APPEARANCES
Personnel appearing in court shall wear either the authorized duty uniform or appropriate business attire. Business attire for male employees includes suit coat and tie or sport coat and tie, appropriate matching dress pants and shoes. Female employee business attire includes business dresses, blouses and skirts, or business suits and shoes.

1046.11.3 EMBLEMS, INSIGNIA AND BADGES
(a) **Cap Device** - The official Department issued cap device shall be worn with the dress uniform hat. It may be covered by a rain cover during inclement weather.

(b) **Badge** " When in uniform, all uniformed personnel shall wear the official badge currently authorized for them. The badge shall be attached to the badge holder on the outermost garment worn by the employee and shall be clearly visible at all times unless to do so would expose the officer to immediate and unusual danger, or if ordered/authorized to conceal the badge by a supervising officer. Cloth replica badges may be affixed to rain gear and patrol jackets. RPGs are permitted to affix cloth replica badges to their utility uniforms. The badge will remain the property of the BART Police Department.

(c) **Name Tag** " All uniformed employees will wear a Department issued name tag at all times, unless specifically excused by the Chief of Police or his/her designee.

1. All members of this Department will wear the name badge centered over the right hand pocket of their uniform shirt. When wearing the dress jacket, the name badge will be worn on the jacket above the right pocket. The bottom edge of the nameplate shall be flush with the top edge of the uniform/dress jacket pocket. The nameplate shall have two clutch fasteners or a horizontal pin and be manufactured of polished gold color metal with black lettering. CSOs and RPGs will wear a nameplate of polished silver color metal with blue lettering. The lettering shall consist of the full last name of the employee wearing the name badge. The first initial of the employee shall also be included on the name badge. These name badges will be issued to the employee by the Department. The Chief of Police or his/her designee may authorize the employee to include his or her first name in lieu of first initial on the name badge. Cloth name strips are not allowed on the Class A jacket or the Class B uniform shirt.

(d) **Accessories (Optional)** " Optional Accessories such as: American Flag Pin, Valor Award, Shooting Award Pin, 10851 Award Pin, SWAT Pin, HNT Pin, CIT Pin, K-9 Pin. No more than two optional accessories shall be displayed on the uniform shirt. Optional accessories displayed on the uniform shirt shall be centered one half inch above the name tag. When wearing two optional accessories, the first pin/award shall be centered one half inch above the name tag. The bottom edge of the second pin/award shall be flush with the top edge of the first award/pin. When wearing an American Flag Pin (other than the commendation bar style), that pin shall be displayed as the upper-most pin. When wearing a commendation bar style US Flag pin, it will be worn centered

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below the badge with the bottom edge of the pin sitting flush with the top edge of the left shirt pocket. No other style of US Flag Pin may be worn under the badge. The only authorized optional accessory to be worn on the Class A jacket is the Valor Award.

(e) **Insignia of Rank** - The following insignia have been designated to identify the various ranks or assignments with the Department and shall be worn in the manner prescribed herein.

1. **Chief of Police** " Four one inch, five pointed gold stars worn one on each shoulder of the uniform dress jacket or standard duty jacket (optional sewn on). Additionally, four 5/8 inch five pointed stars shall be worn on each collar of the uniform shirt.

2. **Deputy Chief** " Two one inch, five pointed gold star worn on each shoulder of the uniform dress jacket or standard duty jacket (optional sewn on). Additionally, two 5/8 inch five pointed star shall be worn on each collar of the uniform shirt.

3. **Commander** - One, one inch, five pointed gold star worn on each shoulder of the uniform dress jacket or standard duty jacket (optional sewn on). Additionally, one 5/8 inch five pointed star shall be worn on each collar of the uniform shirt.

4. **Captain** " Two sets of two parallel gold bars, one-inch in length and 3/8 inch in width, worn one on each shoulder strap of the uniform dress jacket or standard duty jacket, (optional sewn on), approximately inch from the shoulder seam. Additionally, one set of inch parallel gold color bars approximately 5/16 inch in width, with the two bars approximately inch apart shall be worn one on each collar, inch from the front of the collar and midway between the top and bottom of the collar of the uniform shirt.

5. **Lieutenant** " Two sets of single gold color bars, approximately one inch in length and 3/8 inch in width, shall be worn on each shoulder of the uniform dress jacket or standard duty jacket, (optional sewn on), parallel to and approximately 3/4 inch from the shoulder seam. Additionally, two sets of single gold bars, approximately one inch in length and 3/8 inch in width, shall be worn, one on each collar of the uniform shirt, centered midway between the top and the bottom of the collar, approximately 3/4 inch from the front of the collar.

6. **Sergeant** " Two sets of cloth, three stripe chevrons, CHP style, royal blue background with French stitch gold stripes, shall be worn, sewn one on each sleeve of the uniform dress jacket and the standard duty jacket, approximately 5 1/ 2 inches from the shoulder seam. The uniform shirt shall have identical style cloth chevrons sewn on each sleeve in the same manner as that prescribed for the uniform jackets.

7. **Field Training Officer (FTO)** " The FTO insignia will be identical to that of the Sergeant except that the insignia will consist of two stripes rather than three.

10. **Service Insignia (Optional)** - An insignia indicating length of service shall consist of blue and gold stripes for all sworn personnel. The stripe shall be embroidered with a blue center surrounded by a gold border. The border shall be 1/16 inch wide while the blue center shall be 1/4 inch wide and 11/2 inch long. Personnel are authorized one service stripe for each five years of full-time sworn law enforcement experience.

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11. **Shoulder Patch** " The Department shoulder patch will be worn one on each sleeve of the dress jacket, duty jacket, and all uniform shirts (optional for rain gear jacket). The top of the patch shall be 1/2 inch below the shoulder seam of the garment. The patch shall be sewn with thread which matches the color of the patch and shall not be cross stitched.

1046.11.4 MISCELLANEOUS APPAREL AND EQUIPMENT REGULATIONS
No insignia, medals, or other non-authorized uniform items, except pens/pencils, shall be attached to or visible upon the uniform unless authorized by the Office of the Chief of Police. The Chief of Police, or his/her designee, may establish a program authorizing insignia or pins to be awarded for acts of valor, meritorious service, etc. Such pins or uniform devices will be worn or displayed at the discretion of the Chief of Police or his/her designee. Pockets of uniform shirts, pants and jackets shall be buttoned, if they were manufactured with buttons. Pockets of any uniform item of apparel shall not be excessively filled so as to create unsightly bulges or a nonprofessional appearance. The pocket lining of uniform pants shall not be visible when the wearer is in a normal standing position. Cuffs on long sleeve shirts shall be buttoned whenever worn on duty and in public view.

(a) **Military Press** - Uniform shirts and pants shall be maintained with a standard "military" press.

(b) **Duty Knife** - Uniformed personnel may carry a "pocket" or folding blade knife. Knives may be carried in an appropriate holder on the duty belt securely or fastened in a pocket. Holders must conceal the knife. Locking type blades are recommended. Maximum blade length on folding knives is 4". The knife must be lawful to possess.

1046.11.5 DRESS STANDARD FOR TRAINING
Department personnel assigned to training, including on an overtime basis, will comply with the following requirements:

(a) Department personnel completing training during their regularly scheduled work hours may wear their duty uniform or regular attire specific to their assignment.

(b) Department personnel assigned to a training class, on or off site, may wear gender appropriated business attire, casual business attire, or attire consistent with the following requirements:

- Shorts will not be worn.
- Attire for male personnel will include shirt and pants½¾ overalls or one piece BDU type suits are unacceptable.
- Flip flops, slides, open toed sandals, or other similar footwear are not acceptable.
- Male personnel opting to wear business attire for training classes are not required to wear ties.

The following are exceptions to the above requirements:

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Personnel participating in manipulative skills training may wear tee shirts provided this attire is specifically approved in the class announcement. Manipulative skills training includes firearms training.

Personnel assigned to both manipulative skills and static or classroom training on the same day are not required to change attire appropriate for the classroom training.

Personnel assigned to the SWAT Team may wear shorts and tee shirts for physical fitness training or conditioning as necessary and appropriate per the direction of the SWAT Team Leader or Commander. SWAT personnel may wear SWAT uniforms or other attire for SWAT training per the direction of the SWAT Team Leader or Commander. Department grooming standards will be adhered to during all training classes by all personnel.

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Nepotism and Conflicting Relationships

1047.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure effective supervision, safety, security, performance, assignments and discipline while maintaining positive morale by avoiding actual or perceived favoritism, discrimination, or other actual or potential conflicts of interest by or between employees of this Department.

1047.1.1 DEFINITIONS

Employee - Any individual employed by the BART Police Department in a sworn or nonsworn capacity.

Relative - An employee's parent, stepparent, spouse, domestic partner, significant other, child (natural, adopted or step), sibling, or grandparent.

Personal Relationship - Includes marriage, cohabitation, dating, or any other intimate relationship beyond mere friendship.

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.

Supervisor - An employee who has temporary or ongoing direct or indirect authority over the actions, decisions, evaluation, and/or performance of a subordinate employee.

Subordinate - An employee who is subject to the temporary or ongoing direct or indirect authority of a supervisor.

1047.2 RESTRICTED DUTIES AND ASSIGNMENTS

While the Department will not prohibit personal or business relationships between employees, 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.

(a) If circumstances require that such a supervisor/subordinate relationship exists temporarily, the supervisor shall make every reasonable effort to defer matters involving the involved employee to an uninvolved supervisor.

(b) When personnel and circumstances permit, the Department will attempt to make every reasonable effort to avoid placing employees in such supervisor/subordinate situations. The

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Department however, reserves the right to transfer or reassign any employee to another position within the same classification as it may deem necessary in order to avoid conflicts with any provision of this policy. Any such transfer or reassignment shall be deemed nonpunitive for purposes of the Public Safety Officers' Bill of Rights.

It is recognized that employees may become involved in personal relationships. If, in the opinion of the employees Division Deputy Chief, such a relationship creates a conflict of interest or has an adverse impact on supervision, safety, security, morale or productivity the Department reserves the right to transfer or reassign any employee to another position within the same classification to eliminate or minimize the adverse impact.

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.

FTO's shall not be assigned to train relatives, and whenever possible, other trainers will not be assigned to train relatives. FTO's 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.

In order to avoid actual or perceived conflicts of interest, and to avoid conduct, which might bring disrepute upon the Department, employees 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.

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(s) who they know or reasonably should know are under criminal investigation, convicted felons, parolees, fugitives, registered sex offenders, or who engage in serious violations of state or federal laws.

1047.2.1 EMPLOYEES RESPONSIBILITY

If an employee is currently in a personal or business relationship or other circumstance, or prior to entering into such a relationship or 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 immediate uninvolved supervisor, or if that is not possible then the employees next highest uninvolved level of supervisor of such a relationship.

Whenever any employee is placed in circumstances which would require the employee to take enforcement action or provide other official information or services to any relative or other individual(s) 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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1047.2.2 SUPERVISORS RESPONSIBILITY

Upon being notified of, or becoming aware of, any circumstance(s) which could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps to 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.

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Explorer Post Program

1048.1 PURPOSE AND SCOPE

The Law Enforcement Explorer Post sponsored by the BART Police Department has been authorized by Learning for Life and will be known as BART Police Explorer Post 413.

The purpose of the BART Police Explorer Post is to provide hands-on training, education and involvement of young men and women, ages 14 through 20 years, in the administration of justice and related fields. Explorers participate 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. Explorers will observe and assist police department employees in the performance of their duties, but will not perform any work that is covered by a BART District collective bargaining agreement in lieu of an employee who is a member of the collective bargaining unit.

The BART Police Explorer program will provide the following:

- Enhance the overall education goals of the explorer participants.
- Involve youth in performing voluntary, rewarding and productive services to the community.
- Encourage preparation for future roles as good citizens and community members.
- Educate young men and women in the role that the BART Police Department plays in providing services to the BART District and the communities we serve.

1048.1.1 DEFINITIONS

Explorer Program Committee €š# The committee serves as the oversight body for the operation of the program. The Explorer Program Committee is comprised of a Chairperson and two (2) Members.

Committee Chairperson €š# Management-level personnel appointed by the Chief of Police to chair the Explorer Program Committee and act as the liaison between the Department and Learning for Life.

Committee Member €š# Personnel selected to serve on the Explorer Program Committee and assist the Committee Chairperson with operation of the committee. The two members will be selected from personnel who are not involved in the daily operation of the Explorer Post. When possible, the members will be selected with one member from each police association (BPOA and BPMA). The Committee Members are selected by the Committee Chairperson.

Advisor €š# Personnel selected by the Explorer Program Committee to coordinate the daily operation of the Explorer Post. This position will normally be selected from the officer or sergeant ranks.

Assistant Advisor €š# Personnel selected by the Explorer Program Committee to assist the Advisor(s). Any non-probationary employee may be selected as an Assistant Advisor.

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1048.2 ELIGIBILITY

Membership in the BART Police Explorer program is open to all interested young men and women who meet the following requirements:

- Age between 14 (and has completed the eighth grade) or 15 and up to 20 years old.
- If a student, maintain a minimum grade point average of 2.0 for each course taken, and a minimum of 2.5 GPA overall.
- Have parental approval if a minor.
- If in possession of a driver's license, maintain a good driving record.
- Be willing to be active and participate in explorer activities (including, but not limited to, training, public service, department services and social activities).

Explorer applicants with physical disabilities shall be advised of the physical requirements to become a BART police officer. They shall also be informed that if they are unable to meet these physical requirements, the Explorer Program will offer them an opportunity to become exposed to other career opportunities with the BART Police Department such as community service officer, police dispatcher or police administrative specialist.

Explorers agree to follow all relevant rules and regulations of the BART Police Department, Explorer Post and Learning for Life.

1048.2.1 MEMBERSHIP / PARTICIPATION

Appointment to the BART Police Department Explorer Post will be contingent upon successful completion of the Explorer selection process.

Prospective explorers will be required to complete a BART Police Explorer application. Prospective explorers will appear before an oral interview board. The board will consist of at least two (2) members of the Police Department and one police explorer. One member of the board will be an Explorer Liaison, Associate Advisor or Explorer Committee member. The police explorer on the interview board may be a member of another explorer post if necessary.

Prospective explorers will be required to pass a thorough background investigation. The purpose of such an investigation is to ensure the good moral character of the applicant. Candidates having a history of criminal violations or other serious anti-social behavior will not be accepted as Explorers. The background investigation will be conducted by a background investigator from the Personnel and Training Section.

Prospective explorers will be required to submit to fingerprinting and photographing. This must be approved by parents if the candidate is less than 18 years of age.

Final candidates will be interviewed by the Chief of Police who will make the decision to accept or reject the candidate as a member of the Explorer Post.

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Upon acceptance, explorers will be required to file an application with Learning for Life. The Department will cover the expense of membership in Learning for Life and provide all necessary uniforms and equipment except for shoes, which are the responsibility of the individual Explorers.

1048.2.2 LEAVE OF ABSENCE
A explorer may be granted a leave of absence for academic or other approved reasons based on the following:

The explorer must be off probationary status. However, a leave of absence may be granted during the probationary period if special circumstances exist and approval is made by the advisory committee.

The explorer must be in good standing with the post and have received an average evaluation from the advisory committee.

The request for leave of absence must be in writing through the chain of command and must be approved by the Chief of Police. The request should detail the reason for the leave of absence and the length of time requested.

If the leave is granted, the explorer shall hold their rank up to 3 months. If not returning after 3 months, they must relinquish any rank attained within the Explorer Post.

1048.2.3 DENIAL OF MEMBERSHIP / TERMINATION FROM EXPLORER PROGRAM
As a non-compensated volunteer, the agreement of continued participation and/or service can be severed at any time by the Department or the explorer.

Each explorer will be required to meet the standards of the BART Police Department and Learning for Life of America, National Exploring Program.

Any prospective explorer who intentionally conceals, falsifies or makes any statement which is untrue in the applications, or during the oral interview may be subject to termination or denial of acceptance as a explorer, as decided by the Chief of Police.

All explorers will be required to maintain eligibility requirements and provide current school transcripts at the end of each quarter if the explorer is enrolled in secondary school. If the requirements are not met, then the Advisory Committee will take action on an individual basis.

Upon termination of a explorer for any reason, the explorer will return all department property. Such property includes, but is not limited to, patches, badges, uniforms, equipment, identification cards and documents / manuals of the Department or post.

1048.3 RULES AND REGULATIONS
Explorers shall:

(a) Abide by all laws, ordinances, rules, regulations or orders, verbal or written.

(b) Explorers shall be responsible to update and maintain post rules and regulations, and be knowledgeable of such changes.

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Violations of these rules or regulations could result in termination. Dismissal or demotion will occur at the direction of the Chief of Police.

1048.3.1 ACCESS TO POLICE FACILITIES
Explorers must wear their polo shirt or uniform while in the police building, they must check in with the Watch Commander to receive permission to enter any police facilities. No Explorer should be in a police facility after 10 pm unless approved by the Watch Commander.

Police facilities will not be used as a meeting place or for social gatherings and shall only be used for approved activities. Explorers will not bring unauthorized persons into police facilities at any time unless an advisor or police officer is present and has approved the person to enter. This includes, but is not limited to, friends and/or family members.

1048.4 EXPLORER POST OPERATION

1048.4.1 PROGRAM COORDINATOR
The Explorer Program Committee Chairperson will serve as the Program Coordinator. The Program Coordinator is responsible for the overall operation of the Explorer Post and all major decisions regarding the Explorer Post. The Program Coordinator will act as the communications liaison between the Chief of Police and Learning for Life and will participate in the annual evaluation of the Explorer Post by Learning for Life.

The program coordinator will ensure that all personnel selected to participate in the activities of the Explorer Post successfully complete the Learning for Life Youth Protection Training.

1048.4.2 ADVISORS
The Advisor(s) will serve as mentors for each Explorer and are responsible for the daily operation of the Explorer Post. The Advisor(s) will lead scheduled meetings and schedule training appropriate for the development of the Explorers. The Advisor(s) will monitor each Explorer's progress through the program and ensure that each Explorer is maintaining standards to remain active within the Explorer Post. The Advisor(s) will delegate appropriate tasks to the Assistant Advisors as necessary.

1048.4.3 COMMITTEE MEETINGS
The Explorer Program Committee will meet quarterly, or more frequently if deemed necessary by the Committee Chairperson, in order to monitor the operation of the Explorer Post.

1048.4.4 EXPLORER POST CHAIN OF COMMAND
Program Coordinator

Program Advisor

Assistant Advisor

Explorer Captain

Explorer Sergeant

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Explorer

1048.5 ORIENTATION AND TRAINING

Newly appointed Explorers will receive an orientation of the Police Department and District before participating in Post activities. Training sessions will be scheduled as needed to develop and prepare the Explorers for a career in law enforcement including preparation for the selection process and academy training.

Explorers shall attend and complete a Basic Explorer Academy and other training as required. Based on availability, the training will be completed during the first year of membership in the Explorer Post. Training may be provided in-house or through an outside agency. Attendance at training provided by an outside agency must be pre-approved by the Program Coordinator for each participant.

1048.6 UNIFORMS

All uniforms will be worn and maintained in compliance with Policy §1046.

All equipment issued by the Police Department will remain the property of the Police Department. Lost or stolen items will be reported as soon as practical and the Explorer may be required to replace the item(s) at his or her own expense. Uniforms and polo shirts shall only be worn in the Police Department, while participating in official Explorer Post activities or as directed by the Post Advisor(s). Explorers shall not purchase uniform items without the authorization of the Program Coordinator.

1048.7 VEHICLE OPERATIONS

Explorers should not operate District or civilian vehicles during Post activities.

1048.8 RIDE-ALONG PROGRAM

The purpose of the Ride-Along program is to give the Explorer an opportunity to understand the Patrol function of law enforcement and to broaden the Explorer's knowledge of field operations.

The Ride-Along program exposes Explorers to realistic work situations that police officers confront while on duty. This program may include classroom instruction and practical training.

1048.8.1 MINIMUM REQUIREMENTS

The following minimum requirements have been established, in accordance with the policies of the Police Department and Learning for Life, for participation in the Explorer Ride-Along program:

- The Explorer must be at least 15 years of age (or 14 with an Advisor's approval).
- Each Explorer must have the following forms in their personnel file:

1. Release of Liability €š# Must be signed by the Explorer's parent or guardian (for minors) and the Advisor.

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2. Medical Release €š# Authorizes any BART Police Officer and/or Explorer Advisor to consent to emergency medical treatment for Explorers.

- Explorers must have passed their Field Training examination.

Explorers will meet the 20-hour per month service requirement, without exceptions.

1048.8.2 ESCORTING OFFICER
Officers assigned an Explorer as a ride-along must meet the following requirements:

- An Escorting Officer must have at least one year of experience with the BART Police Department as a Patrol Officer. Time spent as a probationary officer in the Field Training Officer Program time is not applicable towards this one year.
- The Escorting Officer has no active formal discipline on file.
- Successfully completed the Learning for Life Youth Protection Training.

The Escorting Officer should be furnished with a copy of the Explorer Ride-Along manual for future reference. Any questions and/or concerns about the program or a specific Explorer will be referred to the Post Advisor.

1048.8.3 HIGH RISK CALL PROCEDURE
Law enforcement, by its very nature, has moments of extreme danger. Situations will arise where the officer will have to terminate the Ride-a-Long for the Explorer's own safety. In such situations, the Explorer shall be dropped off at the nearest BART Station. The escorting officer shall notify dispatch that the Explorer has been dropped off. The Explorer shall be directed to the agent's booth and allowed to phone the Watch Commander to receive further instructions.

If a call for service is deemed high risk and a drop off is not feasible, the Explorer shall stay in the patrol car during the call unless it is unsafe to do so.

1048.9 GROOMING
Explorers will conform to the Department's grooming standards as per Policy §1044.

1048.9.1 COURTESY
Explorers will treat all citizens, members of the Police Department and other Explorers with courtesy and respect. Explorers, even in the face of great provocation, will refrain from using profane, coarse, offensive or insolent language or gestures. Explorers, in or out of uniform, on or off duty, will conduct themselves in such a manner that will reflect favorably upon the Post, Police Department and BART District.

1048.9.2 CONFIDENTIAL INFORMATION/RECORDS
The official business of the Police Department and the Explorer Post is to remain confidential. Official information shall not be removed from the Police Department or copied. Explorers shall only discuss or give confidential information as directed by a sworn member of the Police Department or other legal authority.

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1048.9.3 OBEDIENCE TO LAWS

Explorers shall obey all laws. Any explorer who is the subject of enforcement action must notify the Program Coordinator via the chain of command immediately. This requirement includes traffic offenses.

1048.9.4 FRATERNIZATION

The Police Department and Learning for Life do not condone and will not permit fraternization between Explorers and their adult leaders or other affiliated adults. This applies to all youth members regardless of local or state laws related to age of consent. Fraternization is not morally appropriate, nor is it in keeping with the relationship between youth members and adult leaders prescribed in the programs of this department and those of the Learning for Life. Dating between Explorers is permitted, however the relationship will not be brought into the exploring program: Displays of affection will not be tolerated while Explorers are on duty in an official capacity. If a dating relationship occurs, the parties may not be in the same squad. A higher-ranking Explorer may not be the direct supervisor of one they are dating. Dating or other non-business related contact between Explorers and their adult leaders or other affiliated adults is not permitted.

1048.9.5 FORBIDDEN ARTICLES

Explorers will not use, possess or carry a firearm, sap, judo sticks, knife, nightstick, TASER or any other article or items unless directed to do so by the Program Coordinator or Advisor in conjunction with an official Post function.

Handcuffs will be used for training purposes only and never carried as part of the uniform equipment.

For the purposes of training only, Explorers may be authorized to participate in designated firearms training under the strict supervision of the Advisor(s) and Department Firearms Instructors. The ratio of instructors to Explorers should be no more than one to one while the Explorer is in possession of a firearm. Explorers shall not handle firearms outside of approved training at the range. The Explorer Coordinator must individually approve each Explorer's participation in firearms training. The Explorer must also sign a release of liability, including Parental, or guardian, approval for minors.

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Department Badges

1052.1 PURPOSE AND SCOPE

The department badge and uniform patch as well as the likeness of these items and the name of the Bay Area Rapid Transit 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

All sworn members of the department will be provided a department flat badge reflecting their current position within the department. These flat badges are the property of the police department and must be turned in upon retirement, resignation, or termination from the District. Personnel who are promoted must exchange their flat badges for their new position within the department along with their duty badge. The use of the flat badge is subject to all of the same provisions of the departmental policy as the uniform badge.

(a) Should the flat badge become lost, damaged, or otherwise removed from the officer's control, he/she shall make the proper notifications as outlined in the Policy Manual 700.

(b) Upon retirement and with the written approval of the Chief of Police, sworn members who honorably retire from the department will be provided a retirement flat badge at no expense.

(c) Sworn members who retired when the shield badges were issued may obtain a retirement star flat badge once they have completed a department range qualification. The retirement star flat badge will be provided at no expense. If a retired officer does not complete the range qualification they will not be issued or allowed to purchase a retirement star flat badge, unless approved by the Chief of Police.

(d) The purchase, carrying or display of a flat badge is not authorized for non-sworn personnel.

1052.2.2 CUSTOM BADGES

Ranks of Lieutenant and above have the option to purchase custom duty badges made of gold, with custom etching, and their initials in place of a badge number. Rank of Sergeant will have the option to purchase a custom duty badge made of gold, with custom etching, and their badge number. These badges must be purchased through the Ed Jones Company. The complete cost of this badge will be paid for by the individual. These badges will remain the property of the employee upon retirement.

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1052.2.3 NON - SWORN IDENTIFICATION CARDS AND BADGES
Badges and departmental identification cards issued to non-sworn personnel shall be clearly marked to reflect the position of the assigned employee (i.e., Revenue Protection Guard, Community Service Officer, Dispatcher).

(a) Non-sworn personnel shall not display any department badge except as a part of his/her uniform and while on duty, or otherwise acting in an official and authorized capacity.

(b) Non-sworn personnel shall not display any department badge or represent him/herself, on or off duty, in such a manner which would cause a reasonable person to believe that he/she is a sworn peace officer.

1052.2.4 RETIREE UNIFORM BADGE
Upon honorable retirement, all sworn employees will be provided their assigned duty badge with the option of having the badge attached to a plaque or incased in Lucite. The badge is provided to commemorate their service with the BART Police Department. It is intended that the duty badge attached to the plaque or placed in Lucite 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 in accordance with Policy 1055.

Department badges are issued to all sworn employees and civilian uniformed employees for official use only. The department badge, shoulder patch or the likeness thereof, or the department name shall not be used for personal or private reasons including, but not limited to, letters, memoranda, and electronic communications such as electronic mail or web sites and web pages.

The use of the badge, uniform patch and department name for all material (printed matter, products or other items) developed for department use shall be subject to approval by the Chief of Police.

Employees shall not loan their department badge or identification card to others and shall not permit their 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 this 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.

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(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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Business Cards and Trading Cards

1053.1 PURPOSE AND SCOPE

To establish a procedure for the issuance and reordering of business and trading cards for police personnel.

1053.2 DEFINITIONS

Business Card - A card given to others that bears the person's name and title identifying him or her as a BART police representative.

Trading Card - A card given to others that bears a person or group's name and photo. The color photo selected for the card must be department-approved.

1053.3 BUSINESS CARDS

Only authorized personnel may distribute business cards, the design of which must be approved by the Chief of Police. Business cards are ordered through the Support Services Division commander.

(a) **Personalized Business Cards -** Personalized business cards shall be issued to all police managers and other special assignments/units approved by the Support Services Division Deputy Chief.

1. Personnel have the option of ordering business cards through the department at their own expense. Interested personnel must forward a memo to the Support Services Deputy Chief via the chain of command. The order for the optional personalized business cards shall be paid for by the employee prior to the order being placed.

(b) **Non-Personalized Business Cards -** Non-personalized business cards shall be distributed to authorized Operations personnel by zone commanders.

1053.3.1 DISTRIBUTION OF BUSINESS CARDS

Business cards can be distributed as a normal course of business. They shall not be used, directly or indirectly, in an effort to gain favor or special treatment for the recipient.

1053.4 TRADING CARDS

Photo trading cards are issued to personnel as approved by command staff.

1053.4.1 DISTRIBUTION OF TRADING CARDS

Employees distribute their trading cards to children and members of the public to promote goodwill and positive community relations. As with business cards, the trading cards shall not be used, directly or indirectly, in an effort to gain favor or special treatment for the recipient.

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Modified Duty Assignments

1054.1 PURPOSE AND SCOPE

The purpose of this policy is to establish procedures for assigning employees to modified duty. Temporary modified-duty assignments may be available to employees who have incurred a duty-related illness or injury and, due to restrictions or limitations, are unable to perform their regular assigned duties. Non-duty related illnesses or injuries may also be considered for eligibility in accordance with this policy. Eligibility for modified-duty assignment is subject to the approval of the Chief of Police or his/her designee.

Modified-duty assignments are intended to provide an employee with the ability to continue working within the limits of his/her restrictions and limitations on a temporary basis while providing the Department with a productive employee during the interim period.

The Department will engage in a good faith interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability.

1054.2 DEFINITIONS

Modified Duty - Means a temporary, limited-term assignment not requiring performance of the full range of duties associated with the regular job classification. Modified duty also may be termed as light-duty assignments.

1054.3 LIMITATIONS

Modified-duty assignments are a management prerogative and not an employee right. Modified-duty assignments shall be subject to continuous re-assessment dependent upon Department need and the employee's ability to perform in a modified-duty capacity.

An injured employee may be assigned to a modified-duty position outside of his/her normal assignment or duties if it becomes available. If the injury or illness is non-duty related the employee shall be given the option to either accept the position or continue to draw on applicable sick leave or other leave accounts as applicable.

(a) If an employee cannot adequately perform in a modified-duty assignment, such assignment may be modified or terminated.

(b) The lack of Department need or a change in priorities may result in the employee's removal from or modification of a modified-duty assignment.

(c) The Department may place conditions as deemed appropriate upon any modified-duty assignment.

1054.4 PROCEDURE

Employees may request assignment to modified duty by providing a signed statement from their health care provider describing their restrictions, limitations and expected duration to their Bureau

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Deputy Chief or his/her designee. The statement must also indicate if the employee requires any workplace accommodations, mobility aids or medical devices.

The Bureau Deputy Chief will determine what modified-duty assignments may be available based on the needs of the Department, limitations of the employee and suitability of the employee to work a particular assignment. Requests for a modified-duty assignment of 20 hours or less may be approved and facilitated by the Watch Commander or Bureau Deputy Chief. Assignments of longer duration are subject to the approval of the Chief of Police or his/her designee.

1054.4.1 TEMPORARY MODIFIED-DUTY SCHEDULES

The schedules of employees assigned to modified duty may be adjusted to suit medical appointments or Department needs at the discretion of the Support Services Bureau Deputy Chief. Generally, TMD personnel will staff ISRC for CCTV monitoring. When sufficient TMD personnel are available the CCTV monitoring schedule will be 0600-2300 hours, seven (7) day per week. These personnel will report to the watch commander.

The Police Lobby will be a secondary assignment to be staffed 0700-1700 during the business week. These personnel will report to the Records Supervisor.

Personnel may be re-assigned to fill a different assignments. Assignments outside of the CCTV monitoring and Lobby must be approved by the Chief of Police or his designee.

The employee and his/her supervisors should be informed in writing of the schedule, assignment and limitations and restrictions as determined by the employee's health care provider.

TMD personnel are not authorized to work overtime. If a contractual Holiday falls on a workday, it will a Holiday off.

1054.4.2 ACCOUNTABILITY

The employee's supervisor shall, upon learning of an injured employee, notify the Watch Commander and Administrative Services Supervisor, via a voice mail and/or email, of the injury and forward all injured employee forms to the Administrative Services Supervisors office after being completed and faxed to the appropriate numbers.

(a) Employees on temporary modified duty (TMD)are responsible for coordinating required doctor visits and physical therapy appointments in advance with their supervisor to appropriately account for any duty time taken. Doctor visits and appointments for treatment of injuries or illnesses that are not work related shall be arranged during off-duty time or otherwise charged to the employee's sick leave.

(b) Employees shall promptly submit a status report for each visit to their treating health care provider and shall immediately notify their the Support Services Supervisor of any change in restrictions or limitations as determined by their health care provider. An employee assigned to a modified-duty assignment shall provide a duty status report to the Support Service Supervisor no less than once every 30 days while the employee is on modified duty.

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(c) Supervisors shall keep the Support Services Supervisor apprised of the employee's status and ability to perform the modified-duty assignment. Modified-duty assignments that extend beyond 90 days will require a written status report and a request for an extension to the Bureau Deputy Chief with an update of the employee's current status and anticipated date of return to regular duty. Extensions require approval of the Chief of Police.

(d) When it is determined that an employee on modified duty will return to regular duty, the Support Services Supervisor shall complete a return to work notification and submit it to Human Resources. For employees returning from a TMD assignment, who have not signed into a patrol schedule the Bureau Deputy Chief shall follow the Agreement to place the employee into an assignment. Return to work doctors notes shall be faxed to x7089 and notify the Watch Commander of their return to work. The notes shall also be sent to the Support Services Supervisor before the employee can return to work. All training and certification necessary for return to duty shall be reviewed and updated as necessary.

(e) Employees shall wear casual business attire when reporting to their assignments unless they have received supervisor approval to dress down. Sworn officers should conceal their badge firearm while on modified duty.

(f) Officers should take no enforcement action, while on TMD. Only in exceptional circumstances and when not in violation of their work restrictions may an officer on TMD take enforcement action. Any enforcement action take while on TMD will require notification to the Watch Commander and a completed police report.

1054.4.3 MEDICAL EXAMINATIONS

The Department reserves the right to require, prior to returning to full-duty status, a fitness-for-duty examination of any employee assigned to a modified-duty assignment or of any employee having been on such assignment. Such examinations shall be at the expense of the Department.

Prior to returning to full-duty status, employees shall be required to provide a statement signed by their health care provider indicating that they are medically cleared to perform the basic and essential job functions of their assignment without restriction or limitation.

1054.5 PREGNANCY

It is the policy of the Department to reassign employees who are pregnant upon request by the employee or when deemed necessary by the Department to temporary assignments that will not routinely expose the employee to potentially hazardous environments or activities.

1054.5.1 EMPLOYEE NOTIFICATION

An employee who learns of her pregnancy should notify her immediate supervisor or a designated acting supervisor of the pregnancy as soon as practicable. The employee must inform the Department of her intent regarding reassignment, job accommodations and anticipated leave for the pregnancy or prenatal care. The employee shall also submit a statement from her health care provider of any job restrictions or limitations she may have.

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1054.5.2 SUPERVISOR'S RESPONSIBILITY

Upon receiving the medical verification of the pregnancy and a request for job accommodation, reassignment or leave, the supervisor shall notify the Bureau Deputy Chief, who will consider assigning the employee to an available temporary modified-duty assignment if it is deemed appropriate by the Department or medically necessary by the employee's health care provider.

If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted consistent with the District's Personnel Rules and Regulations regarding family and medical care leave.

1054.6 PROBATIONARY EMPLOYEES

Probationary employees who are assigned to a temporary modified-duty assignment shall have their probation extended by a period of time equal to the employee's assignment to modified duty.

1054.7 MAINTENANCE OF CERTIFICATION AND TRAINING

Employees assigned to modified duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided the certification, training or qualifications are not in conflict with any limitations or restrictions. Employees who are assigned to modified duty shall inform their supervisor of any inability to maintain any certification, training or qualifications.

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Departure From Employment

1055.1 PURPOSE AND SCOPE

To provide guidelines for the recognition of members who have honorably ended their service with the San Francisco Bay Area Rapid Transit Police Department.

1055.2 DEFINITIONS

A. Retirement Badge: A flat replica of the department badge with the word "RETIRED" used in lieu of the number.

B. Department Retirement Plaque: A suitable plaque with affixed/imbedded replica badge(s) for each rank commemorating the years of service of an employee of the department.

C. Recognition Documents: Recognition of retirement documents include the following:

- San Francisco Bay Area Rapid Transit District letter signed by the General Manager (after 5 years of service with the District)
- Congressional Letter (after 20 years of service with the District)
- Flag (Flown over the nation's capitol (after 20 years of service-sworn personnel only)
- Joint Resolution from the Senate and Assembly (after 25 years of service with the District)

D. "Law Enforcement Officers' Safety Act" (H.R.218): Exempts qualified active and retired law enforcement officers from local and State prohibitions on the carrying of concealed firearms.

1055.3 GUIDELINES FOR RETIREE IDENTIFICATION CARD ELIGIBILITY

A. Retirees may be eligible for a Retired identification card with "CCW" endorsement including H.R. 218 language unless one of the following exclusions applies (sworn personnel should also review Policy 220 for more details regarding the "CCW" endorsement):

- Employee retired with less than 5 years of service, unless it was a disability retirement
- Employee received a psychological retirement
- Employee retired in lieu of termination
- Employee did not complete probationary period

B. Retiree identification cards with a "CCW" endorsement, but no H.R. 218 language may be issued to qualified sworn retirees unless one of the following exclusions apply:

- Employee received a psychological retirement
- Employee retired in lieu of termination
- Employee did not complete probationary period

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C. Retiree identification card with no CCW endorsement may be issued to all sworn retirees who have been excluded from the above types of retirement identification card endorsements. The request shall be made through the Chief of Police.

1055.4 GUIDELINES FOR ELIGIBILITY - PERS RETIREMENT

All department classifications with five (5) years of service to the department may be eligible for recognition from the department for their years of service and upon their honorable retirement:

Sworn members with five (5) or more years of service at the date of retirement may be eligible to receive:

- Retiree Identification Card
- Retiree Flat Badge (Per Policy 1052.2.1 Department Badges)
- San Francisco Bay Area Rapid Transit District letter signed by the General Manager

Sworn or civilian personnnel who retire after five (5) or more years of service may be eligible to receive:

- Sworn employees may elect to have their duty badge encased in Lucite or mounted on a departmental plaque (Per Policy 1052.2.4 Department Badges)
- A departmental plaque
- Name plate on the department retirement plaque (after 5 years of service with the District)

Sworn and civilian personnel who retire after twenty (20) or more years of service may be elibible to receive:

- Congressional Letter (after 20 years of service with the District)
- Flag (Flown over the nation's capital (after 20 years of service-sworn personnel only)
- Name plate on the department retirement plaque (after 20 years of service with the District)

Sworn and civilian personnel who retire after twenty-five (25) years of service may be eligible to receive:

- Joint Resolution from the Senate and Assembly

Personnel who do not meet the above requirements, or who retire as a result of a medical disability, may be eligible to receive the appropriate recognition depending on the circumstances that led to the end of service with the department. The Chief of Police or his/ her designee will evaluate each circumstance and make the final determination.

All requests for recognition documents should be directed to the chairperson of the Awards Committee.

1055.5 GUIDELINES FOR ELIGIBILITY (NON-RETIREMENT RELATED)

Sworn and civilian personnel who honorably resign after five (5) or more years of service may be eligible to receive a department plaque and recognition letter signed by the General Manager. The Chief of Police or his designee will make the final determination or decide if circumstances exist to make an employee ineligible to receive department recognition upon separation.

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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, 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 Bay Area Rapid Transit 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 Bay Area Rapid Transit 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

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family or associates. Examples of the type of information that could reasonably be expected to compromise safety include:

- Disclosing a photograph and name or address of an officer who is working undercover.
- Disclosing the address of a fellow officer.
- 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 Bay Area Rapid Transit 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 Bay Area Rapid Transit Police Department and tends to compromise or damage the mission, function, reputation or professionalism of the Bay Area Rapid Transit 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 Bay Area Rapid Transit 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 Bay Area Rapid Transit 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, employees may not represent the Bay Area Rapid Transit Police Department or identify themselves in any way that could be reasonably perceived as representing the Bay Area Rapid Transit 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), is affiliated with this department, the employee shall give a specific disclaiming statement that any such speech or expression is not representative of the Bay Area Rapid Transit Police Department.

Employees retain their right to vote as they choose, to support candidates of their choice and to express their opinions as private citizens, including as authorized members of a recognized bargaining unit, 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

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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 anything published or maintained through file-sharing software or any Internet site open to public view (e.g., Facebook, MySpace).

The Department also reserves the right to access, audit and disclose for whatever reason all messages, including attachments, and any information transmitted over any technology that is issued or maintained by the Department, including the department e-mail system, computer network or any information placed into storage on any department system or device.

All messages, pictures and attachments transmitted, accessed or received over department networks are considered department records and, therefore, are the property of the Department. The Department reserves the right to access, audit and disclose for whatever reason all messages, including attachments, that have been transmitted, accessed or received through any department system or device, or any such information placed into any department storage area or device. This includes records of all key strokes or web-browsing history made at any department computer or over any department network. The fact that access to a database, service or website requires a user name or password will not create an expectation of privacy if it is accessed through a department computer or network.

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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District Cell Service Interruption Policy

1059.1 PURPOSE AND SCOPE

The primary mission of the San Francisco Bay Area Rapid Transit District (the "District" is providing safe, efficient and reliable public transit services. The District recognizes that the availability of equipment inside the District's system facilitation cellular communications in its stations and trains (the "System Cellular Equipment") is a valuable and important service to District passengers, that should be interrupted only in the most extraordinary circumstances that threaten the safety of District passengers, employees and other members of public, the destruction of District property, or the substantial disruption of public transit service.

The District also recognizes that any interruption of cellular service poses serious risks to public safety and that available open communications networks are critical to our economy and democracy and should be preserved to the fullest extent possible. The District is also fully committed to its existing long standing policy of allowing the exercise of First Amendment rights of expression in the areas of its stations where it can be done safely, legally and without interference with the District's primary mission. The District is also committed to full compliance with all state and federal regulatory laws applicable to a temporary interruption of operation of the System Cellular Equipment.

1059.2 POLICY

In accordance with these principles, it shall be the policy of the District that the District may implement a temporary interruption of operation of the System Cellular Equipment only when it determines that there is strong evidence of imminent unlawful activity that threatens the safety of District passengers, employees and other members of the public, the destruction of District property, or the substantial disruption of public transit services; that the interruption will substantially reduce the likelihood of such unlawful activity; that such interruption is essential to protect the safety of District passengers, employees and other members of the public, to protect District property or to avoid substantial disruption of public transit services; and that such interruption is narrowly tailored to those areas and time periods necessary to protect against the unlawful activity. Any such interruption shall include measures to ensure the rights of the disabled to information and assistance and shall be promptly reported to first responders and the Board of Directors. Any decision to implement a temporary interruption must be pursuant to a determination that the public safety benefits outweigh the public safety risks of an interruption. The decision to implement a temporary interruption of operation of the System Cellular Equipment requires the establishment of an operational procedure approved by the General Manager (i).

- (i) Nothing herein is intended to restrict the District's ability to implement a temporary interruption of the operation of the System Cellular Equipment for maintenance or other operational reasons.
- For all pre-planned events, cell service interruption will be determined by the Chief of Police in collaboration with the General Manager and/or Assistant General Manager of Operations.

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- Eminent danger, where the potential for loss of life is involved, which requires immediate cell service interruption must be cleared by the Watch Commander.

1059.2.1 EXAMPLES OF EXTRAORDINARY CIRCUMSTANCES, EMINENT DANGER
Illustrative examples of extraordinary circumstances, eminent danger include, but are not limited to, strong evidence of use of cell phones

- (i) as instrumentalities in explosives;
- (II) to facilitate violent criminal activity or endanger District passengers, employees or other members of the public, such as hostage situations;
- (iii) to facilitate specific plans or attempts to destroy District property or substantially disrupt public transit services. Such circumstances may justify a narrowly tailored interruption of service only if they meet the principles listed above.

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Attachments

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