

# Fresno Police Department



## Policy Manual

With updates through 4/3/2024

# **Fresno Police Department Policy Manual**

## **Law Enforcement 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 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.

# **Fresno Police Department Policy Manual**

## **Civilian Member Code of Ethics**

As a civilian member of the Fresno Police Department, my duty is to be courteous and impartial while providing service to the public, the officers, and all other public safety agencies with whom I interact. I will be exemplary in conduct, edifying in my conversation, honest in my dealings, and abide by the laws of the city, state, and country.

I will be aware and accountable for the Department's rules, regulations, policies and procedures in order to create and maintain a harmonious and professional work environment. I will possess integrity, dependability, personal sensitivity to those I come into contact with and be able to present good judgment while under pressure.

I will perform my duties with accuracy, efficiency, and thoroughness while ensuring my attendance and fitness for work. I will treat my co-workers and supervisors with respect and do only those things that reflect honor on the Department and myself.

# **Fresno Police Department Policy Manual**

## **Fresno Police Department Vision Statement**

To make the City of Fresno the safest large city in California, and the Fresno Police Department the best agency in the country.

## **Fresno Police Department Mission Statement**

The Fresno Police Department is committed in service and partnership with our community to provide safety, security, and hope.



# Fresno Police Department Policy Manual

## Department Core Values & Value Statements

### **Courage**

We understand that law enforcement is a dangerous and challenging profession. We knowingly face danger, with boldness and courage, while protecting our community.

### **Compassion**

Our community calls upon us when they are faced with a crisis. They rely upon us for help, guidance, and real solutions. We treat all that we encounter with compassion, patience, and empathy, as we work to assist them in a time of crisis.

### **Resiliency**

We face difficulties and challenges every day as we serve and protect our community. Through healthy introspect and wellness practices, we experience personal growth in our struggles to remain focused and determined to serve our community.

### **Integrity**

The core of our values is integrity, as it is the foundation from which all other values build from. We are honest in our words and faithful in our actions. We are respectful to all we encounter, and we can be depended upon to perform our duties, thoroughly and professionally.

### **Service**

Law enforcement is a profession, not just a job. We love our community and are proud to serve it. We honor the trust they placed in us, and we perform our duties professionally and respectfully.

### **Professionalism**

Law enforcement is the noble and honorable path we have chosen. We dedicate ourselves to always learn from our training and experience to reach our full potential, and to provide the best service to our community.

### **Accountability**

We take ownership and responsibility for the decisions we make and the actions we take. The performance of our duties are transparent, and we carry out our sworn duty in good faith and with our community's well-being in mind.

# Fresno Police Department Policy Manual

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**Note:** Policies listed in *BLUE Italics* contain revisions for this quarter.

**Fresno Police Department  
Policy Manual**

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

**100.1 POLICY**

Law enforcement officers are granted "functional" authority based on State law, as such, this Department will not tolerate abuse of that authority.

**100.1.1 PURPOSE AND SCOPE**

The Chief of Police and employees, on the Chief's authorization, are empowered to enforce, and are charged with the duty of enforcing the laws and ordinances of the City of Fresno and State of California.

**100.2 PEACE OFFICER POWERS**

Sworn members of this Department are peace officers pursuant to Penal Code § 830.1. The authority of any such peace officer extends to any place in the State of California.

**100.3 CONSTITUTIONAL REQUIREMENTS**

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



## Fresno Police Department Policy Manual

# Department Role in the Criminal Justice System

### 101.1 POLICY

The Department provides primary law enforcement services to the City of Fresno.

#### 101.1.1 PURPOSE AND SCOPE

The Chief of Police and management staff shall develop and establish guiding principles for the Department. These principles shall take the form of mission statements, value statements and other written directives which determine the operational philosophies of the Department. These guiding principles shall be reviewed annually to ensure they accurately reflect the needs of the community.

### 101.2 PRIMARY ROLE IN THE CRIMINAL JUSTICE SYSTEM

Services provided include, but are not limited to, emergency responses to crimes in progress, conducting investigations, enforcement of local, state, and federal laws, required documentation, required records maintenance, court room testimony, property/evidence storage and handling, and effective administration to coordinate and manage these services

### 101.3 COOPERATION WITH OTHER AGENCIES

The criminal justice system relies upon the cooperation of this Department with other law enforcement agencies, prosecutors, courts and correctional officers to ensure the development of a safer community. When possible, members will fully cooperate with outside agencies to allow for the greatest level of service to the community.

To foster this cooperation, the Department will establish a close working relationship with professional organizations directly involved with the planning of responses to crime in the community. Programs such as the Prostitution Abatement Program, Life Skills, Crisis Intervention Training, and CARE Fresno are examples of public and private collaborations that address social issues as they relate to law enforcement responses and needs within the community.

### 101.4 COMMUNITY ORIENTED POLICING COMMUNICATION

The Fresno Police Department is dedicated to the philosophy of Community Oriented Policing. The Department is comprised of members of our community and is enriched by the diversity of personnel who dedicate themselves to the Department mission.

In order to help integrate the Community Oriented Policing strategy into our operations, open communication is encouraged and should be fostered by all members. In order to assure that concerns raised by members of our community are taken seriously and handled appropriately, every member of the Department is responsible to listen, understand and communicate concerns to their immediate supervisor. Those issues which can be solved by the member should be handled appropriately. Department members are also an integral part of the community policing strategy. When a Department member observes activity or situations that affect quality of life they are encouraged to immediately report the information to the appropriate district or bureau.

Issues that affect quality of life should be reported through the chain of command in written memorandum, police reports or E-mail. These issues shall be reported to the Chief of Police on a weekly basis in staff meetings. Strategies to solve the problems are to be discussed with staff members and action plans put in place to address the problems. Each week, follow up questions are presented by the Chief to track progress. These remarks shall be recorded into the meeting minutes to provide a written record and to facilitate tracking of the issue.

Four things to be recorded by the bureau secretary are, at a minimum:

- (a) A description of current concerns voiced by the community;
- (b) A description of potential problems that have a bearing on law enforcement activities within the community;
- (c) A statement of recommended actions that address previously identified concerns and problems;  
and
- (d) A statement of progress made toward addressing previously identified concerns and problems.

## Fresno Police Department Policy Manual

### Chief Executive Officer

#### 102.1 POLICY

The Department will use a structured chain of command for communication and direction of all members.

##### 102.1.1 PURPOSE AND SCOPE

Each level of supervision will carry commensurate responsibility and authority. Every member will be held accountable for their use of delegated authority. Each member will be responsible to only one supervisor at any time.

#### 102.2 CHIEF OF POLICE REQUIREMENTS

The Chief of Police must, on appointment, have completed or shall, within two years of appointment, complete a course of training prescribed by California Commission on Peace Officer Standards and Training (POST) and obtain the Basic Certificate by POST within two years of appointment.

#### 102.3 CERTIFICATION

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

#### 102.4 RESPONSIBILITIES

The Chief of Police is responsible for the day-to-day operations of the Department including administration, coordination and delivery of all law enforcement services provided by this Department to the community. The Chief of Police is also responsible for the fiscal operations of the Department including the annual budget.

##### 102.4.1 ABSENCE OR INFIRMITY

In the absence or infirmity of the Chief of Police, the Chief will delegate the Assistant Chief (or a Deputy Chief) command responsibility and authority for the Police Department.

In exceptional circumstances where the Chief is unable to conduct the business of the Department, and has not delegated overall command responsibilities, the Assistant Chief will assume command followed by the Administrative Division Commander, the Patrol Division Commander, the Support Division Commander, and the Investigative Services Division Commander.

#### 102.5 CHAIN OF COMMAND

The Department will use a structured chain of command for communication and direction of all members.

Each level of supervision will carry commensurate responsibility and authority. Every member will be held accountable for their use of delegated authority.

Each member will be responsible to only one supervisor at any time.

#### 102.6 RANK AUTHORITY

Orders, business, and operations of the Department that concern enforcement and/or emergency operations shall function through the following hierarchy of rank, listed from highest to lowest:

- (a) Chief of Police
- (b) Assistant Chief
- (c) Deputy Chief of Police
- (d) Captain

- (e) Lieutenant
- (f) Sergeant
- (g) Specialist/Corporal/FTO
- (h) Officer
- (i) Community Service Officer (CSO)
- (j) Cadet II
- (k) Cadet I

Under normal day-to-day operations, the highest ranking member on scene may exercise command over an incident.

#### 102.6.1 EXCEPTIONAL CIRCUMSTANCES

In exceptional circumstances a higher ranking member may delegate specific authority to a subordinate based on the skills or expertise of that member. In these situations, the higher ranking member will retain overall command of the incident but may delegate tactical, investigative, or other functional control of an incident.

Where different departmental functions are engaged in a single operation, the highest ranking member for each function will retain operational control over that function, however overall incident command will be retained by the highest ranking member on scene.

#### 102.7 DELEGATING AUTHORITY

There may be circumstances when a member of lower rank is delegated authority for a situation based on expertise, training, or experience. In these situations a supervisor will delegate the authority to accomplish the task. Any subsequent orders given by the person receiving the delegation will be treated as if the superior officer had given the order.

#### 102.8 CONFLICTING ORDERS

When a member receives an order that is in conflict with a previously issued order, the member will follow the guidelines listed below.

##### 102.8.1 WRITTEN ORDERS IN CONFLICT

Any time written orders or other Department documents are in conflict, the order of highest authority shall be followed. Members who discover a conflict shall advise the issuing authority of the conflict, who shall then take immediate steps to resolve the issue. When written orders of the same authority are in conflict, the most recent order shall be followed, and the issuing authority shall be advised.

##### 102.8.2 WRITTEN-VERBAL / VERBAL-VERBAL CONFLICTS

When any member receives a verbal order from a superior that conflicts with a written or verbal order of another superior, the member shall immediately advise the superior giving the conflicting order of the conflict. When the superior still wishes the order carried out, the member shall do so, and shall suffer no disciplinary action for doing so. The superior issuing the conflicting order shall contact the issuing authority of the other order as soon as possible to reconcile the conflict.

##### 102.8.3 ORDERS IN CONFLICT WITH LAW

When a member receives a written or verbal order that conflicts with the law, the order shall not be obeyed, for which disobedience the member shall not be subject to disciplinary action. Members shall not be excused for violating the law because they were acting under the orders of a superior. Members receiving orders in violation of law shall immediately advise the issuing superior of the conflict, and that the order will not be carried out. Superiors issuing unlawful orders shall immediately rescind them and fully report the incident to their own superior.

#### 102.8.4 MEMORANDA

Memoranda will be considered as verbal orders.

## Fresno Police Department Policy Manual

### Oath of Office

#### 104.1 POLICY

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

##### 104.1.1 OATH OF OFFICE

Prior to assuming the duties of the position, 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. (California Constitution, Section 20, Article 3).

### 106.1 POLICY

The manual of the Department is hereby established and shall be referred to as the "Policy Manual". Except for provisions of law, members are allowed discretion in their adherence to the regulations, policies, and procedures of the Department. Policy does not dictate a precise action to be taken, but establishes the governing ideal which should be furthered and supported by the actions taken.

#### 106.1.1 PURPOSE AND SCOPE

The Policy Manual is a statement of the current policies, rules, and guidelines of the Department. Members are to conform to the provisions of this manual. Prior and existing manuals, orders, and regulations which are in conflict with this manual are revoked, except to the extent that portions of existing manuals, orders, and other regulations which have not been included herein shall remain in effect where they do not conflict with the provisions of this manual. It is recognized that police work is not always predictable and circumstances may arise which warrant departure from these guidelines. It is the intent of this manual to be viewed from an objective standard, taking into consideration the sound discretion entrusted to members of the Department under the circumstances reasonably available at the time of any incident.

### 106.2 DEFINITIONS

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

**CHP** - The California Highway Patrol

**City** - The City of Fresno

**Civilian** - All members who are not peace officers

**Department/FPD** - The Fresno 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 Fresno Police Department Policy Manual

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

**Member** - Term applied to all persons of the Police Department and shall include sworn officers and non-sworn employees. This includes reserve officers, volunteers, and other persons who work within the Department but are unpaid or who are paid by entities other than the Department

**Officer/Sworn** - Applies to those employees, regardless of rank, who are sworn employees of the Fresno Police Department

**On-Duty** - Employee status during the period when they are actually engaged in the performance of their assigned duties

**Order** - An instruction either written or verbal issued by a superior

**Policy** - A statement of principle(s) upon which procedures and regulations are based to achieve the goals of the Department

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

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

**Shall (will or must)** - Indicates a mandatory action

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

**Staff Member** - Officers of the rank of lieutenant or above and to civilian personnel with bureau or unit management responsibility

### **106.3 RESPONSIBILITIES**

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

#### **106.3.1 CHIEF OF POLICE**

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

#### **106.3.2 STAFF**

Staff shall consist of the following:

- (a) Chief of Police
- (b) Assistant Chief of Police
- (c) Deputy Chiefs
- (d) Captains
- (e) Lieutenants
- (f) Bureau / Unit Managers

Staff shall review all recommendations regarding proposed changes to the Manual.

### **106.4 LEGALITY OF CONTENTS**

When any portion of the Manual is found to be illegal or incorrect, that finding shall not affect the validity of the remaining portions of the Manual.

### **106.5 FORMATTING OF THE POLICY MANUAL**

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

The Policy Manual contains chapters, policies, sections, subsections, and ordered lists as illustrated below.

#### **POLICY MANUAL**

##### **Preface**

##### **Table of Contents**

##### **Chapter**

Policy 100

Section 100.1

Subsection 100.1.1

Ordered list (a)

### 106.5.1 ACCEPTABLE ABBREVIATIONS

The following abbreviations are acceptable substitutions in the Manual:

- (a) Provisional Orders may be abbreviated as "PO";
- (b) Policy Manual sections may be abbreviated as "Section 106.1" or "106.1.1"

### 106.6 AUTHORITY OF DEPARTMENTAL DOCUMENTS

The following order of authority shall be given to Departmental documents listed from highest to lowest:

- (a) Chief's Memoranda;
- (b) Provisional Orders;
- (c) Policy Manual;
- (d) Other approved manuals/Operations Manuals;
- (e) Memoranda; and
- (f) Roll Call Training Bulletins.

#### 106.6.1 OPERATIONS MANUALS

Operations Manuals may be established by each division, bureau, section, or unit commander to establish regulations and procedures for their division, bureau, section, or units.

The Manual may be issued by the Policy and Procedures Unit after being approved by the Policy and Procedures Unit and the affected division commander.

#### 106.6.2 ROLL CALL TRAINING BULLETINS (RCTB'S)

RCTB's shall be issued by the Policy and Procedures Unit to those members designated by the Policy and Procedures Unit. RCTB's shall be used to provide training information or to clarify existing policy and procedures, but shall not establish new policy or procedure. Specific instances requiring the issuance of a RCTB shall include, but are not limited to:

- (a) Yearly update on legislative changes;
- (b) Court decision/case law updates as needed; and
- (c) Information on dangerous weapons, drugs, or disease.

(See Policy and Procedures Unit Operations Manual for format and contents of RCTB)

### 106.7 DISTRIBUTION OF MANUAL

Policy and Procedures Unit will maintain the master version of the Manual. This version shall include all former orders and subsequent revisions. Policy and Procedures Unit will have the primary responsibility for revising the Manual and for ensuring the contents are accurate and current.

A computerized version of the Manual is available on the Department network and on the patrol vehicle Mobile Data System (MDS) for access by all members. The computerized version is limited to viewing and printing of specific sections. No changes shall be made to the electronic version without proper authorization. The version contained on the Department network shall be considered the most current version of the Manual.

The working version will be distributed via PowerDMS to each bureau, section, or unit by the Policy and Procedures Unit.

Revisions and/or additions to the Manual will be published by the Policy and Procedures Unit. These will be published either electronically or hard copy in the form of complete or partial orders to be inserted into the Manual.

Each bureau, section, or unit issued a hard copy manual is responsible for promptly inserting new orders into the Manual so that it is current at all times. New or modified policies or orders take force and effect on the effective date as designated on the order.

Revisions to the Manual before the quarterly updates will be in the form of Provisional Orders (PO). PO's shall remain in effect until such time as they may be permanently incorporated into the Manual.



### **106.8 REQUESTS FOR REVISION OR NEW POLICY**

Members wishing to create a new policy or to revise, amend, or otherwise modify the Manual shall prepare a draft of the document and submit it through the chain of command to their commander, who will forward it to the Commander of the Policy and Procedures Unit.

Policy and Procedures Unit will ensure that the draft document is reviewed by the affected division commander or acting division commander prior to staffing. Once approved, the draft will be returned to the Policy and Procedures Unit to ensure that proper staff review is accomplished. The Administrative Division Commander will determine whether full, executive, or no staffing is required for appropriate review of the draft document. The Policy and Procedures Unit will distribute the draft document according to the staffing recommendations and allow one week for comments. Once the comment period is completed, the Policy and Procedures Unit shall be responsible for reconciling the staffing comments with the original author or person requesting the modification.

The Policy and Procedures Unit shall review the drafts, ensure that proper staff review is accomplished, and shall then submit them to the proper authority for approval.

On completion of this process, the Policy and Procedures Unit will send the final draft document to the Chief of Police or their designee for signature.

### **106.9 RECEIPT OF ORDERS**

All members are required to log into the PowerDMS system at least once per work week, or when notified by Department email or voice mail, to receive new and updated Departmental documents. Members shall personally sign (by entering an ID and password) for policies, procedures, and other directives that are distributed electronically via PowerDMS. After members have electronically signed for the new or modified order, the Policy and Procedures Unit will retain the electronic signature in the PowerDMS database.

When documents are distributed as a hard copy, members shall sign the Policy Distribution / Receipt Form accompanying the new or modified order, indicating their acknowledgment and receipt of the order. The form will be retained by the Policy and Procedures Unit.

Following the distribution of the document, supervisors may generate a signature report at any time for their respective bureau, section, or unit to verify compliance.

The Policy and Procedures Unit has the responsibility for updating and maintaining accurate Policy Distribution / Receipt Forms.

### **106.10 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 Fresno Police Department and shall not be construed to create a higher standard or duty of care for civil or criminal liability against the City, its officials or members. Violations of any provision of any policy contained within this manual shall only form the basis for department administrative action, training or discipline. The Fresno Police Department reserves the right to revise any policy content, in whole or in part.

**Fresno Police Department  
Policy Manual**

**Chapter 2: Organization and  
Administration**

### **200.1 POLICY**

The Department will maintain a divisional structure with established responsibilities.

#### **200.1.1 PURPOSE AND SCOPE**

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

### **200.2 STRUCTURAL UNITS & LEVELS**

The Chief of Police is responsible for administering and managing the Fresno Police Department.

#### **200.2.1 DEPARTMENT**

The Department is organized into five operational levels:

- (a) Department;
- (b) Division;
- (c) Bureau;
- (d) Section; and
- (e) Unit (includes squads & teams).

### **200.3 DIVISION**

A "division" is a grouping of bureaus, sections, and/or units, with a division commander. Divisions are subgroups of the Department. There are five divisions within the Fresno Police Department. These include:

- (a) Office of the Chief Division;
- (b) Patrol Division;
- (c) Support Division;
- (d) Investigations Division; and
- (e) Administrative Division.

#### **200.3.1 OFFICE OF THE CHIEF**

The Office of the Chief is commanded by the Chief of Police and falls under the authority of the City Manager. The Chief of Police is responsible for the day to day operations of the Department including administration, coordination and delivery of all law enforcement services provided by the Department to the community.

The Office of the Chief is comprised of:

- (a) Chief of Police;
- (b) Public Information Officer;
- (c) Administrative Lieutenant; and
- (d) Legal Advisor.

#### **200.3.2 PATROL DIVISION**

The Patrol Division is commanded by a Deputy Chief whose primary responsibility is to provide general management direction and control for that Division.

The Patrol Division consists of:

- (a) Field Commanders;
- (b) Southwest Policing District;
- (c) Central Policing District;
- (d) Southeast Policing District;

- (e) Northeast Policing District;
- (f) Northwest Policing District;
- (g) Duty Office / Crimeview; and
- (h) Real Time Crime Center.

### 200.3.3 SUPPORT DIVISION

The Support Division is commanded by a Deputy Chief whose primary responsibility is to provide general management direction and control for the Support Division.

The Support Division consists of:

- (a) Communication/Data Analysis Bureau; and
- (b) Special Operations Bureau.

### 200.3.4 INVESTIGATIONS DIVISION

The Investigations Division is commanded by a Deputy Chief whose primary responsibility is to provide general management direction and control for the Investigations Division.

The Investigations Division consists of:

- (a) Family Justice Bureau;
- (b) Special Investigations Bureau;
- (c) Street Violence Bureau; and
- (d) MAGEC Bureau.

### 200.3.5 ADMINISTRATIVE DIVISION

The Administrative Division is commanded by a Deputy Chief whose primary responsibility is to provide general management directions and control for the Administrative Division.

The Administrative Division consists of:

- (a) Personnel Bureau;
- (b) Fiscal Affairs Bureau;
- (c) Internal Affairs Bureau;
- (d) Grants Unit;
- (e) Employee Services Unit;
- (f) Regional Training Center; and
- (g) City Attorney Liaison/Civil Litigation.

## 200.4 BUREAU

A "bureau" is a grouping of sections and/or units with a bureau commander or bureau manager. Bureaus are subgroups of divisions.

## 200.5 SECTION

A "section" may be a functional group of line personnel with a section manager, or may be a grouping of units. Sections are subgroups of bureaus.

## 200.6 UNIT

A "unit" may include "squads" and "teams," and is the basic functional group of the Department.

(Refer to the Department Organizational Chart for corresponding representation)

## 200.7 DEPARTMENT COORDINATION / COOPERATION

All Divisions, Bureaus, Sections, and Units will maintain communication with other Divisions, Bureaus, Sections, and Units as a means of coordinating law enforcement services and increasing cooperation within the Department. Coordination refers to the transmission and receiving of information between all Departmental functions in the form of attendance at staff meetings, briefings, email, voice mail, reports, and analysis.

### **202.1 POLICY**

The Chief of Police and management staff will establish a set of long-term goals for the Department.

#### **202.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to establish staff responsibilities for setting the goals and objectives of the Department.

### **202.2 DEPARTMENT GOALS & OBJECTIVES**

These goals will be reviewed annually and updated as needed to ensure they accurately reflect the needs of the community.

### **202.3 DEFINITIONS**

**Goal** - A Goal is a relatively broad statement of an end or result one intends to achieve. A goal usually requires a relatively long time span to achieve and, when possible, should be stated in a way that permits a measurement of its achievement.

**Objective** - An objective is an end or result that one intends to attain, to achieve partial fulfillment of a goal. An objective is a sub-goal or an element of a goal, and requires a shorter time span to accomplish.

### **202.4 DIVISIONAL AND SUBORDINATE GOALS & OBJECTIVES**

Each Division Commander will establish written goals and objectives for their division as steps toward the attainment of the goals of the Department. These goals & objectives will be reviewed annually and updated as needed to ensure that they meet the need of the organizational component of the Department.

Each Bureau, Section, and Unit Manager will establish written goals and objectives for their operations directed toward the attainment of divisional goals and objectives. These goals & objectives will be reviewed annually and updated as needed to ensure that they meet the need of the organizational component of the Department.

**NOTE:** The written goals and objectives for Bureaus, Sections, and Units will be available to all personnel (e.g., online library, printed hard copies, in PRB).

### **202.5 MEASUREMENTS OF PROGRESS**

At least annually, Division Commanders will quantify the progress of their respective objectives. This progress will be reported in the Department's Annual Report and published at the direction of the Chief of Police or their designee.

Bureau Commanders/Managers will evaluate written objectives of their Bureaus, Sections, and Units annually in order to compare the progress of achieving the written goal and to ensure the goals & objectives meet the needs of the Department.

### **202.6 REVIEW OF OBJECTIVES**

Bureau Commanders/Managers will review and update, or modify the goals and objectives for their Bureaus, Sections, and Units annually based on the previous years' data and submit them to their Division Commander. Division Commanders will review the modified goals and objectives and make any corrections or recommendations. Division Commanders will update their goals and objectives annually prior to budget preparation and establish new or revised goals and objectives as directed by the Chief of Police.

Policy  
**204**

Fresno Police Department Policy Manual  
**Provisional Order**

**204.1 POLICY**

The Chief of Police or designee shall issue all Provisional Orders.

**204.1.1 PURPOSE AND SCOPE**

Provisional Orders (P.O.) establish an interdepartmental communication that may be used by the Chief of Police to make immediate changes to policy and procedure consistent with the current Memorandum of Understanding (MOU) and as permitted by Government Code §3500 et seq.

P.O.'s will immediately modify or change and supersede sections of the Manual to which they pertain.

**204.2 PROVISIONAL ORDER PROTOCOL**

P.O.'s will modify existing policies or create a new policy as appropriate. P.O.s will be rescinded upon incorporation into the Manual.

Any P.O. issued after publication of the Manual shall be numbered consecutively starting with the last two digits of the year, followed by the number "1" For example, 07-1.

## Fresno Police Department Policy Manual Emergency Operations Plan

### **206.1 POLICY**

The City has prepared an Emergency Operations Plan Manual for use by employees. Employees will follow the Emergency Operations Plan and Department Critical Incident Response Plan in the event of a major disaster or other emergency event.

#### **206.1.1 PURPOSE AND SCOPE**

The Emergency Operations Plan Manual provides for a strategic response by employees and assigns specific responsibilities in the event the plan is activated. The Critical Incident Response Plan establishes the responsibilities of the Department to the City of Fresno in providing law enforcement services when confronted with emergency incidents, such as natural and human made disasters, civil disturbances, mass arrests, bomb threats, hostage and barricaded persons situations, acts of terrorism, and other unusual incidents, which expose citizens and police personnel to unusual dangers.

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

The City of Fresno Emergency Operations Plan can be activated in a number of ways. The City of Fresno Manager/Director of OES, the Deputy City Managers, the Chief of Police, Deputy Police Chief, Fire Department Operations Bureau Chief, Fire Marshal, OES Coordinator, or the Field Incident Commander may activate the Emergency Operations Plan when a disaster occurs or major emergency occurs or threatens to occur in the City.

### **206.3 LOCATION OF MANUALS**

The manuals are available in Admin Services Division, the Duty Office, and on the L: drive at <L:\LIBRARY\Emergency Operations Plans>. All supervisors should familiarize themselves with the City of Fresno Emergency Operations Plan, the Critical Incident Response Plan, and what roles police personnel will play when the plan is implemented.

### **206.4 OFFICE OF EMERGENCY SERVICES (OES)**

The City of Fresno Office of Emergency Services (OES) Coordinator is responsible for coordinating the planned response to natural and human made disasters, civil disturbances, and other critical incidents, which may require the use of state, federal, or citywide resources. The OES Coordinator shall act as an expediter of resources for these types of incidents and shall be the principal advisor to the Chief of Police. The OES Coordinator may be reached 24 hrs at (559) 970-8873.

### **208.1 POLICY**

The Department will ensure personnel possess the knowledge and skills necessary to provide a professional level of service that meets the needs of the community.

#### **208.1.1 PURPOSE AND SCOPE**

It is a goal of the Department to administer a training program that will provide for the professional growth and continued development of its personnel. The Department seeks to provide ongoing training and encourages all personnel to participate in advanced training and formal education on a continual basis. Training is provided within the confines of funding, requirements of a given assignment, staffing levels, and legal mandates. Whenever possible, the Department will use courses certified by P.O.S.T.

### **208.2 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 personnel; and
- (c) Provide for continued professional development of personnel.

### **208.3 TRAINING ATTENDANCE**

Department members assigned to attend training, whether it is in house or being offered at another agency or organization, are required to attend the entire course. Exceptions may only be made by the member's Division Commander and only for a compelling reason. When an exception is granted by a Division Commander, a replacement to attend the training shall be provided from within the member's Division. The replacement shall be approved by the Training Section to ensure that no conflict exists (e.g., they have already attended the training; they will exceed the 80-hour P.O.S.T. reimbursement cap, etc.).

Members may be excused from class for the following reasons:

- (a) To attend mandatory court appearances;
- (b) Unforeseen illness or family emergency; or
- (c) With the approval of the member's Division Commander.

Members missing class time at a course that is offered by our agency can attend a subsequent course to make up that portion missed. The Training Section should make reasonable attempts to accommodate the Department member in the next available course. Members missing class time on a course offered out of town will not be able to make up the class time and shall only be sent to the course again if it is a requirement for their current assignment. Members failing to attend scheduled training will be reported to their immediate supervisor, commander or district commander, unless authorized release is obtained prior to the training by the Training Section.

### **208.4 TRAINING ATTIRE**

#### **208.4.1 RANGE AND PHYSICAL TRAINING**

Members attending range or physical training may wear jeans, tennis shoes and other leisure/recreational attire. However, members should change into regular duty attire prior to returning to duty unless otherwise authorized by their supervisor. Officers will wear clothing that will minimize the appearance of any tattoos.

#### **208.4.2 OTHER TRAINING**

Members attending training, other than range or physical training, shall wear casual business attire such as Dockers type pants or slacks, button front shirts (short or long sleeve), or polo type dress shirts with collar, unless notified by the Training Section that other attire is permitted for that training session.



Members shall comply with any noted dress code provisions when attending training provided by outside agencies/vendors.

### **208.5 REGOGNITION / DOCUMENTATION**

The Department recognizes that legitimate training can be presented through/by a variety of sources: P.O.S.T.; California Emergency Management Agency (CalEMA); Department of Homeland Security (HLS); in-house other than the Training Section; private vendors; etc. It is the Department's preference that, when possible, training attended by our members be P.O.S.T. certified or recognized by P.O.S.T. (e.g., CalEMA, HLS, private vendors presenting P.O.S.T. certified training). When members attend P.O.S.T. certified training, their training records are updated in the P.O.S.T. database, on the member's P.O.S.T. profile. P.O.S.T. maintains complete course records of the training that may later be accessed for court or other legitimate purposes.

Non-P.O.S.T. certified in-house training that is conducted by specialty units (including units that are collateral assignments) within the Department shall be thoroughly documented, in a memorandum format approved by the Training Section. The specialty unit's commander shall assign a unit member to complete the memorandum, listing all of the members who attended the training. The memorandum shall be submitted to the Training Section Commander no later than one week after the training is completed. The Training Section shall update the attendees' records to reflect receipt of the training.

### **208.6 OUT-OF-TOWN TRAVEL / TRAINING**

Out of town training/travel requests, approved by the submitting member's Division Commander, shall be submitted to the Training Section at least 30 days in advance of the proposed training. Late requests may not be processed.

When a vehicle is required for travel, the member shall utilize an available vehicle from within their Division. When no vehicle is available, the member will contact the Duty Office to reserve a training/travel vehicle. Training/travel vehicles are assigned on a first come/first served basis. When a training/travel vehicle is not available, the member will need to notify their chain of command to make arrangements for a suitable vehicle from another division. The use of personal vehicles for travel is prohibited except for those members who have been authorized pursuant to City AO 2-2.

#### **208.6.1 RETURN OF CITY OWNED VEHICLES**

Members utilizing a City vehicle (Division or training/travel vehicle) to attend out-of-town training must return the vehicle on the last day of training immediately following their return to Fresno. Members are prohibited from taking the vehicle home unless specific prior authorization has been obtained from their commander.

### **208.7 P.O.S.T. BACKFILL**

All overtime related to P.O.S.T. training that is approved for backfill shall only be authorized by the Training Section or its designee (Duty Office). Only P.O.S.T. Plan I and Plan II courses have backfill. If there is any question, members shall consult with Training Section staff prior to authorizing overtime.

### **208.8 ADHERENCE TO RULES**

Members shall adhere to all rules, regulations, and other direction provided by Regional Training Center personnel when attending training.

### **212.1 POLICY**

Electronic mail (E-mail) is a communication tool to be used in accordance with generally accepted business practices and current law (e.g., California Public Records Act).

#### **212.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to establish guidelines for the proper use and application of E-mail by members of the Department. Messages transmitted over the E-mail system should only be those that involve official business activities or contain information essential to members for the accomplishment of business-related tasks and/or communication directly related to the business, administration, or practices of the Department.

### **212.2 DEFINITION**

**E-Mail** - All electronic communication transmitted via traditional E-mail clients (e.g., MS Outlook), digital messages sent via cellular phones/PDA's, and administrative messages sent via MDS and Department computer.

### **212.3 E-MAIL - NO RIGHT OF PRIVACY**

The City of Fresno provides members with E-mail services. Members should only use this service for conducting Departmental business. E-mail messages transmitted over the computer network are considered property of the Department. The City/Department reserves the right to access, audit, and disclose for whatever reason, all messages transmitted over its E-mail system or placed into its storage, including searching for security breaches or violations of Department/City of Fresno policy.

The E-mail system is not appropriate for confidential communications. When a communication must be private, an alternative method to communicate the message should be used. Members using the City's E-mail system shall have no expectation of privacy concerning communications in the system.

### **212.4 RULES OF E-MAIL USE**

Sending derogatory, defamatory, obscene, disrespectful, sexually suggestive, and harassing or any other inappropriate messages on the E-mail system is prohibited.

All members assigned an E-mail account shall review their E-mail messages a minimum of once during each duty shift they work. Duty related messages received by members via E-mail shall be acted upon as soon as practical or as circumstances dictate.

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

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

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

## **212.5 CONFIDENTIALITY MESSAGE**

E-Mail has been assessed to be public information. However, under some circumstances, to insure the confidentiality of E-mail messages, the sender should include some type of clear written notification to the recipient within the sent E-mail, that such mail should not be forwarded or altered without the express consent of the original author of said E-mail text.

### This text might appear as follows:

This electronic transmission is intended for the addressee(s) named above. It contains information that is privileged, confidential, or otherwise protected from use and disclosure. If you are not the intended recipient, you are hereby notified that any review, disclosure, copying, or dissemination of this transmission or the taking of any action in reliance in its contents, or other use is strictly prohibited. If you have received this transmission in error, please notify the sender that this message was received in error and then delete this message.

Fresno Police Department Policy Manual  
**Administrative Correspondence (non-electronic)**

**214.1 POLICY**

No non-electronic administrative correspondence format is allowed except that approved by the Chief of Police.

**214.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to establish uniform formats throughout the Department for non-electronic correspondence.

**214.2 AUTHORIZED FORMATS**

- (a) Memorandums;
- (b) Department letterhead; and
- (c) Department "Memo" head.

**214.3 MEMORANDUMS**

The primary purpose of memorandums (memos) is to provide a means of administrative communication. Memos:

- (a) Do not establish policy, however may establish temporary regulations, or procedures;
- (b) Are issued by the Chief of Police, announce and document promotions, transfers, hiring of new personnel, separations, personnel and group commendations, or other changes in status;
- (c) May be issued by any ranking member to a subordinate member for purposes of directing the activities of that/those member(s) in a specific situation;
- (d) Will automatically expire for all purposes at 0001 hours on the 15th day after the date of issuance; and
- (e) That are expired may not be utilized to hold members accountable.

**Exceptions:** The expiration policy will not apply to those directives issued and signed by the Chief of Police. Memos issued by the Chief will remain in effect indefinitely, unless repealed or superseded by a different directive.

**214.3.1 PREPARATION AND DISTRIBUTION**

- (a) Memos will be addressed to the affected member(s), bureau, section, or unit, to which they apply;
- (b) A memo will contain the date it takes effect;
- (c) A memo will be signed / initialed by the issuing member;
- (d) A copy of any memo issued to named personnel shall be given to each member addressed;
- (e) Memos issued to bureaus, sections or units will be duplicated and distributed in sufficient quantity to ensure that all affected members are made aware of the memo; and
- (f) A member may not be held accountable to the provisions of any memo unless a supervisor can personally attest to the fact that the member had been made aware of the provisions of the memo.

**214.4 DEPARTMENT LETTERHEAD**

Department letterhead is distinguished by the presence of the City of Fresno "logo" along with the Department's address and name of the Chief of Police.

To ensure that the letterhead and name of the Department are not misused, the following will be adhered to:

- (a) All external correspondence will be on Department letterhead;
- (b) The Department letterhead will not be altered; and
- (c) Members are to use Department letterhead only for official business.

### **214.5 DEPARTMENT "MEMO" HEAD**

Department "Memo" head is distinguished by the presence of the City of Fresno "logo", Department name, but lacks the address and name of the Chief of Police.

"Memo" head is only used for internal documents.

### **214.6 SURVEYS**

All surveys are to be authorized by the Chief of Police or a Division Commander.

### **214.7 ANNOUNCEMENTS**

#### **214.7.1 DEPARTMENT BULLETIN BOARDS**

Department bulletin boards are to be used for the posting of official Department communications and other information of official interest to members. Members shall not post any material on Department bulletin boards without the express permission of the commanding member of the bureau, section, or unit where the board is located.

#### **214.7.2 MEMBER BULLETIN BOARDS**

Items posted on member bulletin boards must be dated and may remain posted for a maximum of 30 days. These items need not be cleared prior to posting.

#### **214.7.3 DCB NOTICES**

Requests for permission to publish notices of a non-official nature on the DCB must be approved by a Records supervisor.

#### **214.7.4 OFFICE OF THE CHIEF OF POLICE**

The Office of the Chief of Police will handle all announcements regarding deaths and funerals of active members, their relatives, and inactive members. Members wishing an announcement to be made should contact the Office of the Chief of Police.

#### **214.7.5 BRIEFING**

Members who wish to address all members of a particular bureau, section, unit, or who wish a notice read to all members of a bureau, section, or unit must obtain the permission of the affected bureau, section, or unit commander/supervisor. Any supervisor receiving a notice for reading at briefing or other general dissemination shall first ensure that it has been cleared through the proper commanding member.

### **214.8 WRITTEN COMMUNICATIONS**

#### **214.8.1 CONFIDENTIALITY**

Any piece of mail or other written communication that is addressed to a member by name shall be considered confidential and shall not be opened or read by any other member without the permission of the addressee.

#### **214.8.2 RESPONSIBILITY TO DELIVER**

Supervisors and commanders shall ensure that all mail and communications are promptly delivered to the personnel under their command. When the member addressed is off duty, on days off, or on vacation, delivery may be postponed until the member returns to duty, except that members shall be advised of any matters that have a limited time reference that are received while they are absent when the member can be reached with reasonable effort.

#### 214.8.3 RESPONSIBILITY TO PICK UP MAIL

Members are responsible for picking up their mail from their supervisors or at an established mail distribution point at the beginning of each duty shift. Members on extended leaves of absence shall make arrangements with their supervisor for the receipt of their mail during their absence.

#### 214.8.4 CHAIN OF COMMAND

Supervisory and management personnel should not send written instructions or directives directly to subordinate personnel who are not under their immediate command. These documents shall be sent to a supervisor or manager of equal rank to the sender, who is in the chain of command of the member addressed in the document. The receiving supervisor or manager shall then forward the document down the chain of command to the addressed member. Likewise, superiors should not send such matters directly to subordinates within their command without routing them through intermediate supervisors in the chain of command.

Subordinate members should not send written communications or requests directly to a superior not in their chain of command. These documents shall be sent up the member's chain where they can be forwarded laterally between equal ranks. Likewise, subordinates should not skip levels in their chain of command when sending written matters upward to superiors. Responses to specific requests, however, may be returned directly to the requesting member.

These regulations may be disregarded in cases of emergencies or when specifically excepted in other procedures. Nothing in these regulations shall be construed as prohibiting lateral communications between members of different commands.

#### 214.8.5 SIGNATURES

All written communications within the Department shall be legibly signed by the sender or shall be signed or initialed over typewritten or printed identification. All signatures shall include name, rank, assignment and, for sworn personnel, badge number.

#### 214.8.6 VERBAL COMMUNICATIONS

Verbal communications shall be regulated as described in Section 214.8.4-Chain of Command.

#### 214.8.7 USE OF THE DEPARTMENT ADDRESS

Members shall not use the address of the Department for any personal correspondence.

Members shall not use the address of the Department for CDL, vehicle registration, or ID cards. Members who desire DMV address confidentiality shall respond to the Personnel Bureau to obtain the necessary form and instructions.

### **216.1 POLICY**

The Department will establish minimum staffing levels in the Patrol Division for all shifts and districts.

#### **216.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to ensure that proper staffing levels are available at all times. To accomplish this, the Department will balance the needs of the employees with the public safety requirements of the community.

### **216.2 DAILY ASSIGNMENT SCHEDULES**

District supervisors shall ensure contact is made with the Duty Office immediately after briefing for the completion of a city-wide assignment detail.

### **216.3 OVERTIME (OT)**

When vacancies cannot be filled by cross district loaning or volunteers, members may be ordered to work OT. When OT is required, the Duty Office shall determine how the vacancies will be filled consistent with the MOU guidelines. As such, the Duty Office reserves the right to approve or cancel any OT as appropriate.

If more than one member expresses an interest in working the OT shift and meet the voluntary OT criteria the member will be selected by the Duty Office based on a lottery system.

#### **216.3.1 VOLUNTARY OT**

Members expressing an interest in working OT must be eligible as established by the following criteria:

- (a) Eligible members are those who are on scheduled time off when accepting the OT.
  - 1) This includes those members who are off on scheduled annual vacation.
  - 2) Additionally, all members must take at least one regularly scheduled day off to be eligible; and
- (b) Ineligible members are those who are already scheduled to work per the Matrix/ special unit work schedule, those who will have worked more than 15 hours in a 24-hour period if the OT was accepted, and those who are out for administrative purposes, sick, or injured.
  - 1) Ineligible members shall not bid or state they are available to work in violation of this order.

Eligible members who desire to work Voluntary OT shall call the Duty Office Overtime Line at voicemail (VM) 621-7423 or email the Duty Office directly. Members should provide their name, badge number, current assignment, available days/shifts, and contact number on the Duty Office Overtime Line or by email.

- (a) This excludes availability for half shifts, which will not be accepted nor recorded;
- (b) The OT Log will be compiled from the messages left and emails, no more than fourteen days in advance, beginning at midnight;
- (c) Any messages sent by the "future delivery" option or marked "urgent" will not be accepted.
- (d) A separate list will be kept for officers and sergeants;
- (e) All vacancies will be filled from the compiled lists, in accordance with the above stated;
- (f) In the event of anticipated OT, the Duty Office will fill the vacancy based on the OT log/list as it exists at the time the Duty Office is made aware of vacancies. This will be done up to 5 days in advance of the vacancy. For the purpose of this section, anticipated OT is any vacancy known about more than 24 hours in advance;
- (g) Members may arrange for a replacement for their assigned shift through Absent with Substitute (AWS) with their supervisor's approval and consistent with the MOU guidelines;
- (h) Any OT accepted is to be worked in its entirety by the member or the accepting AWS member ;
- (i) When unable to work the OT for any reason, the member shall notify the Duty Office

immediately;

- (j) The Duty Office will determine who will be awarded the OT, utilizing the lottery system, if more than one member is interested in working OT; and
- (k) Members who work a voluntary OT shift will be given credit on the MOT log.

Any disputes regarding the issuance of OT by Duty Officers are to be directed through the chain of command to the Duty Office Sergeant. The Duty Office Sergeant shall direct unresolved disputes to the Patrol Bureau Commander or the Chief's designee.

#### 216.3.2 MANDATORY OVERTIME (MOT)

When the Duty Office is unable to satisfy minimum staffing needs through voluntary OT, the Patrol Division Commander or designee shall be notified and decide how to proceed. This may be accomplished by directing a member to be ordered to work the last half of a shift, or by members being contacted at home. MOT will be assigned consistent with the following MOU guidelines:

- (a) MOT will be assigned based on reverse seniority, with the least senior member who is eligible being assigned a shift first, in accordance with the MOT Log;
- (b) Members will be notified of assigned overtime shifts at least five (5) calendar days prior to the assigned shift;
- (c) Members will be notified of assigned MOT shifts by Department email, through their chain of command, or by the Duty Office;
- (d) Members who work an MOT shift will be given credit on the MOT Log;
- (e) The Department has the discretion to assign MOT shifts above minimum staffing requirements in anticipation of members becoming injured, ill, etc.;
- (f) Members will not be required to be available for receipt of MOT notifications during days off;
- (g) Members in patrol can only be assigned MOT shifts consistent with their current regularly worked shift and may be assigned city wide MOT; and
- (h) Members will be exempt from MOT during scheduled annual vacation, provided a vacation calendar has been submitted in accordance with Department policy. This includes assignment of a shift or notification of assignment of a shift. Regular days off that are connected to annual scheduled vacation will be included in the above-described MOT exemption.

Members ordered to work MOT in this fashion shall work the additional time. When a conflict occurs, the member experiencing the conflict may notify the Duty Office. The Department will provide direction to the Duty Office and the member. Members who are exempted from an MOT shift because of a conflict will remain available for upcoming MOT shifts.

Members are allowed one (1) "pass" per calendar year, which exempts them from MOT for one (1) set of days off. The members will be returned to the eligible list upon returning to work. Unused passes do not roll over and passes cannot be donated or transferred. Members will have twenty-four (24) hours from the time they are notified of an assigned shift to use the pass.

#### 216.3.3 ADDITIONAL STAFFING FOR OTHER THAN NORMAL SERVICE

When it is necessary to assign additional staffing for:

- (a) An emergency situation, such staffing will be at the direction of the Chief of Police; or
- (b) A situation which is known to exist prior to the actual need (i.e., planned events, park crowd control, etc.), attempts will be made to solicit volunteers.
  - 1) When all vacancies cannot be filled by volunteers, members will be ordered to work OT to fill the remaining vacancies.
  - 2) When both volunteers and ordering members to work OT does not satisfy the additional staffing required, because of insufficient members or the time frame of the situation, members will be ordered to work OT from their days off with a minimum of 48 hours prior notice when possible.



#### **216.4 OFFICER AND SERGEANT RESPONSIBILITIES**

In order to maintain accurate records, personnel are to notify the Duty Office, as required in Policy §1014 (Sick Leave) and Policy §1013 (Leaves of Absence), of any changes to their schedule.

Schedules and OT logs will be posted on the Department's computer on the L drive, Library, at Patrol Matrix. All Patrol Matrix members discovering any errors to their schedule or to the OT log are to notify the Duty Office of the discrepancy.

#### **216.5 FLEXING OF SPECIAL UNITS**

Members assigned to specialized assignments, designated in the MOU to receive premium pay, may be flexed with the approval of the Bureau/District Commander or their designee. The members will be given as much advance notice as possible in accordance with the MOU.

Special Unit members who are not receiving premium pay for Specialized Assignments ("flex pay") may only be assigned MOT shifts on the same Watch as their regular shift hours.

#### **216.6 CALL OFFS BY THE DEPARTMENT**

Members may be called off a voluntary or mandatory overtime shift by the Department pursuant to the following MOU guidelines:

- (a) Must be no less than ninety (90) minutes prior to the scheduled start of shift;
- (b) Members called off on the same day as their assigned overtime shift by the Department will be compensated in a manner consistent with the MOU;
- (c) Members called off prior to the day of their assigned shift by the Department will not be entitled to compensation;
- (d) Members will be notified of call offs by Department email, through their chain of command, or by the Duty Office. The inability of the Duty Office to reach a member by phone will not be construed as the Department not having fulfilled their call-off notification obligation; and
- (e) If a member is called off, the member will not be entered on the MOT Log as having worked a shift.

### **218.1 POLICY**

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

#### **218.1.1 PURPOSE AND SCOPE**

Only the Chief of Police is given the statutory discretion to issue a license to carry a concealed firearm to residents\* of the City of Fresno (Penal Code §§ 26150 and 26155). This policy will provide an outline for the application process and issuance of a license to carry a concealed firearm to Fresno residents. Pursuant to PC §26160, these procedures shall be made accessible to the public.

\*Some non-residents may qualify.

#### **218.1.2 APPLICATION OF POLICY**

Nothing in this policy shall preclude the Chief of Police from entering into an agreement with the Sheriff of Fresno County to process all applications and license renewals for the carrying of concealed weapons [PC §26155(c)].

### **218.2 QUALIFICATIONS**

Concealed Carry Weapons (CCW) applicants are subject to the following qualifications:

- (a) Be deemed not to be a disqualified person as provided in Penal Code § 26202;
- (b) Be deemed not to be prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm (Penal Code § 26185; Penal Code § 26195),
- (c) Be a resident of the City of Fresno (Penal Code § 26150; Penal Code § 26155);
- (d) Be at least 21 years of age, and present clear evidence of identity and age as defined in Penal Code § 16400 (Penal Code § 26150; Penal Code § 26155);
- (e) Fully complete the California Department of Justice (DOJ) application (Penal Code § 26175),
- (f) Submit fingerprints and a complete criminal background check (Penal Code § 26185);
- (g) Pay all associated application fees (Penal Code § 26190);
- (h) Be the recorded owner of the firearm, with the California DOJ, for which the license will be issued, as determined by the Fresno Police Department (Penal Code § 26162);
- (i) Be free from any psychological conditions that might make the applicant unsuitable for carrying a firearm (Penal Code § 26190); and
- (j) Complete required training described in Penal Code § 26165.

### **218.3 APPLICATION PROCESS**

Concealed weapons applications can be obtained online through the City of Fresno website. Applications will be those prescribed by the Attorney General in accordance with PC §26175, as amended. The firearms training specified in this article may be started and completed after the application has been received by the Fresno Police Department; however, the CCW license shall not be issued until applicant produces evidence of successful completion of the required training. During the application process, an interview appointment for a new Concealed Carry Weapon license will be scheduled. Please note that for a new Concealed Carry Weapon license a non-refundable application fee will be required to reserve an appointment for an interview.

#### **218.3.1 APPLICATION**

CCW applications and renewals can only be submitted through the following link: [fresnopdca.permitium.com](https://fresnopdca.permitium.com). Information contained on the application, including substantial personal information, may be subject to public access under the Public Records Act.

**WARNING:** IT IS A CRIME TO KNOWINGLY PROVIDE FALSE INFORMATION ON AN APPLICATION TO CARRY A CONCEALED WEAPON (PC §26180).

Upon receipt of a properly completed initial application and payment of all fees the CCW Coordinator shall, within a reasonable time, submit all required documents and appropriate fees to the California Department of Justice (DOJ) for a clearance. The Chief of Police shall not issue a CCW license until:

- (a) Clearance from the California Department of Justice has been received; and
- (b) The applicant produces evidence of successful completion of a firearm training course pursuant to PC §26165 and certified by the state as meeting the Basic Handgun Safety Certificate requirements including the actual firing of weapons.

**Note:** Certified CA DOJ Handgun Safety Instructors are exempt from the training requirement.

### 218.3.2 FEES

For a new Concealed Carry Weapon license a non-refundable application fee will be required upon submission of the application. A fee will be paid upon approval of the application.

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

### 218.3.3 FINGERPRINTS

The applicant will also be required to get fingerprinted at any Live Scan location. At that time, the applicant must pay the required fingerprint scanning fee to the business.

### 218.3.4 CRIMINAL HISTORY

The applicant's fingerprints will be Live Scanned to the State of California Department of Justice where their background will be checked to determine if they are free from those criminal offenses that would prohibit them from acquiring a concealed weapon permit. Persons convicted of certain criminal offenses or with a history of certain mental problems are prohibited by law from obtaining a concealed weapon permit. These offenses are listed in the application attachments.

A permit cannot be issued until clearance from the Department of Justice is received.

### 218.3.5 BACKGROUND CHECK

In addition to the CA DOJ background check, the CCW Coordinator shall also conduct a local background investigation of every CCW applicant. This check will include the sharing of information with the Fresno Sheriff's Office (FSO) regarding applicants and existing CCW License holders.

The Fresno Police Department will conduct a background investigation to verify the information on the applicant's application and to determine if the applicant shall be deemed to be a disqualified person pursuant to Penal Code §26202.

### 218.3.6 DISQUALIFYING INFORMATION

Unless a court makes a contrary determination pursuant to Penal Code § 26206, an applicant shall be deemed to be a disqualified person and cannot receive or renew a license pursuant to sections 26150, 26155, or 26170 if the applicant meets any elements set forth in Penal Code § 26202.

### 218.3.7 TRAINING AND QUALIFICATION

The applicant shall successfully complete a firearms safety and proficiency examination with the firearm to be licensed, to be administered by the department Rangemaster or provide proof of successful completion of another department approved firearms safety and proficiency examination, including completion of all releases and other forms. The cost of any outside inspection/examination shall be the responsibility of the applicant.

### 218.3.8 HANDGUN REQUIREMENTS

The applicant shall submit any firearm to be considered for a license to a certified Rangemaster or other department authorized gunsmith, at no cost to the applicant, for a full safety inspection. The Chief of Police reserves the right to deny a license for any firearm that has been altered from the manufacturer's specifications or that is unsafe (Penal Code § 31910).

### 218.4 PERMIT ISSUANCE

If the applicant has met all requirements for a concealed weapon permit, they will be directed to respond in person to the Concealed Weapon Permits Coordinator's office to receive their permit.

#### 218.4.1 HOLD HARMLESS AGREEMENT

An approved CCW License permit holder shall be required to sign a form that shall indemnify, hold harmless, and defend the City, its officers, officials, employees and agents from any and all loss, liability fines, penalties, forfeitures, costs and damages (whether in contract, tort, or strict liability, including but not limited to personal injury, death at any time, and from any and all claims, demands, and actions in law or equity (including reasonable attorney's fees and litigation expenses) arising out of or in connection with intentional or negligent acts or omissions of the permit holder.

#### 218.4.2 RENEWALS

A concealed weapon permit is valid for two years. The permit must be renewed bi-annually to remain valid. The applicant will show evidence of successful completion of the required course of training which involves a certified course of instruction by an instructor certified by the State of California. All CCW license renewals shall be made within a time period of sixty (60) days before the expiration date of the CCW.

The licensee shall notify this Department in writing within 10 days of any change of place of residency. If the licensee's place of residence was the basis for the issuance of the permit and the licensee moves out of the county of issuance, the permit shall expire 90 days after the licensee has moved (PC §26210). A non-refundable fee will be paid upon submission of the application.

#### 218.4.3 MODIFICATION OF LICENSE FORM (AMENDMENTS)

A change of name, address, addition or deletion of a weapon, or other changes to the concealed weapon permit is considered a modification or amendment.

#### 218.4.4 REVOCATION

Any license issued pursuant to this policy shall be revoked by the Chief of Police for any of the following reasons (Penal Code § 26195):

- (a) The licensee is prohibited by state or federal law from owning or purchasing a firearm;
- (b) The licensee has become a disqualified person and cannot receive such a license in accordance with the standards set forth in Penal Code § 26202;
- (c) The licensee has breached any of the conditions or restrictions described in Penal Code § 26200;
- (d) Any information provided by a licensee in connection with an application for a new license or a license renewal is inaccurate or incomplete; and
- (e) If the license is one to carry "loaded and exposed," the license shall be revoked immediately upon a change of the licensee's place of residence to another county (Penal Code § 26210).

### 218.5 RESTRICTIONS

If a person in possession of a CCW and a weapon violates any of the restrictions outlined within the application for the CCW, the officer shall confiscate the weapon and license for safe keeping and/or evidence.

The following are standard restrictions that shall apply to all CCW licenses. The licensee shall:

- (a) Not have alcohol or drugs in system while carrying the weapon;
- (b) Not represent self as a peace officer at any time;

- (c) Not violate any local, State, or Federal laws;
- (d) Not be under the influence of any medication which is labeled with a warning not to operate a motor vehicle or other machinery;
- (e) Not impede any law enforcement officer in the performance of their duties;
- (f) Not refuse to display or surrender their permit and weapon when requested to do so by a peace officer;
- (g) Not unjustifiably display a deadly weapon;
- (h) Immediately notify a peace officer, with whom the licensee comes in contact, that the licensee is armed and has a permit in their possession;
- (i) Not carry weapon on any public school, private school, college, or university;
- (j) Not carry weapon into any courthouse, government or municipal building;
- (k) Not carry weapon in a place having a primary purpose of dispensing alcoholic beverages for on-site consumption;
- (l) Not carry weapon while attending any social or public function where weapons are prohibited; and
- (m) Not carry weapon into controlled access area of any airport or fly on any commercial airplane with a weapon, except as directed by authorized airport and/or airline personnel.

## **218.6 PERMIT DENIAL**

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

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

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

### **218.6.1 ADDITIONAL REQUIREMENTS**

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

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

## **218.7 DOCUMENTATION**

When a concealed weapons license and/or weapon is confiscated, and no crime has taken place, a GI report shall be written, including the reason for confiscation, and forwarded to the CCW Coordinator.

## **218.8 CONFIRMATION OF LICENSE**

A CCW License can be checked through ComCen. The following information should be obtained:

- (a) Expiration date; and
- (b) Restrictions (e.g., during business functions, only while at a specified location, etc.)

## **218.9 CCW APPLICATION INQUIRIES**

Members should advise interested citizens that CCW applications can be obtained online through the City of Fresno website or by contacting the CCW Coordinator at 621-6562. A concealed weapons license can only be issued by the Chief of Police, pursuant to PC §§26150 et seq. and 26155 et seq., and after successful completion of a background check conducted by the CCW Coordinator.

## **218.10 ISSUANCE**

All CCW licenses and renewals thereof shall be valid for a period allowed under PC §26220. CCW licenses issued for personal use shall be valid for two (2) years; CCW licenses issued to Judges and Magistrates shall be valid for three (3) years; and CCW licenses issued to peace officers shall be valid four (4) years.

## **218.11 WEAPONS**

Due to possible breakage, different weather conditions and dress conditions, different concealable weapons may be authorized for carrying under a Single Carry License. As the state application for a CCW license requires the Manufacturer name, serial number and caliber of weapons carried, multiple weapons may be listed on a CCW license.

- (a) **AUTHORIZED WEAPONS CHANGES:** All changes in weapons authorized to be carried must be made pursuant to an amended application as required by State law.
- (b) **RENEWAL:** All CCW license renewals shall be made within a time period of sixty (60) days before the expiration date of the CCW. In addition to the CA DOJ fees for renewal, a non-refundable fee payable to the City of Fresno (initially set by the City in the Master Fee Schedule designated in the Master Fee Resolution), is due at the time of renewal.

## **218.12 RECORDS**

The CCW Coordinator shall maintain records of:

- (a) The denial of a license;
- (b) The denial of an amendment to a license;
- (c) The issuance of a license;
- (d) The amendment of a license; and
- (e) The revocation of a license.

Copies of each of the above records shall be filed immediately by CCW Coordinator with the CA DOJ.

The CCW Coordinator shall submit to the Attorney General the total number of licenses issued to peace officers, and to judges pursuant to PC requirements.

## **218.13 CONFIDENTIAL RECORDS**

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

Any information in an application or permit which tends to indicate when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of their family shall not be considered public record [Government Code §7923.800].

## **218.14 MEMBERS WITH CCW LICENSES**

Non-sworn members with a valid CCW license shall not carry their personal firearm at work.

Fresno Police Department Policy Manual  
**Retired Officer CCW Endorsements**

**220.1 POLICY**

Upon honorable retirement from the Department, any full-time sworn officer, who had been authorized to, and did carry a concealed firearm during the course and scope of their employment, may be issued an identification card with a "CCW Approved" endorsement [Penal Code §25455].

**220.1.1 PURPOSE AND SCOPE**

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

**220.2 QUALIFIED RETIREES**

For the purpose of this policy, "honorably retired" [as defined in PC §16690] includes all peace officers who have qualified for, and have accepted, a service or disability retirement. This shall not include any officer who retires in lieu of termination.

Service retirements qualify for a "CCW Approved" endorsement when the retirement is from regular employment as a law enforcement officer for an aggregate of 15 years or more. Officers who voluntarily separate from the Department and are not "honorably retired" as defined above, do not qualify for the CCW endorsement. Officers who fall into this category must seek a CCW permit through the civilian processes in the jurisdiction of residence.

Officers who are separated for a medical disability are eligible for a CCW permit upon receipt of a retroactive medical disability retirement. Officers who have not received a medical disability retirement may seek a CCW permit through the civilian process in the jurisdiction of residence.

When a member separates from employment with the Department, they will not be issued a CCW permit until all issued Department equipment has been returned or accounted for.

Members, who have been retired without a CCW or allowed their CCW to expire for more than two years, will be required to submit to a DOJ background check at their expense.

No "CCW Approved" endorsement shall be issued to any officer retiring because of a psychological disability [PC §26305(a)].

Any firearm that is presented to this Department for concealed carry and range qualifications must meet the minimum requirements as prescribed in Policy §312.

**220.2.1 OFFICERS RETIRED PRIOR TO JANUARY 1, 1981**

Officers who have honorably retired from this Department prior to January 1, 1981, and wish to carry a concealed weapon, are required to have a CCW endorsement, and must petition this agency every year to renew the ID card. These retirees must also qualify at the range and sign a liability waiver. If no CCW endorsement is desired, the officer is only required to renew the ID card once every five years. This agency may deny or revoke this privilege to carry a concealed firearm for "good cause" as outlined in [PC §26305(d)]. This denial will be indicated by "No CCW Privilege" stamped on the card.

**220.2.2 QUALIFIED RETIRED RESERVES**

Qualified retired Level I reserve officers who meet the Department requirements shall be provided an identification card with a "CCW Approved" endorsement [PC §26300].

### **220.3 MAINTAINING A CCW ENDORSEMENT**

In order to maintain a "CCW Approved" endorsement on an identification card, the retired officer shall:

- (a) Qualify annually with the authorized firearm at a course approved by the Department at the retired officer's expense. Upon verification by the Department that all annual requirements have been met by an otherwise qualified retired officer, the "CCW Approved" endorsement shall be re-stamped and dated (18 United States Code §926C);
- (b) Remain subject to any departmental rule, or state or federal law that, if violated by an officer on active duty, would result in that officer's arrest, suspension, or removal from the agency [PC §26305(b)]; and
- (c) Only be authorized to carry a concealed firearm inspected and approved by the Department.

### **220.4 CARRYING FIREARMS OUT OF STATE**

Subject to 18 USC §926C and Policy §312, qualified retired officers of the Department may be authorized to carry a concealed weapon in other states.

- (a) HR 218, the Law Enforcement Officers Safety Act (LEOSA), was enacted July 22, 2004, as Pub. L. 108-277, and is codified as 18 USC §926B and §926C.
  - 1) The Act permits the nationwide carrying of concealed handguns by qualified current and retired law enforcement officers and amends the Gun Control Act of 1968 (Pub. L. 90-618, 82 Stat. 1213) to exempt qualified current and retired law enforcement officers from state and local laws prohibiting the carrying of concealed firearms.
  - 2) It does not exempt current or retired officers from any state or local firearm owner registration laws.

### **220.5 MAINTAINING A CCW ENDORSEMENT WHILE RESIDING IN ANOTHER STATE**

In order to maintain a CCW endorsement, retirees must:

- (a) Have successfully passed an annual FPD background check indicating that they are not prohibited by Federal law from receiving or possessing a firearm;
- (b) Not be under the influence of any alcohol or other intoxicating or hallucinatory drug or substance while carrying or otherwise in possession of a firearm; and
- (c) Have, during the most recent 12-month period, successfully passed the standards for training and qualification for active law enforcement officers to carry firearms in their primary state of residence.

On request, qualified retired law enforcement officers of the Fresno Police Department who do not reside in this state, and who have successfully passed this state's standards for training and qualification for active law enforcement officers to carry firearms, will be sent a retirement identification card by mail, that indicates that the retired officer:

- (a) Is a nonresident of this state and has met all of the conditions in 220.2 and 220.4 above;
- (b) Must meet the standards for training and qualification for active officers in the retired officer's primary state of residence; and
- (c) Must submit, in acceptable size and format, two recent facial color photographs or a recent digital image;

#### **220.5.1 RETIRED FPD OFFICERS LIVING OUTSIDE FRESNO COUNTY**

Those officers living outside the City of Fresno, who wish to maintain a CCW endorsement, must meet the same requirements as those officers who live within our jurisdiction. The retired officer must:

- (a) Contact the Personnel Bureau and request a CCW packet;
- (b) Contact local law enforcement agency of residence and schedule a range qualification date; and
- (c) Have the local agency of residence return the required paperwork to the Department by mail.

The CCW packet contains the following forms:

- (a) Range Qualification Request Letter - This letter should be presented to the local law enforcement agency, by the retired officer, as a formal request to allow range qualifications per HR 218. The local agency should gather a photograph and fingerprints and conduct a local criminal history check.



- (b) Affidavit of Compliance - As required by HR 218, the retired officer must present an affidavit to the local agency, declaring that the officer is "honorably retired" and qualified to carry a concealed weapon in compliance with HR 218. The Personnel Bureau will complete the top portion of the form, checking the appropriate boxes, prior to including the form in the packet. The retired officer will sign the form and have it notarized. This form should be kept by the local agency with the range qualification records.
- (c) Range Form- The range form should be presented to the local agency as a way to document the identification of the retired officer and show successful range qualification. This form shall be completed by the agency and returned, along with photograph and finger-prints, by mail, to the Fresno Police Department, Personnel Bureau. These must be mailed by the local agency, not mailed by the retired officer.

### **220.6 IDENTIFICATION CARD FORMAT**

The identification card issued to any qualified and honorably retired officer shall be approximately two inches by three inches and minimally contain the following [PC §25460(c)]:

- (a) Photograph of the retiree;
- (b) Retiree's name and date of birth;
- (c) Date of retirement;
- (d) Name and address of this Department; and
- (e) A stamped endorsement "CCW Approved" along with the date by which the endorsement must be renewed (every three years).
- (f) In the case in which a CCW endorsement has been denied or revoked, the identification card shall be stamped, "No CCW Privilege."

### **220.7 DENIAL OR REVOCATION OF CCW ENDORSEMENT**

The CCW endorsement for any officer retired from the Department may be denied or revoked only upon a showing of good cause, as outlined in PC §26305. 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 Field Commander when the conduct of a retired officer compromises public safety [PC §26305(c)].

### **220.8 OUT OF TOWN / STATE AGENCY RETIRED OFFICERS**

It shall be the policy of this agency to provide reciprocal services to retired law enforcement officers from other jurisdictions/states that reside within the city limits, and seek to renew a CCW endorsement issued by the law enforcement agency from which they retired in good standing. Only those officers who qualify under HR 218, the Law Enforcement Officers Safety Act (LEOSA), who present this agency with a signed affidavit of compliance, shall be provided services, to include:

- (a) Verification of identification;
- (b) Range qualification; and
- (c) Completion of a Liability Waiver.

### **220.9 RANGE QUALIFICATION**

The Fresno Police Department Rangemaster will schedule triannual (every four months) range qualification times. Range times for the retiree qualifications will coincide with regularly scheduled triannual training/qualifications.

Qualified retired officers will be allowed to qualify with not more than two concealable firearms, as time and scheduling permits. Such number shall be the decision of the Rangemaster. Retired officers must:

- (a) Bring their own handgun(s), either a revolver or a semi-automatic capable of being loaded with 5 or more rounds;
- (b) Bring 50 rounds of factory-issued ammunition for the weapon for qualification;
- (c) Bring their own cleaning supplies;
- (d) Have a safe and secure holster; and
- (e) Present all handguns and holsters for inspection by the Rangemaster.

### 220.9.1 PASS / FAIL QUALIFICATIONS

The Fresno Police Department Rangemaster shall keep a database of qualified retired officers, qualification dates, qualification course fired, pass/fail score, and the make, model, type and serial number of the firearms used to qualify.

Qualified retired officers will be required to sign a Liability Waiver and Release Form of the Fresno Police Department for all acts taken related to carrying a concealed firearm, acknowledging their personal responsibility as a private person for all acts taken when carrying a concealed firearm as permitted by the LEOSA and not as an employee or former employee of the Fresno Police Department or as a current law enforcement officer (unless currently employed as a law enforcement officer of another agency). Such disclaimer shall also release the Fresno Police Department from any claim resulting from any injury or accident during the described firearms qualification activities.

### 220.9.2 FAILURE TO QUALIFY AND REMEDIAL TRAINING

Qualified retired officers will be given a reasonable number of attempts, but not less than three, at qualifying during the scheduled qualification dates, subject to range availability and the Rangemaster's time constraints. Any number beyond three attempts will be the decision of the Rangemaster, appealable only to the Chief of Police, whose decision is final.

- (a) Should the retired officer fail to qualify, they will be allowed to attempt to qualify at the next scheduled range qualification or at a date scheduled by the Rangemaster.
- (b) Upon the third or final failure, the Rangemaster or designee will submit a memo to the Chief of Police outlining the failure to qualify.

### 220.9.3 RESTRICTIONS

The Rangemaster or armorer's determination will be final as to the inspection and safety of the equipment. Any weapon, holster, ammunition, or related equipment found unsafe for qualification and carry will be prohibited on the Range and noted, in writing, on the qualification record. The retired officer will be notified and required to sign a statement acknowledging the unsafe condition of the equipment and the reason for such removal and prohibition.

The Law Enforcement Officers Safety Act does not authorize the retired officer to:

- (a) Carry a machine gun, silencer, or other destructive device;
- (b) Act in the capacity of a law enforcement officer of the Fresno Police Department;
- (c) Carry a firearm on any government property, installation, facility, building, base or park with laws or regulations prohibiting or restricting the carrying of firearms (such as airport boarding areas, courthouses, etc.); or
- (d) Carry a firearm on any other public or privately owned property, facility, building or area, where the carrying of firearms is prohibited or restricted (such as private schools, commercial aircraft, etc.).

### 220.10 LEOSA CCW REQUIREMENTS

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

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

### 220.10.1 LEOSA IDENTIFICATION CARD

- (a) The LEOSA identification card will be vertical, contain a photograph of the former officer and identify them as having been employed as an officer.
- (b) The LEOSA identification card will be valid for 3-years and is renewable every year, subject to all the provisions of this policy.

### 220.10.2 LEOSA AUTHORIZATION

Any qualified former law enforcement officer may carry a concealed firearm under 18 USC § 926C when they are:

- (a) In possession of their LEOSA identification card;
- (b) In possession of their annual certificate of firearms qualification by meeting one of the following requirements:
  - 1) They, within the past year, have been tested or otherwise found by the Fresno Police Department to meet department-established active-duty standards for qualification in firearms training to carry a firearm of the same type as the concealed firearm. The Department will issue a certificate of qualification when this requirement is met.
  - 2) A certification, issued by either the state in which the person resides or by a certified firearms instructor who is qualified to conduct a firearms qualification test for active-duty law enforcement officers within that state, indicating that the person has, within the past year, been tested or otherwise found to meet the standards established by the state or, if not applicable, the standards of any agency in that state.
- (c) Not under the influence of alcohol or another intoxicating or hallucinatory drug or substance;
- (d) Not prohibited by federal law from receiving a firearm;
- (e) Not in a location prohibited by California law or by a private person or entity on their property if such prohibition is permitted by California law; and
- (f) In possession of an allowable firearm under the federal statute (18 USC § 926C).

### 220.10.3 RESPONSIBILITIES UNDER LEOSA

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

- (a) Annually, sign a waiver of liability of the Department for all acts taken related to carrying a concealed firearm, acknowledging both their personal responsibility as a private person for all acts taken when carrying a concealed firearm as permitted by LEOSA and that these acts were not taken as an employee, former employee, or retired reserve police officer of the Fresno Police Department;
- (b) Remain subject to all applicable Department policies and federal, state, and local laws;
- (c) Demonstrate good judgment and character commensurate with carrying a loaded and concealed firearm; and
- (d) Successfully pass an annual criminal history background check indicating that they are not prohibited by law from receiving or possessing a firearm.

**221 Miscellaneous Duties and Programs**

**221.1 POLICY**

The Department utilizes various programs and positions within the Agency to further its mission. These do not fall within the normal patrol/investigative functions but may support these and other functions within the Department.

**221.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide general guidelines governing these programs.

**221.2 LEGAL ADVISOR**

**Informal Legal Opinions** - Members may, through their chain of command, contact the Legal Advisor concerning Department legal problems. The request for an informal legal opinion may be oral. Informal legal opinions will be rendered verbally. Incident commanders at in-progress operations may contact the Legal Advisor directly.

**Legal Advisor Evaluation Reports** - Members may, through their chain of command, contact the Legal Advisor, and request the issuance of a Legal Advisor Evaluation Report. This report is used when a problem requires an answer which cannot be presented in the form of an informal legal opinion. The request for a Legal Advisor Evaluation Report may be rendered verbally.

**Field Observation & Assistance** - The Legal Advisor shall observe Department field procedures and operations for the purpose of determining whether they are in compliance with existing legal requirements. The Legal Advisor shall maintain communication with members of the Department for the purpose of determining the existence of any legal problems and to provide solutions. The Legal Advisor may be consulted regarding any legal problem which occurs in the field. When possible, consultation should be made prior to taking action where problems of probable cause, arrest, search and seizure, and civil liability are likely to occur. The Legal Advisor shall be present at the scene of any police activity of great magnitude for the purpose of advising the incident commander with respect to any existing or projected legal concerns.

**Field Response** - The Legal Advisor shall be notified and shall respond in the field when:

- (a) The use of deadly force by or against any member of the Department results in death or great bodily injury;
- (b) Any vehicle accident involving members who are operating Department vehicles (whether on duty or off duty) results either in death or serious personal injury;
- (c) Any SWAT action is initiated; and
- (d) Requested by a commander.

Responsibility for notifying the Legal Advisor shall be that of the field commander, except when part of a multiple call out initiated by the CSU.

**Civil Disturbance** - In the event of a riot, civil disturbance, disorder or unlawful assembly, the Legal Advisor shall report to the incident command post or the Office of the Chief. The Legal Advisor shall act as liaison with the Office of the City Attorney, the DA, and courts for the purpose of establishing legal directives necessitated by the situation. This includes mass arrest procedures, abbreviated arrests and form processing, and protection of the rights of arrestees.

**Case Evaluation** - The commander of any section or bureau may request legal evaluation of any case which requires an opinion of the Legal Advisor. The request for the evaluation shall be in writing. All pertinent documents should accompany the request. Case evaluations may be verbal or written.

**Requests for Legal Opinions of the City Attorney, DA or Attorney General** - Requests for outside legal opinions shall be reviewed by the Legal Advisor prior to transmittal. The Legal Advisor, when appropriate, will prepare a detailed Memorandum of Law concerning the subject matter of the request. The Memorandum of Law shall be transmitted with the request and filed with the Chief of Police.

**Staff Meetings** - The Legal Advisor shall be informed in advance of all staff meetings. The Legal Advisor shall attend staff meetings for the purpose of advising the staff with respect to legal matters. In addition, the Legal Advisor shall present any significant legal matters which have been brought to their attention.

**Research & Practices** - The Legal Advisor shall advise the Department with respect to any court decisions or legislation which may have any effect on the policies, regulations, and procedures of the Department.

**Training** - The Legal Advisor shall review the curriculum of the Training Bureau and shall advise the Training Bureau Commander with respect to the legal aspects of the training program. The Legal Advisor shall be available for the purpose of delivering lectures on appropriate subjects to training classes. The Legal Advisor shall assist in the development of comprehensive training programs and aids designed to train the members of the Department to work within the framework of legal requirements.

**Public Information** - The Legal Advisor shall be available to advise the Chief of Police regarding the release of information to the public. In addition, the Legal Advisor shall be consulted by members on matters that involve possible civil liability, libel, and slander.

**Departmental Orders** - The Legal Advisor shall review all proposed SO's orders and bulletins prior to publication for the purpose of determining legal sufficiency. In addition, the Legal Advisor shall review all training bulletins, orders, and manuals currently in effect and determine their conformity to legal and Constitutional requirements.

**City Attorney Liaison** - The Legal Advisor shall be responsible to the Office of the City Attorney. The Legal Advisor shall consult with the Office of the City Attorney for the purpose of determining the sufficiency of case preparation and the quality of courtroom testimony of members. The Legal Advisor shall convey the Department's policies to the Office of the City Attorney and shall be responsible for advising the Department concerning policies and suggestions of the City Attorney's Office.

**DA** - The Legal Advisor shall consult the DA for the purpose of determining the sufficiency of case preparation and the quality of courtroom testimony. The Legal Advisor shall convey the Department's policies to the DA and shall be responsible for advising the Department on policies and suggestions of the DA's Office.

**US Attorney** - The Legal Advisor shall serve as the Department's liaison with the Office of the US Attorney and other federal prosecuting agencies.

**Courts** - The Legal Advisor shall act as the Department's legal liaison with the court system.

**Legislative** - The Legal Advisor shall consult with the Chief of Police and the Chief's staff concerning any proposed legislation which may affect the operations of the Department.

**Bar Associations** - The Legal Advisor may join the Bar Association and criminal law and legislative committees for the purpose of liaison and to present the Department's policies and points of view to these groups.

**Law Enforcement Agencies** - The Legal Advisor shall perform liaison functions with other agencies as determined by the Chief of Police or the City Attorney.

**Department Discipline** - The Legal Advisor shall take no prosecutory part in police disciplinary proceedings.

**Labor Negotiations** - The Legal Advisor shall take no part in Department labor negotiation proceedings.

**Reports** - All written legal opinions of the Legal Advisor shall be in a form approved by the City Attorney. Memos shall be written in the standard Department format.

**Other Duties** - The Legal Advisor will be called, pursuant to staff officer authorization, at any time there is a question of civil liability on the part of the City or any member. The Legal Advisor shall perform other duties as may be assigned by the Chief of Police or the City Attorney.

### **221.3 DEPARTMENT VOLUNTEERS**

The Department may use qualified volunteers for specified tasks and duties to create efficiencies for the Department and improve services to the community. Volunteers are intended to supplement and support, rather than supplant, sworn officers and civilian personnel. Volunteers help to increase departmental responsiveness, delivery of services and information input, and provide new program opportunities.

A volunteer performs a service for the Department without promise, expectation, or receipt of compensation for services rendered. This may include unpaid chaplains, unpaid reserve officers, interns, and persons providing administrative support, among others. A documented background investigation shall be completed on each volunteer applicant as outlined within Policy 1000 Recruitment and Selection.

Volunteers should receive position-specific training to ensure they have adequate knowledge and skills to complete tasks required by the position and should receive periodic ongoing training as deemed appropriate by their supervisor.

### **221.4 PATRIOTIC PROTOCOL**

**National Anthem** - When the National Anthem is played at any place where uniformed members are present, members shall stand at attention and salute the flag until the last note of the anthem.

**Passing of the Flag** - On approach of the American flag, uniformed members on foot shall render a military salute as the flag passes. The time to salute is when the flag is within six paces on approach, to end when the flag is beyond six paces on passing. Motorcycle officers at fixed post shall dismount and salute.

**HQ Flag** - The American flag shall be flown on the HQ flagpole every day of the year from sunrise to sunset, except during inclement weather.

No other flag shall be displayed above, equal to, nor in a position of superior prominence or honor to or in place of the American flag.

The flag will be flown at half-staff on Memorial Day and Veteran's Day, and on any other day specially designated by the President, Governor, City Council, Mayor, or Chief of Police.

### **221.5 FUNERAL DETAILS**

#### **221.5.1 FUNERAL DETAIL COMPOSITION**

**Active Members of the Department** - The full Honor Guard contingent shall be detailed to attend. All on duty sworn members that can be released without hindering Department operations should attend. All off duty members are encouraged to attend.

**Active City Officials & City Administrators** - The full Honor Guard contingent shall be detailed to attend.

**Others** - An Honor Guard contingent of six members shall be detailed to attend funerals of retired members, active FFD members, active reserve officers, and active members of local law enforcement agencies killed in the line of duty.

**Requested Honor Guard Attendance** - On approval of the Chief of Police, six members of the Honor Guard shall be detailed to attend funerals of members' relatives, County and State officials, active and retired members of local law enforcement agencies, or other persons when attendance is requested.

## 221.5.2 FUNERAL ESCORTS AND PROCESSIONS

At the direction of the Chief of Police, an escort and/or procession, as defined below, may be assigned to a funeral detail.

**Escorts** – An escort is defined as the use of marked or unmarked emergency vehicles, in a show of respect, to assist in the transport of a fallen member prior to and/or during funeral services. During an escort, the escorting emergency vehicles shall not operate in a code-3 capacity, unless responding to an emergency, and shall obey all traffic laws. Once approved by the Chief of Police, escorts shall only be conducted after consultation with the Commander of the Traffic Safety/Support Services Section and shall only be used under the following circumstances:

- (a) When a sworn department member, sworn member from another law enforcement agency, or on-duty reserve officer is killed in the line of duty, an escort shall be provided any time the member's body is transported between locations prior to any formal funeral services.
- (b) When any current non-sworn member dies, or a sworn member dies other than in the line of duty, an escort may be provided during the formal funeral services to transport the member's body from the service location to the place of interment.
- (c) Other circumstances wherein the escort has been authorized by the Chief of Police.

**Procession** – A procession is defined as the use of marked or unmarked emergency vehicles, in a show of respect, to assist in the transport of a fallen member during the formal funeral services. During a procession, the emergency vehicles shall operate in a code-3 capacity. A procession shall only take place on a route that has been completely closed to non-procession traffic. Once approved by the Chief of Police, processions shall only be conducted after consultation with the Commander of the Traffic Safety/Support Services Section. Given the inherent danger of processions, they should be used sparingly and only under the following circumstances:

- (a) When a sworn department member, sworn member from another law enforcement agency, or on-duty reserve officer is killed in the line of duty, a procession shall be provided during the formal funeral services to transport the member's body from the service location to the place of interment.
- (b) Other circumstances wherein the procession has been authorized by the Chief of Police.

Sworn personnel in marked or unmarked emergency vehicles may, as an option, line a designated section of roadway while operating their emergency lights as a show of respect to the fallen as the escort detail or procession passes by. The Traffic Safety/Support Services Section Commander shall designate the roadway section to be used and ensure the information is conveyed to on-duty personnel. All traffic safety laws shall be obeyed by participating personnel.

## 221.5.3 UNIFORM

Members of the Honor Guard assigned to funeral details shall attend in full Honor Guard uniform. All other members assigned to funeral details shall attend in dress uniform or as directed by the Chief of Police.

## 221.5.4 ASSEMBLY

Members who attend a funeral in uniform shall be considered a member of the funeral detail and shall be commanded by the superior officer in charge. Assembly shall be outside of the location of the funeral, one-half hour prior to commencement of services, or as directed by the superior officer in charge.

## 221.5.5 OTHER AGENCY FUNERAL DETAILS

When uniformed members of this Department attend the funeral of a member of another law enforcement agency, the members shall report to and follow the instructions of the officer in charge of the uniformed detachment.

## 221.6 CHIEF'S ADVISORY BOARD

The mission of the Chief's Advisory Board (CAB) is to enhance the level of trust between the community and the Department by freely discussing ideas and concerns, as well as educating the community on police-related issues. The Chief's Advisory Board is comprised of members of the community who

volunteer to represent the diverse citizen groups within the City of Fresno in which they serve. CAB members may include community members serving the youth, as well as a youth representative. Members meet on a bi-monthly basis with Department staff to discuss issues affecting the Department and Fresno area residents.



## Fresno Police Department Policy Manual Critical Incident Review Committee (CIRC)

### **224.1 POLICY**

The Chief of Police will establish the Critical Incident Review Committee (CIRC) to critique incidents of a serious nature.

#### **224.1.1 PURPOSE AND SCOPE**

To critique incidents of a serious nature in order to:

- (a) Identify training needs;
- (b) Identify unsafe work practices and to recommend action to correct safety deficiencies;
- (c) Evaluate the adequacy of equipment used by or available to members;
- (d) Evaluate incidents occurring in other jurisdictions which may have training value for members;
- (e) Assure that Departmental procedures and practices are consistent with legal, safety, and professional standards;
- (f) Identify the need for changes in Department policy, state or local legislation, or labor agreements; and
- (g) Assist in future planning efforts.

#### **224.2 MEMBERSHIP OF THE COMMITTEE**

A committee comprised of Department members will be established at the beginning of each calendar year. Membership shall include a staff officer appointed by the Chief of Police to serve as the chairperson, and the Police Department's Legal Advisor. The remainder of the committee will consist of personnel holding the rank of police officer, specialist, sergeant or lieutenant. The F.P.O.A. may appoint one officer, specialist, or sergeant to serve as a member.

#### **224.3 RESPONSIBILITY OF THE COMMITTEE**

The Chairperson shall convene a meeting within ten days following an incident which the Chief of Police has ordered to be reviewed.

The committee shall not review any officer involved shooting investigation until after the required administrative investigation is completed and then, only for a purpose stated herein. No report generated shall identify the officer(s) whose actions are subject to critique, but rather will be limited to the areas set forth in section 224.1.

#### **224.4 FINDINGS BY THE COMMITTEE**

Generally, within thirty days, the findings and recommendations will be forwarded in writing to the Police Department's Legal Advisor. After review, the Legal Advisor will forward the report to the Chief of Police. The report shall not be considered in any disciplinary action, nor shall it be admitted in any disciplinary proceeding. When approved by the Chief of Police, a staff member will be assigned responsibility for required follow-up action.

#### **224.5 OFFICER RIGHTS AND RESPONSIBILITIES**

Nothing in this policy shall be construed or understood as a waiver of any rights or privileges that may be held by individual officers involved in the incident being reviewed.

### **225.1 POLICY**

Administrative reports within the Department are completed to ensure that the goals and objectives of the Department are being met.

#### **225.1.1 PURPOSE AND SCOPE**

Administrative reports take different forms and include, but are not limited to, Performance Evaluations, Internal Investigations, Accident/Pursuit Reviews, Budget Requests, etc.

### **225.2 ADMINISTRATIVE REPORTS**

The Executive Assistant to the Chief of Police is responsible for ensuring that any applicable administrative reports are included in the Annual Report each year.

### **225.3 ADMINISTRATIVE REPORTS DUE DATES**

Administrative reports shall be completed within 30 days of assignment except as provided elsewhere in this Manual. Extensions to due dates may be granted only by a bureau or division commander. When an extension to an accident/pursuit review is granted, the Internal Affairs Bureau shall be notified of the length of the delay.

Except as otherwise specifically provided, staff review of completed administrative reports should be completed within five working days of receipt.

### **225.4 REQUIRED NOTIFICATIONS OF PURSUITS AND ACCIDENTS**

Prior to completion of their shift, supervisors assigned the responsibility for a pursuit critique or accident review shall make notifications to the Internal Affairs Unit, as well as the Department's pursuit/accident review officer.

- (a) Supervisors shall also provide this information to the appropriate district or bureau commander via voice mail.
- (b) Supervisors assigned to an incident outside of their assigned district or bureau shall notify their immediate district or bureau commander and the affected district or bureau commander.
- (c) The affected district or bureau commander shall have administrative responsibility for ensuring completion of required documentation.

#### **225.4.1 COMPLETION TIME LINES**

- (a) Pursuit and accident reviews shall be completed by assigned supervisors and forwarded to the appropriate Department review officer within 10 days of the incident.
- (b) The review officer shall submit the completed review package to the affected district or bureau commander within 14 days of the incident.
- (c) The review package shall be sent to the division commander by the 20th day after the incident. The division commander shall forward the review to the Chief of Police, or designee, within 30 days of the date of occurrence.

The Pursuit and Accident Review Staff Officers may contact the investigating supervisor directly to request additional investigation or correction. The supervisor's district or bureau commander should be notified of all such requests and shall ensure completion of the request within the 14 day deadline.

Conflicts arising from pursuit investigations should be resolved through the district or bureau commander and the reviewing staff officer. When resolution is not possible the division commander should be contacted for assistance. Accident investigation conflicts should be resolved as thoroughly as possible.

### Administrative Report Summary Chart

<u>Report</u>	<u>Division Responsible</u>	<u>Person Responsible</u>	<u>Report Purpose</u>	<u>Frequency</u>	<u>Distribution</u>
ABC Grant Progress Report	Patrol	ABC Officer	Monthly stats/ Review of grant assistance program	Monthly	Division Commander
Annual Report	Office of the Chief	Administrative Lieutenant	Overview of Department Progress	Yearly	City of Fresno Department Heads, City Council, CAB
Bureau/Section/Unit Audits	Prof. Standards	Policy and Procedure Unit Sergeant	Assess employee performance	Varies	Chief, Division Commander
CAL-ID Equipment Asset Inventory Report	Inv. Services	Crime Scene Bureau Supervisor	Inventory of all CAL-ID Equipment	Yearly	Fresno County Auditors, Controllers Office
Call for Service Reports	Patrol	Administrative Sergeant	Calls for Service	Monthly	Division Supervisors and Commander
Chief's Advisory Board Agenda and Minutes	Prof. Standards	Policy and Procedure Unit Sergeant	Organization of Chief's Advisory Board	Bi-Monthly	Chief's Advisory Board
City Council Reports	Support	Senior Secretary	Communicate Council Agenda Items	Weekly	Division Commander, City Council
CLETS Misuse Report	Support	Records Manager	DOJ Mandate	Yearly	Department of Justice
Employee Evaluation	All	All Supervisors / Managers	Assess/Monitor Individual Member Performance	Yearly	Personnel and Training
Firearms Inventory	Support	Rangemaster/ Armorer	Accountability of all Assault Weapons	Quarterly	Division Commander and PECS
Asset Inventory	All	Fleet Commander Training Unit Commander PECS Sergeant Body Camera Sergeant ISB Supervisor Traffic Admin. Sergeant	Inventory of all Assets	Yearly	Traffic / Training / PECS / Body Camera / ISB
Long-Term Absence Report	Support	Staff Assistant/ Worker's Comp.	Maintain Current Absence List	Weekly	Department Personnel
Overtime Report	All	Business Office	Budget Accountability / Track Expenditures	Monthly	Division Commander
Performance Measures	All	Division Commander	Fiscal Accountability/ Monitor Performance	Annually	City Manager's Office
Property/Evidence Monthly Report	Support	PECS Sergeant	Review/Evaluate Impounded Evidence	Monthly	Division Commander
Random Patrol Audits	Prof. Standards	Policy and Procedure Unit Sergeant	Review of On-duty Patrol Operations	Varies	Chief, Division Commander
Reportable Response to Resistance Report	Prof. Standards	Policy and Procedure Unit Sergeant	Evaluate Use of Force	Quarterly / Annually	Executive Staff, Chief's Advisory Board, Website
Limited English Proficiency Review	Prof. Standards	Policy and Procedure Unit Sergeant	Evaluate LEP	Annually	Executive Staff, Chief's Advisory Board, Website
Staff Meeting Minutes	All	Division Secretary	Increase Internal Comm. / Document Mtg. Discussion	Weekly	Department Personnel
Unit Statistical Report	All	Lieutenant	Operational Information / Unit results	Monthly	Division Commander
Vehicle Accidents	Patrol	Lieutenant	Monitor Department Vehicle Collisions	Yearly	Chief
Vehicle Inventory	Patrol	Lieutenant	Mileage and Inventory for Billing Purposes	Quarterly	Chief
Vehicle Pursuits	Patrol	Lieutenant	Monitor Department Pursuits	Yearly	Chief

### **227.1 POLICY**

No person shall be permitted access to the secure portions of any police facility unless they have lawful business that requires access.

#### **227.1.1 PURPOSE AND SCOPE**

Members shall not allow any person entry into secured portions of any police facility (e.g. HQ, district stations, training locations, etc.), unless the person is wearing an authorized uniform, is displaying acceptable ID (i.e. Department ID card / placard), or a visitor's pass.

### **227.2 MEMBER ACCESS**

#### **227.2.1 HEADQUARTERS**

Members are prohibited from using the Mariposa Mall (lobby entrance) when reporting for work. Members may enter through the Mariposa Mall doors only when returning to HQ after conducting Department business.

#### **227.2.2 CITY HALL ANNEX**

Members may use any entrance to the City Hall Annex. All exterior doors shall be kept closed and locked at all times, with the exception of the ground level double doors on the north side of the building. During normal business days the double doors will remain unlocked during business hours. The upstairs double doors to the Administrative Services Division, Support Division and Special Operations Division, shall be kept locked at all times unless personally attended by a member.

### **227.3 VISITOR ACCESS**

#### **227.3.1 OTHER LAW ENFORCEMENT PERSONNEL**

Law enforcement personnel from other agencies may enter HQ by displaying their ID affixed in a prominent place on their outer clothing.

#### **227.3.2 PUBLIC ACCESS**

The public may enter HQ through the Mariposa Mall entrance and contact the Records Bureau window for assistance. Members and volunteers assigned to the Records Bureau window shall determine the needs of the person and direct them accordingly. Any member of the public allowed access to a secured area of HQ shall have their name logged by the lobby guard and display a visitor pass affixed in a prominent place on their outer clothing while in HQ. The pass will be returned when the visitor leaves HQ and their departure time logged by the lobby guard.

#### **227.3.3 VENDOR ACCESS**

Vendors and persons making deliveries to the Department may enter through the ramp level doors to HQ next to the Crime Scene Bureau.

#### **227.3.4 CITY EMPLOYEE ACCESS**

Employment by the City is not, by itself, sufficient cause for entry into HQ. City employees shall be screened as to their lawful business prior to entry. Once inside HQ appropriate ID shall be displayed.

### **227.4 CHALLENGE OF UNAUTHORIZED OR WANDERING PERSONS**

Members shall challenge any person not identified as provided in this policy who is observed in secure portions of Department buildings. Those persons found to be present without authorization shall be escorted to the lobby guard for screening.

Members shall contact any persons inside the building who appear unsure of where they are going and direct them to the place where their business is to be conducted.

## **227.5 BUILDING SECURITY**

No person shall be permitted access to any police facility unless they have lawful business that requires access.

Members shall not allow any person entry into secured portions of any police facility (e.g. HQ, district stations, training locations, etc.), unless the person is wearing an authorized uniform, is displaying acceptable ID (i.e. Department ID card / placard), or a visitor's pass.

Exterior doors to HQ and all district stations shall be closed and locked at all times with the exception of the lobby doors. The lobby doors shall remain unlocked during normal business hours for public access.

### **227.5.1 RESTRICTED AREAS**

Designated areas of the Department are considered restricted and members shall observe the regulations pertaining to the limited access to those areas. Areas considered to be accessible to authorized members only are:

- (a) ComCen;
- (b) Computer room;
- (c) PECS;
- (d) Internal Affairs Bureau;
- (e) Office of the Chief of Police;
- (f) Personnel Bureau;
- (g) Fiscal Affairs Bureau;
- (h) Special Investigations Bureau;
- (i) Street Violence Bureau;
- (j) Planning & Research Bureau;
- (k) Training Bureau;
- (l) Crime View Bureau;
- (m) ISB;
- (n) Magec;
- (o) Background Investigations Unit;
- (p) Pine Street Facility;
- (q) Skywatch;
- (r) CLO/PLO;
- (s) Patrol Division offices;
- (t) Armory; and
- (u) Records Bureau.

Authorized members are regarded as those members who work directly in these areas, and/or are responsible for the supervision and/or direction of that area. Others requiring entry into a restricted area shall only enter upon approval by the restricted area's supervisor.

Members shall observe signs designating an area as "Authorized Personnel Only" and shall not enter a restricted area unless permission is granted by the supervisor in charge of that particular area.

**Fresno Police Department  
Policy Manual**

**Chapter 3: General Operations**

### **300 Use of Force**

#### **300.1 POLICY**

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. On a daily basis, officers are involved in numerous and varied interactions and, when warranted, may use reasonable force in carrying out a legitimate law enforcement purpose. The primary purpose of this policy is to prevent the use of unnecessary force as defined by law, ensure accountability and transparency, and to enhance the community's trust and confidence in our officers' ability to protect and serve.

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

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone and places a priority on it.

Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation, and a careful balancing of all interests. (GC § 7286)

##### **300.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide officers of the 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. (Government Code § 7286)

#### **300.2 DEFINITIONS**

**Deadly force** - Any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to the discharge of a firearm (PC § 835a(e)(1)).

**Extenuating Circumstances**— A situation in which an officer has a reasonable belief that a person(s) will cause death or serious bodily injury to another unless immediately apprehended. Any action taken under extenuating circumstances will require specific articulable facts and circumstances.

**Feasible** - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person. (GC § 7286(a)(2))

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

**Imminent** - An "imminent" threat of death or serious bodily injury exists when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the officer or another person. An imminent harm is not merely a fear of future harm, but is one that, from appearances, must be instantly confronted and addressed. (PC §835a).

**Positional Asphyxia** - "Positional asphyxia" means situating a person in a manner that compresses their airway and reduces the ability to sustain adequate breathing. This includes, without limitation, the use of any physical restraint that causes a person's airway to be compressed or impairs the person's

breathing or respiratory capacity, including any action in which pressure or body weight is unreasonably applied against a restrained person's neck, torso, or back, or positioning a restrained person without reasonable monitoring for signs of asphyxia." California Government Code §7286.5(b)(4)

**Reasonable Belief** - The facts or circumstances the officer knows, or should have known, are such as to cause an ordinary and prudent person to act or think in a similar way under similar circumstance.

**Serious Bodily Injury** - Means a bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member or organ. (GC § 12525.2)

**Totality of the circumstances** - All facts known to the officer at the time, including the conduct of the officer and the subject leading up to the use of force (PC § 835a(e)(3)).

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

Officers are expected to carry out their duties, including the use of force, in a manner that is fair and unbiased (GC § 7286(b)). See the Racial or Bias-Based Policy for additional guidance (Policy § 402).

#### **300.3.1 DUTY TO INTERCEDE**

Any officer present and observing another law enforcement officer or an employee using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, shall, when in a position to do so, intercede to prevent the use of unreasonable force. When observing force used by a law enforcement officer, each officer should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject (Government Code § 7286(b)).

#### **300.3.2 DUTY TO REPORT EXCESSIVE FORCE**

Any officer who observes a law enforcement officer or an employee use excessive force shall promptly report these observations to a supervisor as soon as feasible (GC § 7286(b)).

### **300.4 USE OF FORCE**

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

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

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

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the approved tools, weapons, or methods provided by the Fresno Police Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose. While the ultimate objective of every law enforcement encounter is to protect and serve the community and to intervene safely without injury, to the public and the officer(s), nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.



### 300.5 ALTERNATIVE TACTICS - DE-ESCALATION

As time and the totality of the circumstances reasonably permit, and when community and officer safety would not be compromised, officers should use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer including:

- (a) Summoning additional resources that are able to respond in a reasonable and timely manner. Formulating a plan with responding officers before entering an unstable situation that does not reasonably appear to require immediate intervention.
- (b) Employing other tactics that may persuade an individual to voluntarily comply or may mitigate the need to use a higher level of force.
- (c) Attempts to de-escalate a situation.
- (d) If reasonably available, the use of crisis intervention techniques by properly trained personnel.

### 300.6 GUIDELINES FOR REASONABLE FORCE

Both federal and state law authorize peace officers to use objectively reasonable force to accomplish a legitimate law enforcement purpose. There are five recognized purposes that serve as the basis for the reasonableness of any police use of force. The five lawfully recognized purposes are:

- (a) Effect an arrest or detention;
- (b) Overcome resistance;
- (c) Prevent an escape;
- (d) Self-defense; or
- (e) Defense of others.

Due to the immediacy with which a member must apply force, together with the absence of time and/or physical ability of the member to select alternative methods, it may be objectively reasonable for the member to apply that method of force most readily available that will affect the desired results.

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

#### 300.6.1 FACTORS USED TO DETERMINE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, several factors should be taken into consideration, as time and circumstances permit (GC § 7286(b)). These factors include but are not limited to:

- (a) The apparent immediacy and severity of the threat to officers or others or whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or other;
- (b) Potential for injury to officers, suspects and others;
- (c) Whether the individual is actively resisting, or attempting to evade arrest or escape;
- (d) Whether the individual is compliant or is passively resistant, actively resistant, assaultive/combative, or the resistance poses a risk of serious bodily injury or is life threatening;
- (e) Risk and reasonably foreseeable consequences of escape;
- (f) The time available and the apparent need for immediate control of the suspect or a prompt resolution of the situation;
- (g) Seriousness of the suspected offense or reason for contact with the individual prior to and at the time force is used;
- (h) Prior contacts with the suspect or awareness of any propensity for violence;
- (i) Officer/suspect factors (i.e. age, relative size, strength, skill level, injuries sustained, level of exhaustion or fatigue, clothing thickness, number of officers available vs. suspects, etc.);
- (j) The individual's apparent mental state or capacity;
- (k) The effects of drugs/alcohol;
- (l) The individual's apparent ability to understand and comply with officer commands;
- (m) Environmental factors (i.e., footing, lighting, cover and concealment, sound and communications issues, bystanders and crowds etc.);
- (n) Proximity of weapons or dangerous improvised devices available to suspect;
- (o) Available resources and techniques that are reasonably safe;

- (p) The degree to which a suspect has been effectively restrained and their ability to resist despite restraints;
- (q) Training and experience of officer(s);
- (r) The conduct of the involved officer leading up to the use of force; and
- (s) Any other exigent circumstances.

### 300.6.2 USE OF FORCE TO EFFECT AN ARREST

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

### 300.6.3 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted.

### 300.7 NON-DEADLY FORCE APPLICATIONS

Any application of force that is not reasonably anticipated and intended to create a substantial likelihood of death or serious bodily 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 force options in Policy §§308, and 309 respectively.

### 300.8 DEADLY FORCE APPLICATIONS

The intentional discharge of a firearm at an individual, with the exception of those firearms dedicated to less lethal munitions, constitutes deadly force.

It is the intent of the Department that peace officers use deadly force only, when necessary, in defense of human life. In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer. (Penal Code § 835a(a)(2)). If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers shall evaluate the use of other reasonably available resources and techniques when determining whether to use deadly force. To the extent that it is reasonably practical, officers should consider their surroundings and any potential risks to bystanders prior to discharging a firearm (GC § 7286(b)(5)).

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

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

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

Where feasible, the officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts (PC §835a(c)(1)(B)(2)).

### 300.8.1 SHOOTING AT OR FROM MOVING VEHICLES

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

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle. Reaching into a moving vehicle could place an officer, subject, or the public in danger. Officers are prohibited from reaching into any moving vehicle unless there are extenuating circumstances.

### 300.8.2 VEHICLES AS WEAPON

The intentional striking of any person on foot or a bicycle with a motorized vehicle, regardless of the speed involved, shall be considered as the use of deadly force.

### 300.8.3 DISPLAYING OF FIREARMS

Officers should evaluate each tactical situation and use discretion when drawing a firearm in public by considering the following guidelines (GC § 7286(b)):

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

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

### 300.8.4 WARNING SHOTS

Warning shots are generally prohibited and should only be used in exigent circumstances where an objectively reasonable officer would believe warning shots provide the potential ability to de-escalate a potentially life-threatening incident. Department members shall only fire warning shots if the situation presented would otherwise justify the use of deadly force. Members are never required to fire any warning shots prior to the use of deadly force.

## 300.9 REPORTABLE FORCE DEFINED

Reportable force has occurred when:

- (a) Members (including canines) use force and a person is injured, has expressed a complaint of pain, or has been rendered unconscious;
- (b) Members strike a person with a body part (e.g., fist, foot, elbow, etc.) or any object (e.g., flashlight, clipboard, etc.) including misses;
- (c) Members use (not merely display) a Department issued weapon (e.g., baton, chemical agents, Taser™, less-lethal, shotgun, firearm, etc.) against another, including misses; *or*
- (d) Members use any technique or transport method where direct and continuous pressure is applied to the neck, torso, or back of a person as specified within Policy 308.2.5.

If an officer is in doubt as to whether a use of force is reportable, the officer shall notify the on-duty supervisor, who will then be responsible for making the determination.

### 300.9.1 NOTIFICATION TO SUPERVISORS

When any member subjects someone to the use of reportable force, they shall immediately notify a supervisor. Supervisors should also be notified when an individual indicates the intent to pursue litigation, whether or not any force was used.

Except during training, any member who discharges a Department issued or authorized firearm accidentally or intentionally, on or off-duty, shall make a verbal report to an on-duty supervisor as soon as circumstances permit. Supervisors will comply with Policy §310 in regard to an accidental discharge.

### 300.9.2 DOCUMENTATION OF REPORTABLE USE OF FORCE

Any reportable use of force by a member of this department shall be documented promptly, completely, and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why they believed the use of force was reasonable under the circumstances. Members shall document all of the following information when reportable force occurs:

- (a) Reason for the initial contact;
- (b) Subject's behavior that required the use of force;
- (c) Type of force used;
- (d) Warnings given;
- (e) If the initial force used was adequate or if repeated applications were required and level of resistance;
- (f) If equipment functioned properly;
- (g) If the subject attempted to take control or took control of the officers' weapons;
- (h) If the officer/subject was injured;
- (i) Witness statements;
- (j) If a supervisor was on scene when the reportable force was used;
- (k) Subject's reactions or response to the use of force; and
- (l) What was the desired outcome of the use of force and was the outcome achieved.

Following an incident of reportable force, officers shall ensure the subject is photographed. Photographs should include any visible injuries or lack thereof. Members utilizing AXON Records shall click on the "Incident Overview" card. Under the "Case Factors > SPECIAL FACTORS" section, members will check the box that says "Force Used."

### 300.9.3 MEDICAL TREATMENT

Prior to booking or release, members shall provide/seek appropriate medical assistance from EMS or CRMC for any person(s) who has:

- (a) Sustained visible injury;
- (b) Expressed a complaint of pain;
- (c) Been rendered unconscious (requires medical clearance from CRMC);
- (d) Received an ECD application (medical treatment for ECD requires clearance from CRMC as outlined in Policy §309);
- (e) Been struck with less lethal impact projectiles (requires medical clearance from CRMC).

Suspects in-custody are not allowed to AMA from treatment in the field. A suspect may choose to AMA upon being cited and released.

When possible, members should render CPR/First Aid consistent with training until EMS arrives. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, when practical, should be witnessed by another officer and/or medical personnel. If an audio recording is made of contact or an interview with the individual, any refusal should be included, if possible.

A person who exhibits extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond physical characteristics and unusually high tolerance to pain or who require a protracted physical encounter with multiple officers to bring under control may be at an increased risk of sudden death. Calls involving these people should be considered medical

emergencies and these individuals 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. Officers shall not use the term “excited delirium” to describe a incident report. Officers may describe the observed characteristics exhibited by the person, but shall not describe the person’s demeanor, conduct, or physical and mental condition as excited delirium.

#### **300.9.4 SUPERVISOR’S DOCUMENTATION OF REPORTABLE FORCE**

When a supervisor is notified, that reportable force occurred, they shall:

- (a) Prepare a Use of Force Form using the BlueTeam web interface (Refer to Policy §349); and
- (b) Forward via BlueTeam through the supervisor's chain of command.

#### **300.9.5 USE OF FORCE COMPLAINTS**

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

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

Use of force data obtained from the IAPro Database will be used for comparative analysis and composite reporting. This information will be used to determine effectiveness of force, reliability of equipment, training needs, policy modifications, etc. Access to the database is limited to the Chief of Police or designee and is not available for public dissemination.

Requests from outside the Department for information related to a use of force incident, or civil liability recordings, shall be approved by the Department’s Legal Advisor (including D.A. requests) prior to release.

#### **300.11 ADMINISTRATIVE LEAVE**

Any member who is directly involved in an incident resulting in a serious injury or the death of any person through any act occurring on-duty shall be placed on administrative leave until the member can meet with a competent mental health professional.

#### **300.12 REPORTING TO THE CALIFORNIA DEPARTMENT OF JUSTICE**

Statistical data regarding all officer-involved shootings and incidents involving use of force resulting in serious bodily injury or death are to be reported to the California Department of Justice as required by GC§12525.2.

#### **300.13 TRAINING**

Officers, investigators, and supervisors will receive periodic training on this policy and demonstrate their knowledge and understanding (GC § 7286(b)). Subject to available resources, the Training Unit Commander should ensure that officers receive periodic training on de-escalation tactics, including alternatives to force.

Training should also include (GC § 7286(b)):

- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly persons, pregnant individuals, and individuals with physical, mental, and developmental disabilities.
- (b) Training courses required by and consistent with POST guidelines set forth in Penal Code § 13519.10.

#### **300.14 POLICY REVIEW**

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

#### **300.15 POLICY AVAILABILITY**

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

### **300.16 PUBLIC RECORDS REQUESTS**

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

### **301 Pepper Projectile System**

#### **301.1 POLICY**

In order to control subject(s) who are violent or who pose an immediate threat, the Fresno Police Department authorizes officers to use Pepper Projectile Systems (PPS) in accordance with the guidelines in this policy and the Use of Force Policy.

##### **301.1.1 PURPOSE AND SCOPE**

When properly applied in accordance with this policy and training received, the PPS is considered a less-than-lethal control device that is intended to control a subject who poses an immediate threat, while minimizing the risk of injury to officers and suspects.

Officers issued a PPS should carry them in the field, ensuring immediate access when necessary. The PPS is issued for use during a member's current assignment.

#### **301.2 USE OF THE PEPPER PROJECTILE SYSTEM (PPS)**

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

##### **301.2.1 CARRYING THE PPS**

Only PPS & pepper munitions issued by the Department shall be used by officers and only after they have successfully completed a Department approved PPS training course on its proper use and deployment. Officers shall, at minimum, be re-certified with the PPS once every two years, or more frequently if required by the manufacturer of the PPS. Officers shall store and transport the PPS in the original manufacturers hard transport case, as issued by the Fresno Police Department Regional Training Center. Any other method of transportation or carry case (to include soft cases specifically designed for rifles or shotguns) do not provide the required protection or support for the HPA tank which could compromise the system's integrity. Damage to the HPA tank could potentially injure the end user, and as such, any carry case not approved by the Training Center is prohibited for use for the PPS.

While on duty the PPS shall be secured in the designated, locked container of the vehicle (e.g., inside of patrol vehicle). When not on-duty, officers shall secure the PPS inside the gun safe at their designated dressing station.

##### **301.2.2 VERBAL WARNINGS**

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

- (a) Provide the individual with a reasonable opportunity to voluntarily comply; and
- (b) Provide other members and individuals with a warning that a PPS may be deployed.

The fact that a verbal and/or other warning was given, or the reasons it was not given, shall be documented by the member deploying the PPS.

##### **301.2.3 TARGETING CONSIDERATIONS**

While manufacturers generally recommend that reasonable efforts should be made to target lower center mass and to avoid intentionally targeting the head, neck, chest, spine, and groin, it is recognized that the dynamics of each situation and officer safety may not permit the member to limit the application of the PPS to a precise target area. Members using a PPS should not intentionally target those areas, except

when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

### **301.3 APPLICATION OF THE PPS**

Authorized members may use the PPS when circumstances known to the member at the time indicate that such application is reasonable to control a person in any of the following circumstances:

- (a) A violent or physically resisting subject; or
- (b) A subject who, by words or action has demonstrated an intention to be violent or who poses an immediate threat to officers, themselves or others.
  - 1) When practical, the member should give a verbal warning of the intended use of the PPS followed by a reasonable opportunity to voluntarily comply.



#### **301.3.1 DEPLOYMENT CONSIDERATIONS**

When using the PPS, officers should carefully consider potential impact areas in order to minimize injuries and unintentional targets. Before discharging projectiles, the officer should consider such factors as:

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

A verbal warning of the intended use of the PPS should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. Repeated verbal warnings should be used and attempted in various languages when reasonable and feasible.

#### **301.3.2 SPECIAL DEPLOYMENT CONSIDERATIONS**

The use of the PPS should generally be avoided in the following situations unless the totality of the circumstances indicate that other available options reasonably appear ineffective, impractical, or would present a greater danger to the member, the subject or others, and the member reasonably believes that the need to control the individual outweighs the risk of using the PPS. This includes:

- (a) Pregnant females;
- (b) Elderly individuals or obvious juveniles;
- (c) Individuals who are handcuffed or otherwise restrained; or
- (d) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

#### **301.3.3 DANGEROUS ANIMALS**

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

#### **301.3.4 MEDICAL TREATMENT**

Persons who have been sprayed with or otherwise affected by the use of OC spray or pepper munitions should be promptly provided with clean water to cleanse the affected areas. The subject(s) may be treated on scene or by EMS and then taken to FCJ. Subject(s) who have been struck with a PPS projectile, shall be transported to the hospital for clearance prior to booking at FCJ. Subject(s) who are saturated (meaning exposed to the chemical agent) with the PPS may be cleared on scene by EMS. In both cases, EMS shall be requested for subject(s) exposed to or impacted with the PPS.



Members should take prompt and ongoing care to monitor the condition of the subject if one or more pepper munitions strike the head, neck, chest, or groin until they are released to the care of paramedics or other medical personnel.

#### **301.4 REPORT OF USE**

All PPS discharges shall be reported to a supervisor as soon as practical and documented in the related police report.

##### **301.4.1 MEMBERS RESPONSIBILITIES**

The police report shall include:

- (a) The complete circumstances surrounding the use of a PPS;
- (b) Name of the Department member using the PPS;
- (c) Verbal warnings if given or reason for not doing so;
- (d) Number of applications; and
- (e) Location and description of application sites.

When possible, Department members shall request the Crime Scene Investigation Bureau (CSIB) respond to the scene or to the medical facility for photos of injuries or impact sites. All accidental discharges shall be documented as above in a Synoptical Report.

Spent pepper munitions still have the irritating effect of OC so any remnants or spent pepper munitions will not be collected. Members shall request CSIB respond to photograph the scene including any spent pepper munitions.

##### **301.4.2 SUPERVISOR RESPONSIBILITIES**

Supervisors shall prepare a Use of Force Form and forward through the supervisor's chain of command via IA Pro BlueTeam.

#### **301.5 CROWD CONTROL**

Use of PPS may be considered for use to bring under control an individual or groups of individuals who are engaging in or are about to engage in violent or criminal behavior. [REDACTED]

[REDACTED] In crowd control situations, the Chief of Police (or their designee) shall have the overall authority on the use and deployment of pepper projectiles. Requests for a pepper projectile control device (in response to crowd control situations) shall be made through the Special Events Unit Supervisor. Only members with POST certified PPS training shall use PPS in crowd control situations.

#### **301.6 POST APPLICATION NOTICE**

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

#### **301.7 TRAINING FOR PPS**

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

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

(d) Officers shall demonstrate proficiency in use of the PPS on an annual basis.

#### **301.7.1 EQUIPMENT AND CONTROL RESPONSIBILITIES**

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

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

#### **301.8 USER RESPONSIBILITIES**

All normal maintenance and cleaning shall remain the responsibility of members using the various devices. Any damaged, inoperative, outdated or expended PPS or munitions, along with documentation explaining the cause of the damage, shall be returned to the Rangemaster for disposition. The member's supervisor shall investigate the circumstances surrounding the damage/loss and complete a BlueTeam entry including:

- (a) A completed Inquiry/Complaint Form (ICF), or Receipt of Complaint (ROC) memo;
- (b) Loss Notice Report; and
- (c) All other related documentation.

### **303.1 POLICY**

Unless advised otherwise by a reporting party, members will respond to all burglary, theft and alarm calls for service, as though they were "in progress", exercising caution and making safety a priority.

#### **303.1.1 PURPOSE AND SCOPE**

Property crimes although given a sometimes lower priority, should always be respected as being unpredictable and potentially dangerous. There are few extenuating circumstances that would exempt or preclude one from exercising these cautions.

### **303.2 BURGLAR ALARMS AND BURGLARIES IN PROGRESS**

#### **303.2.1 INITIAL RESPONSE**

A minimum of two officers should be dispatched to a call of a silent burglar alarm or burglary in-progress. As soon as possible after arrival, officers shall determine the security of the premises and request, or cancel, additional assistance as necessary.

#### **303.2.2 CHECKING PREMISES**

Upon arrival at calls of burglary in-progress or burglar alarms, officers shall make every reasonable effort to determine that no burglary has taken place by checking all points of possible entry, including the roof of the building.

When a portion of the building is inaccessible and cannot be checked, officers should attempt to make arrangements to have such areas checked by the alarm company, the building owner, or other party responsible for the premises.

Officers are not required to stand by for the arrival of the alarm company or owner when the premises check secure.

Officers shall not ask the ComCen to contact the alarm company to determine if they should stand by but shall immediately return to service upon verifying the security of the building and complying with the false alarm notification.

#### **303.2.3 SEARCH OF PREMISES**

When entry is suspected or when there is reason to believe that a suspect is still inside:

- (a) At least two officers shall be posted at opposite corners on the exterior of the premises to secure against exit attempts by suspects;
- (b) At least two officers or an officer and K-9 shall search the interior of the premises until the suspect(s) is apprehended or is determined to be gone;
- (c) Officers shall exercise every precaution to prevent the destruction of evidence during the search; and
- (d) Uniformed officers should conduct searches of burglarized premises. When it is necessary to use plainclothes officers, they shall wear their badge or other Department issued identification on their outermost garments.

#### **303.2.4 NOTIFICATION OF OWNER AND ALARM COMPANY**

As soon as possible after arrival at an audible alarm, the officer shall notify the ComCen of the name of the responsible alarm company, and whether or not it appears entry was made.

When damage or entry is detected, the alarm company shall be requested to respond and the owner should be notified. If the alarm company cannot reach a responsible party, the officer shall enter notes into the event describing the damage or point of entry and secure the premises as described in Section

303.3 below. A business card with the event number on it shall be left in a conspicuous and secure place near the main door or gate.

When an alarm has been sounding for more than 30 minutes, the location checks secure, and the officer is unable to contact the owner or alarm agent, the officer shall include notations in the event documenting this fact and return to service.

#### 303.2.5 FALSE ALARM NOTIFICATION

When a false alarm has occurred, a False Alarm Notification card shall be completed.

- (a) The card shall be left in a conspicuous and secure place near the main door or gate.
- (b) Officers shall make a note in the event report that a card was left;
- (c) The disposition code "E" for a false alarm call shall be used to clear the event.

#### 303.3 SECURING OPEN PREMISES

Members encountering an unsecured building shall attempt to contact a responsible party to have them respond to secure the premises.

- (a) Upon successful contact, the officer shall stand by the premises until the responsible party arrives, when a reasonable ETA is given by the party.
- (b) When the ETA is an unreasonable amount of time, the responsible party shall be advised that the officer will not stand by and that they must make their own arrangements for a private guard or other security.

#### 303.3.1 OWNER'S RESPONSIBILITY

When an owner of a burglarized premise refuses to respond after notification by either the Department or the alarm company, members should return to service upon completion of their investigation.

#### 303.3.2 OWNER UNAVAILABLE

The ComCen shall notify the City contracted vendor to board up any private residence currently being lived in or any operating business which requires temporary securing. A security guard may be used to stand by these structures when the City contracted vendor is unable to secure the structure. When a requested security guard arrives at an unsecured premise the member shall be released from the location. The name of the guard shall be included in the member's report.

#### 303.3.3 SECURING VACANT STRUCTURES

The FFD is responsible for arranging for permanent securing of vacant commercial structures.

- (a) The ComCen shall notify the Fire Prevention Bureau of the need to secure such a structure.
- (b) A security guard will not be required to secure the structure unless there is property of value contained within.

The securing of vacant apartment buildings and vacant residential structures is the responsibility of the City Attorney's Office – Community Compliance Unit (Code Enforcement).

- (a) Security guards shall not be used to secure these structures.
- (b) When a member finds a vacant apartment or residential structure unsecured they shall notify ComCen of the circumstances.
- (c) The ComCen shall notify the Housing Standards Office of the Community Compliance Unit of the unsecured structure.

#### 303.3.4 SECURITY GUARD PROTOCOLS

When a guard is requested by a Department member, they shall remain at the scene until one of the following occurs:

- (a) A person responsible for the business is contacted by the ComCen and responds or declines to take control of the premises;
- (b) At 0800 hours, the guard is to call the ComCen when no responsible party has responded. The ComCen will contact Facilities Maintenance to respond to secure the premises; and
- (c) The guard will notify the ComCen once the building is secured.

### **303.4 BURGLARY AND THEFT VICTIM FORM LETTERS**

Members conducting an initial investigation of a burglary shall furnish a Burglary/Theft Form Letter to the victim.

- (a) The form letter shall also be distributed to victims of all petit and grand thefts;
- (b) The issuing member shall complete the blanks on the front of the form and instruct the victim on the use of the letter; and
- (c) Members shall include the fact that a letter was left with the victim in their report of the incident.

When a theft call is handled telephonically, a form letter shall be mailed to the victim when there is any possibility that the victim may discover, at a later time, additional property taken during the theft.

The form letter shall never be given to a victim for the purpose of documenting property known to be missing at the time of the original investigation. All such property shall be listed in the member's original investigative report.

The letter is used solely to provide additional information about already reported stolen items (e.g., serial numbers) or to report property not known to be stolen at the time of the original investigation.

The Burglary/Theft Form Letter may be submitted by the victim by mail or the victim can add the property information by completing a supplemental report through the online reporting system. Except under unusual circumstances, a Supplemental Report should not be taken to document missing property which was not described at the time of the original report if the form letter was submitted by the victim. The form letter should be used instead.

### **303.5 TELETYPE ENTRY OF STOLEN, FOUND, RECOVERED, AND LOST PROPERTY**

Whenever a report is received of any stolen, lost, found, or recovered property, or property under observation, which has a known serial or owner applied number, the reporting member shall complete the property section of the report in Axon Records and include an adequate description of the item(s) including serial number (Penal Code §11108). The property information shall be forwarded to Teletype through Axon Records.

Reports of nonserialized stolen property, which has unique characteristics or inscriptions permitting accurate identification, shall also be sent to the Department of Justice by teletype. The property tab in Axon Records shall be completed with sufficient detail to permit identification of the item. The property information shall be forwarded to Teletype through Axon Records.

### **304.1 POLICY**

De-escalation is the process of using strategies and techniques intended to decrease the intensity of a situation. De-escalation is employed in an effort to increase the likelihood of voluntary compliance and achieve cooperation. The process of de-escalation can improve the safety of officers, subjects and others, and reduce the potential likelihood of injuries, improve community relations, and reduce citizen complaints.

### **304.2 PURPOSE SCOPE**

It is the policy of this Department that when all the reasonably known circumstances indicate it is safe, prudent, and feasible to do so, an officer(s) shall by means of de-escalation strategies and techniques, attempt to slow down, or stabilize an incident. The use of de-escalation strategies and techniques in such circumstances may result in more time, options, and/or resources to become available for incident resolution. It must also be recognized that when de-escalation strategies and techniques are applied, force may still be required to resolve an incident. However, de-escalation may result in the use of lower levels of force than if no de-escalation tactics/techniques are utilized.

### **304.3 DE-ESCALATION OPTIONS**

De-escalation may take many forms and can vary greatly from incident to incident. Officers are encouraged to creatively problem-solve to find and employ de-escalation strategies and techniques which are focused on protecting life, limiting force, respecting the dignity of others, enhancing safety to all involved, and completing the law enforcement mission. A selection of any de-escalation option, included in this policy or not, should be guided by the totality of the circumstances with the goal of attaining voluntary compliance. Options to de-escalate a situation include, but are not limited to those listed below:

#### **304.3.1 EXAMPLES OF DE-ESCALATION OPTIONS**

- a) Staging, planning, and/or coordinating prior to engaging a subject or incident.
- b) Calling for more resources: (Time)
  1. Additional officers
  2. Requesting specialized unit; (Negotiators, CIT, Tactical Unit, MH Units, etc.)
  3. Bi-lingual officers
  4. Staging EMS
- c) Utilizing available barriers between the subject and officers. (Shielding)
- d) Containing and/or limiting the movements of the subject.
- e) Communicating with the subject from a safe position by: (Communication)
  1. Using verbal persuasion and explanation to promote rational decision making.
  2. Giving clear direction and allowing the subject time to comply.
- f) Reducing the officer's threat of danger or exposure by moving to a safer position, considering:
  1. Distance
  2. Cover
  3. Concealment
- g) Short term disengagement to create more time to observe the subject and plan for re-deployment/re-engagement.
- h) Any other tactics that attempts to achieve the law enforcement objective by gaining voluntary compliance of the subject.

### 304.3.1.2 ADDITIONAL FACTORS FOR CONSIDERATION

Officers may need to consider additional options/factors in their attempts to de-escalate the situation. These factors include for example:

- a) Factors that may tend to decrease or increase the intensity of a situation for the subject(s) and/or officer(s).
- b) Limitations to the officer's ability to communicate with the subject(s).
- c) Environmental considerations ; and
- d) Potential complete disengagement when it is in the best interest of all involved.

### 304.4 DE-ESCALATION PRINCIPLES

An officer's awareness of these options, when time and circumstances reasonably permit, shall then be balanced against the facts of the incident and which options are viable and appropriate to potentially bring the situation to a safe resolution. An officer is not expected to engage in de-escalation measures that jeopardize the safety of the community or of any employee. De-escalation options are continuously evolving, and the Department encourages creative, thoughtful de-escalation strategies to resolve situations. Some of the de-escalation strategies and techniques utilized by the Department include those listed below:

#### 304.4.1 COMMUNICATION

Communication is often the most effective de-escalation technique. It involves the following not all-inclusive, ideologies:

- (a) Calm and respectful tone and body language.
- (b) Avoidance of taunting or insults that could escalate the incident.
- (c) Clear instructions and commands.
- (d) Active listening, repetition, and indication of understanding.
- (e) Assessing and overcoming language barriers.
- (f) Clearly communicate the consequences of resistance.
- (g) Considering whether lack of compliance is a deliberate attempt to resist and/or inability to comply based on the following, but not limited to:
  - 1. Medical conditions
  - 2. Mental impairment
  - 3. Developmental disability
  - 4. Physical limitation
  - 5. Language barrier
  - 6. Drug interaction
  - 7. Behavioral crisis
  - 8. Fear or anxiety
- (h) Non-verbal communication when a verbal warning is inadequate (unable to speak English, unable to hear or speak)
- (i) Giving the subject a reasonable amount of time to comply with commands.

#### 304.4.2 ISOLATION/CONTAINMENT

Isolating the engaged person and containing the engaged person are both important aspects of de-escalation. These techniques limit the exposure of the public to the engaged person and allow officers to lower the number of variables that they are attempting to control during the encounter. Isolation/Containment include actions such as:

- (a) Separating parties in disputes.
- (b) Handcuffing or restraining an agitated person to prevent their agitation from turning to active resistance, if appropriate.
- (c) Placing barriers between officers and uncooperative persons.
- (d) Police perimeters and limiting access to the scene.
- (e) Using additional personnel to cover possible escape routes.
- (f) Transitioning situation from dynamic to static by limiting access to unsecured areas, limiting mobility, and preventing the introduction of non-involved community members.

### 304.4.3 TIME, DISTANCE AND COVER

Time, distance, and cover may allow officers additional time to assess the totality of the incident, including resistance, and to formulate a response. The main goal of using time, distance and cover to de-escalate the situations is to slow the momentum of an incident to allow for more time, options, and resources to become available. Time, distance, and cover may be enhanced by utilizing additional resources. (CIT, NST, Negotiators, MH Units, etc.)

- b) Avoidance or minimization of physical confrontation, unless necessary.
- c) Using cover and concealment as a tactical advantage.
- d) Placing barriers.
- e) Identifying and using natural barriers.
- f) Long distance force options.
- g) Less lethal force options.
- h) Armored vehicles.

When deciding on which option/principle to use in any given situation, officers should ensure they are still complying within the law and under the guidelines of Policy § 300.

### 304.5 DISENGAGEMENT

Disengagement is the decision to leave, delay contact, delay arrest, or plan to make contact at a different time and under different circumstances. This tactic should be considered when an officer reasonably believes continued contact may result in unreasonable risk to the subject, the public, and/or department members. Members may choose to tactically disengage to avoid using force when the danger to the subject by self-harm is no longer imminent or the risk to members of the community, including officers, has been mitigated. This is especially true during events where no criminal violation has taken place.

Officers should continually assess the situation as circumstances change and new information is received, to determine if disengagement would be an appropriate and viable de-escalation technique. The analysis of whether to disengage from a situation should consider the seriousness of the offense or situation and the risk to the public if police response is abandoned or delayed.

Members can use tactical disengagement to afford themselves additional time so a plan can be created allowing for the contact or arrest at a time or location which is more likely to end in a positive outcome for all parties. Tactical disengagement can be initiated by an officer with supervisory approval, a sergeant or field commander.

#### 304.5.1 STEPS FOR DISENGAGEMENT

- Prior to clearing the event, members should consult with the legal advisor regarding their intent to disengage from the call.
- Officers should not make any promises to family, loved ones or community members.
- The following is the departments disengagement advisement to be given to those individuals who have been contacted during the incident:

“THE FRESNO POLICE DEPARTMENT IS GIVING NOTICE TO YOU (SUSPECT) NEIGHBORS, AND ALL PERSONS DIRECTLY AFFECTED BY THIS EVENT THAT AFTER CONSIDERING THE FACTORS AFFECTING THE SAFETY OF ALL CONCERNED THE BEST COURSE OF ACTION IS FOR THE DEPARTMENT PERSONNEL TO DISENGAGE AND WITHDRAW FROM THE VICINITY. YOU NEED TO USE YOUR OWN JUDGEMENT AND TAKE NECESSARY MEASURES TO PROTECT YOURSELVES IN OUR ABSENCE. IF A NEW EMERGENCY DEVELOPS CALL 911”

- Document the steps/actions you have taken by BWC and in report.



- Document contact with RPs, subjects, etc. whether in person, by phone or via electronic device by BWC.
- Upon clearing the call, members shall notify the Crisis Intervention Team (CIT@fresno.gov) of the decision to disengage so additional follow up and resources can be provided to the subject at a time when he/she is not in an immediate crisis.
- If the decision to tactically disengage involves a subject involved in a crime, additional notifications should be made to the affected detective unit so criminal follow up, or arrest, could be conducted at a time more advantageous for department members.
- Leave the Department of Behavioral Health “Mental Health Crisis Call Checklist” with those contacted in relation to the call (attached)

For more information regarding disengagement, officers are encouraged to refer to Policy § 300 and Roll Call Training Bulletin 20-03.

### **304.6 REVIE DOCUMENTATION**

All de-escalation strategies and techniques should be documented in the appropriate report relating to the incident. When de-escalation techniques are related to a use of force Blue Team entry, the supervisor shall explain the manner and efforts of de-escalation strategies and techniques employed, in incidents where de-escalation strategies and techniques were deemed to not be feasible or safe, the report should provide a detailed account of the totality of the circumstances that precluded attempts to de-escalate the situation. Notably an officer's attempts to achieve subject cooperation may not always be successful. Thus, a lack of the use of de-escalation strategies or techniques, or the failure of same to achieve the subject cooperation, shall not be used to determine whether a use of force was justified or not.

### **304.7 TRAINING**

Officers, investigators, and supervisors will receive periodic training on this policy and demonstrate their knowledge and understanding (GC § 7286(b)). Subject to available resources, the Training Unit Commander should ensure that officers receive periodic training on de-escalation tactics, including alternatives to force.

Training should also include (GC § 7286(b)):

- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly persons, pregnant individuals, and individuals with physical, mental, and developmental disabilities.
- (b) Training courses required by and consistent with POST guidelines set forth in (Penal Code § 13519.10.; PC § 1106.4; PC § 13515.25; PC § 13515.27; PC § 13515.30)



## Mental Health Crisis Call Checklist

*One of the hardest things a family may have to do is call the police when their loved one is acting in an unsafe manner. This checklist and staying calm may help you in this moment of crisis.*

- ◆ **Your Name**
- ◆ **Address** to which the police should respond.
- ◆ **Nature of the mental health crisis** (*why you need the police*)
- ◆ **Prior or current concerns for safety**
- ◆ **Weapons or access to weapons**
- ◆ **Name of your family member in crisis**
- ◆ **Age of loved one**
- ◆ **Height & weight of loved one**
- ◆ **Clothing description of loved one**
- ◆ **Current location of loved one**
- ◆ **Diagnosis** (*mental health and/or medical*)
- ◆ **Current medications** (*taking/not taking?*)
- ◆ **Drug use** (*current or past*)
- ◆ **Triggers** (*what upsets them?*)
- ◆ **State what has helped in previous police contacts.**
- ◆ **Identify other persons in the residence or at the location.**



### What to expect...

#### Who will respond to your crisis?

- ◆ The 911 operator will dispatch patrol officers to your location.
- ◆ Officers will conduct a preliminary mental health investigation to determine whether your family member is a danger to self, danger to other(s), or gravely disabled due to a mental illness (CA WIC §5150).
- ◆ Officers will inquire about any firearms or other deadly weapons, and in most cases will seize them for safe-keeping (pursuant to CA WIC §8102).
- ◆ Officers may detain your family member, which may include handcuffing, and is for the safety of everyone, including your loved one.
- ◆ Officers will conduct a preliminary investigation to determine whether a crime occurred.
- ◆ Your statements and historical information are an important part of the mental health investigation and will be used to make decisions (CA WIC §5150.05).

#### Resources

Department of Behavioral Health  
Access Line  
1-800-654-3937

National Suicide Prevention Lifeline  
1-800-273-8255

Fresno National Alliance on Mental Illness  
559-224-2469



### **305.1 POLICY**

All reports of vehicle thefts shall be investigated to the fullest potential allowed by available resources as outlined within this policy.

#### **305.1.1 PURPOSE AND SCOPE**

Members shall reasonably attempt to contact the party reporting a vehicle theft and the registered owner of the vehicle being investigated. Members shall attempt to determine the disposition of the vehicle and report the appropriate related crime and disposition (e.g., possible stolen, stolen, possible embezzled, impounded, repossessed, recovered, etc.)

### **305.2 PRELIMINARY INVESTIGATION**

Members shall determine if the payments are current and there is no possibility of repossession.

- (a) Where repossession is possible, members shall contact the Records Section to determine if the vehicle has been reported as repossessed (VC §28).
- (b) No report is written when a vehicle has been repossessed.

Members shall determine the location from which the vehicle is missing.

- (a) When the location is on private property or another area where the vehicle might have been illegally parked, members shall attempt to determine if the vehicle was impounded for a parking violation.
- (b) Members shall contact the Records Section to check for any pending entries not yet entered into teletype of vehicles removed from private property. Members shall also check with the ComCen to determine if a tow truck had been dispatched to the location of the missing vehicle on an illegal parker call.

### **305.3 STOLEN VEHICLES**

For the purposes of this policy, a vehicle is defined as a device by which any person or property may be propelled, moved, or drawn upon a highway excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks. (VC §670). Vehicles taken without the permission of the owner, whether the suspect is known to the victim or not, will be documented as a stolen vehicle. Teletype shall be notified of all stolen vehicles so they may be immediately entered into the Stolen Vehicle System (SVS) pursuant to VC §10500(a) and PC §11108.

Possible stolen vehicles shall be documented as a General Incident (GICAT – CCATT). Possible stolen vehicles are NOT entered into the Stolen Vehicle System (SVS). These reports shall be routed to the Career Criminal Auto Theft Team (CCATT) for further investigation and possible upgrading. If the case is upgraded to a vehicle theft, CCATT detectives will have the vehicle immediately entered into SVS.

### **305.4 STOLEN VEHICLE PARTS**

A Vehicle Part is defined as any serially-numbered component from a vehicle. Stolen vehicle parts with a unique serial (SER) or owner applied numbers (OAN) shall be entered into the Automated Property System (APS). Stolen license plates shall be entered into the Stolen Vehicle System (SVS).

### **305.5 EMBEZZLED VEHICLES**

When the owner (including car dealers) of a vehicle gave permission for a person, whose identity is known to them, to use the vehicle and the person has not returned or will not return the vehicle, the member shall write a General Incident (GIEMB – Embezzled Vehicle) report. The victim must be willing to:

- (a) Pursue a criminal complaint against the suspect(s); and

- (b) Contact the assigned Career Criminal Auto Theft Team (CCATT) detective to request the criminal complaint; and
- (c) Pay for towing and storage of their vehicle when located by a law enforcement agency.

CCATT detectives will review the case to determine if it should be upgraded from a General Incident to an Embezzled Vehicle (PC §503) crime report. If upgraded, CCATT detectives will forward the case with an arrest warrant to the Fresno County District Attorney's Office for review. If a criminal complaint is filed and the arrest warrant is issued, CCATT detectives will have the vehicle entered into the Stolen Vehicle System (SVS) with a notation in the miscellaneous field of "Embezzled Vehicle." Alternatively, CCATT detectives may choose to submit a Ramey warrant for the embezzlement suspect. Once the Ramey warrant is issued, the vehicle will be entered into SVS. When the RP/victim does not know the identity of the person to whom they gave permission to use their vehicle, and there are no investigative leads allowing for the identification of the person, no report shall be taken.

### 305.5.1 EMBEZZLED LEASED OR RENTAL VEHICLES

When a person who has leased or rented a vehicle willfully and intentionally fails to return the vehicle to its owner within 72 hours after the lease or rental agreement has expired, the member shall write an Embezzled Vehicle (VC §10855) report with the classification of "Leased Vehicle" or "Rented Vehicle."

Prior to a crime report being taken, the owner of the embezzled leased or rented vehicle shall:

- (a) Make attempts to contact the other party to the lease or rental agreement who has failed to return the vehicle using the contact method designated in the rental agreement for this purpose. If the owner is able to contact the party, the owner shall inform the party that if arrangements for the return of the vehicle that are satisfactory for the owner are not made, the owner may report the vehicle stolen to law enforcement. If the owner is not able to contact the other party after a reasonable number of attempts, or, if upon contacting the other party, the owner is not able to arrange for the satisfactory return of the vehicle, the owner may report the vehicle stolen;
- (b) The lease or rental agreement shall disclose that failure to return the vehicle within 72 hours of the expiration of the lease or rental agreement may result in the owner reporting the vehicle as stolen and shall require the lessee to provide a method to contact the lessee if the vehicle is not returned; and
- (c) Provide a copy of the lease or rental agreement and written documentation of the contact attempts to the reporting member.
- (d) If the owner of a vehicle that has been leased or rented discovers that it was procured by fraud, the owner is not required to wait until the expiration of the lease or rental agreement to inform law enforcement.
  - 1) A vehicle procured by fraud shall be entered into the Stolen Vehicle System (SVS) as a stolen vehicle pursuant to VC §10851(a).

The reporting member shall:

- (a) Provide the leased or rented vehicle information to Teletype so the vehicle can immediately be entered into the Stolen Vehicle System (SVS) with a notation in the miscellaneous field of "Embezzled Leased/Rental Vehicle."
- (b) Attach copies of the rental agreement, copies of any identification and payment information used by the renter and written documentation of the contact attempts to the crime report.
- (c) Obtain and upload surveillance video into Axon or provide an Axon Capture link to the vehicle owner so they may upload the video evidence.

### 305.6 REPORT TITLES/NIBRS UCR CODE

Reports of Vehicle Theft shall be titled VC §10851 with a NIBRS Code of 240. Reports involving a vehicle stolen in a burglary (from a garage, warehouse, etc.) shall be titled PC §459 with a NIBRS Code of 220. Reports involving a vehicle stolen in a carjacking shall be titled PC §215(a) with a NIBRS Code of 120. Reports involving an embezzled vehicle shall be titled GIEMB – EMBEZZLED VEHICLE (Exception: CCATT may title PC §503) or VC 10855(a) for embezzled leased or rented vehicles with a NIBRS Code of 270.

### 305.7 MULTIPLE VEHICLE THEFTS

When more than one vehicle is stolen at the same time by the same person(s), a single report (case number) and narrative shall be written. Each vehicle shall be submitted to Teletype.

### 305.8 REPORTING DEALER LICENSE PLATES

When taking reports involving dealer license plates, members shall obtain not only the number on the center of the plate, but also the two-digit number in the lower right-hand corner of the plate.

### 305.9 BOATS AND TRAILERS

When a boat and trailer are stolen, the incident shall be reported as a vehicle theft. Each shall be entered separately as stolen – the trailer is entered into the Stolen Vehicle System (SVS) and the boat is entered into the Automated Boat System (ABS). A boat stolen without a trailer is not a vehicle theft and shall be reported as a theft only.

### 305.10 NOTIFICATION OF TELETYPE

Members shall notify Teletype via Axon Records of all stolen vehicles, stolen license plates and stolen vehicle parts prior to clearing their event. This is accomplished by selecting the 'Submit to Teletype' button on the vehicle tab once all pertinent information is entered. When Axon Records is unavailable, the member shall phone Teletype with this information for a worksheet. Teletype shall immediately enter all stolen vehicles, stolen license plates and stolen vehicle parts into the Stolen Vehicle System (SVS) and Automated Property System (APS) upon receipt of the theft information pursuant to VC §10500(a) and PC §11108.

### 305.10 REQUIRED ENTRIES IN AXON RECORDS

#### 305.10.1 INCIDENT OVERVIEW:

- (a) Title of the report for Recovered Other Agency Stolen: The Report Purpose will be selected as **G/General Incident**.

#### 305.10.2 OFFENSES:

- (a) For recoveries of outside agency stolen vehicles, where an arrest is not made, GISV – GI / REC OUT OF TOWN STL shall be used as the primary charge.
- (b) For recoveries of outside agency stolen vehicles, where an arrest is made, GISV – GI / REC OUT OF TOWN STL shall be used as the primary charge and the highest criminal charge, other than VC §10851(a), shall also be entered. DO NOT enter a charge of VC §10851(a) when other agency stolen vehicles are recovered.

#### 305.10.3 NAMES TAB:

- (a) The Victim's Name for Recovered Other Agency Stolen: If unable to make contact with the Victim of the stolen vehicle, obtain the victim's name and info from the SVS Stolen Vehicle hit and place it in the report.

#### 305.10.4 VEHICLE TAB:

- (a) Stolen Vehicle Report for FPD Stolen: The vehicle information shall be placed under the vehicle tab with a Role of **S - Stolen**.
- (b) Stolen Vehicle Recovery for FPD Stolen: An additional Role of **RS - Recovered Stolen** shall be added with a Vehicle Status of **5 - Recovered**.
- (c) Stolen Vehicle Recovery for Other Agency Stolen: The stolen vehicle information shall be placed in the Original Report with a Role of ROS - Recovered Outside Agency Stolen and a Vehicle Status of **1 - None**.
  - 1) The reporting agencies name, date reported stolen and case number shall be added.
- (d) Additional descriptors of the stolen or recovered stolen vehicle shall be listed under the "Add Marking" section and the "Additional Notes" box.

## **305.11 STOLEN VEHICLE RECOVERIES**

### **305.11.1 REPORTING REQUIREMENTS**

When a vehicle which was reported stolen to this Department is recovered by a member, a Supplemental Report will be completed using the same case number as the original report. A Vehicle Inventory Report is required when the vehicle is towed and stored.

- (a) The supplemental shall contain a vehicle recovery date, time, location, and Recovery Status.
- (b) A complete vehicle description shall be included detailing signs of forced entry, method of theft, items removed, etc.

When a vehicle is reported as both stolen and recovered in the same report, the report definition/classification shall be "Stolen/ Recovered Vehicle". When a vehicle is recovered which was originally reported stolen to another agency, an FPD General Incident (GISV – GI / REC OUT OF TOWN STL) report will be completed and assigned an FPD case number.

### **305.11.2 VEHICLE PROCESSING**

Members who recover a stolen vehicle are responsible for examining the vehicle for evidence including processing for latent prints.

- (a) When the vehicle is not dusted for latent prints, the member's report shall reflect the reason why.
- (b) The report should also contain the specific location of any recovered latent prints.

### **305.11.3 TELETYPE NOTIFICATIONS**

When any stolen vehicle, stolen license plate or identifiable stolen vehicle part is recovered, the recovering member shall CALL Teletype prior to clearing their event and advise of the recovery information including the Vehicle Recovery Code. Teletype can be reached at 621-2541 or 621-2542. Teletype is staffed by dispatch between 0130 to 0615 hours. Teletype shall immediately remove all recovered stolen vehicles, stolen license plates and stolen vehicle parts from the Stolen Vehicle System (SVS) and Automated Property System (APS) upon receipt of the recovery information pursuant to VC §10500(a) and PC §11108.

### **305.11.4 RP NOTIFICATION**

One attempt shall be made to notify an RP of a vehicle's recovery.

- (a) Notification shall include the location of the vehicle and vehicle condition at the time of recovery.
- (b) The RP shall be instructed that a department member will stand by to wait for the RP's arrival for a maximum of 30 minutes.
- (c) In lieu of a response the RP may choose to have a tow dispatched. Members shall also attempt to contact the RP prior to the processing of the vehicle.
- (d) The registered owner is responsible/willing to pay for towing and storage of their vehicle when located by a law enforcement agency.

### **305.11.5 VEHICLE REMOVAL**

Stolen vehicles and major stolen vehicle parts (engine, transmission, tires/wheels, etc.) recovered by members should be stored unless successful RP notification has been made.

- (a) Exceptions to this policy must be approved by a field supervisor.
- (b) Recovered stolen vehicles shall not be impounded except as necessary to preserve or recover evidence which the recovering member is unable to process themselves.

### **306.1 POLICY**

The Fresno Police Department authorizes the use of handcuffs and auxiliary restraint devices, All restraint devices shall be used in accordance with this policy, Use of Force related policies and Department training. Restraint devices shall not be used to punish, to display authority or as a show of force. The Fresno Police Department and its members will comply with § AB 490 and § Govt. Code 7286.5.

#### **306.1.1 PURPOSE AND SCOPE**

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

### **306.2 DEFINITIONS**

**Auxiliary Restraint Devices** – Transport belts, waist or belly chains, transportation chains or leg irons and other similar devices used during transport as an additional security and safety measure.

**Hog-tie** – Refers to the binding of the ankles to the wrists, in close proximity with less than 12” of length between them, behind the back while leaving a subject in the prone or “belly down” position. Officers shall not use the hog-tie method to restrain a suspect.

### **306.3 USE OF RESTRAINTS**

Only members who have successfully completed Fresno Police Department-approved training on the use of restraint devices described in this policy are authorized to use these devices. Only Department-approved restraint devices and Department-authorized methods shall be utilized to restrain individuals that meet the criteria.

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

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

### **306.4 APPLICATION OF HANDCUFFS**

Handcuffs (including temporary nylon or plastic cuffs, e.g. Flex Cuffs), may be used only to restrain a person's hands to ensure officer safety.

The following applies when a person is initially arrested and during the transportation of an arrestee:

- (a) Suspects arrested for felonies shall be handcuffed. Disabled or injured suspects shall be controlled as safely as possible with proper consideration for their condition;
  - 1) Persons who are known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety. No person who is in labor, delivery, or recovery after delivery shall be handcuffed or restrained except in extraordinary circumstances and only when a supervisor makes an individualized determination that such restraints are necessary for the safety of the arrestee, officers, or others (Penal Code §3407; PC §6030);
  - 2) Juveniles under 14 should not be restrained unless suspected of a dangerous felony, or the officer reasonably suspects the juvenile may resist, attempt to escape, injure themselves or others, or damage property;

- (b) Suspects arrested for misdemeanors may be handcuffed at the discretion of the arresting officer. The arresting officer shall take appropriate measures to prevent escape or harm to other persons;
- (c) When applying handcuffs, the subject's hands should be secured behind their back with the palms facing outward;
- (d) The handcuffs shall be double-locked whenever possible;
- (e) Officers shall periodically inspect all handcuffed subjects to minimize the potential for injury from movement of the handcuffs; and
- (f) When one pair of handcuffs does not appear sufficient to restrain the individual, or may cause unreasonable discomfort due to the subject's size, officers should consider using an additional set of handcuffs.

Handcuffs should be removed as soon as it is reasonable or after the subject has been searched and is safely confined within the jail or within any holding cell designed to safely house that individual.

#### **306.4.1 RESTRAINT OF DETAINEES**

Situations may arise where it is reasonable to restrain a subject, and then subsequently release them without arrest after a brief investigation. In these situations, the following applies:

- (a) Such situations are generally considered detentions, rather than actual arrests;
- (b) 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;
- (c) 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; and
- (d) If a person is detained, then subsequently released after completion of that investigatory detention, officers are not required to complete a Certificate of Release Form, or a report for documentation. When a person is arrested and transported, but later released from criminal charges prior to booking or formal criminal filing, then that person will be released pursuant to PC §849(b) and Certificate of Release Form shall be completed. (refer to Policy §355).

#### **306.4.2 ORANGE HANDCUFFS**

The Department utilizes orange painted handcuffs that are limited to use by personnel assigned to transportation wagons/vans and the booking area of Crime Scene Investigation Bureau (CSIB). They are to be stored within the assigned transportation wagon/van or CSIB when not in use.

#### **306.5 APPLICATION OF SPIT HOODS OR MASKS**

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

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

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.

Auxiliary restraint devices should be used on all felony suspects transported in the transportation wagon/van as an additional security and safety measure. They are only authorized for use by personnel assigned to the transportation wagons/vans. Only Department-approved devices may be used. Any person in auxiliary restraints should be monitored during transport as reasonably appears necessary.

### **306.8 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.

### **306.9 DOCUMENTATION**

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

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

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

### **306.10 TRAINING**

Subject to available resources, the Training Manager should ensure that officers receive periodic training on the proper use of handcuffs and other restraints.

### **307.1 POLICY**

Members shall prepare a crime report on petty thefts of gasoline, beverages, food, cigarettes, etc. from businesses only when:

- (a) A suspect is in custody; or
- (b) There is any information that may result in identification of the suspect (i.e. a vehicle license plate); or
- (c) There is evidence of another crime present which requires reporting.

#### **307.1.1 PURPOSE AND SCOPE**

This policy provides guidelines members will follow to investigate petty thefts / shoplifts effectively utilizing available resources.

### **307.2 COMCEN RESPONSIBILITIES**

The Emergency Services Dispatcher (ESD) receiving a call of a petty theft from a commercial establishment shall screen the call using the criteria listed in the Policy §307.1.

- (a) When the call does not meet the crime report criteria, the ESD will direct the reporting party (RP) to the eReporting website located at <http://www.fresno.gov/reportcrime> to complete an eReport with the available information.
- (b) When the RP is aware of the eReporting procedure, they shall be advised to submit the eReport. A broadcast of suspect and suspect vehicle information should be made by the ComCen.

#### **307.2.1 REPORTING PROCEDURES**

Members shall prepare a crime report on petty thefts of gasoline, beverages, food, cigarettes, etc. from businesses only when:

- (a) A suspect is in custody; or
- (b) There is any information that may result in identification of the suspect (i.e. a vehicle license plate); or
- (c) There is evidence of another crime present which requires reporting.

#### **307.2.2 STORE SECURITY ARRESTS OF ADULTS**

When an adult is arrested by a member of a store security that participates in the Shoplifter Release Program, refer to Policy §354.

#### **307.2.3 STORE SECURITY DETENTIONS / ARRESTS OF JUVENILES**

When a juvenile is detained / arrested by a member of a store security that participates in the Shoplifter Release Program, refer to Policy §354.

### **307.3 EREPORTING**

Gas stations, restaurants, and convenience stores will no longer be offered “Petty Theft Cards” to report the theft of gasoline, food, beverages or cigarettes. They will be directed instead to eReport the theft at <http://www.fresno.gov/reportcrime>.

This program shall only be used when the criteria in the Reporting Procedures section are not met.

Policy  
**308**

Fresno Police Department Policy Manual  
**Force Options**

**308 Force Options**

**308.1 POLICY**

Department members shall only utilize force options authorized by the Department and in a manner consistent with training, to control violent or threatening suspects.

**308.1.1 PURPOSE AND SCOPE**

To reduce and minimize injuries to officers and suspects, the Department authorizes the use of selected force options.

**308.2 AUTHORIZED FORCE OPTIONS**

Only members who have successfully completed Department approved training and demonstrated proficiency in the use of any force option are authorized to carry and/or use the force option. All officers assigned to patrol functions or any officer taking any pre-planned enforcement action (e.g. warrant service, arrest, parole/probation search) shall have a less than lethal option on their person.

Exception: Weapons of Necessity

The Department authorized force options, in addition to the weapons of necessity as defined below, include the following:

**308.2.1 BATON**

Uniformed officers should take their baton to any call that has the potential for the use of force. The need to immediately control a suspect must be weighed against the risk of causing serious injury.

- (a) The head, neck, throat, spine, heart, kidneys, and groin should not be intentionally targeted except when the member reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the member or others.

**308.2.2 OLEORESIN CAPSICUM (OC) SPRAY**

Uniformed officers should take their issued OC spray to any call that has the potential for the use of force.

**308.2.3 CHEMICAL AGENTS**

Use of chemical agents for crowd control/dispersal or against barricaded suspects shall be based on the circumstances. The use of chemical agents against barricaded suspects shall be approved by the SWAT commander who will consider its appropriate use. The use of chemical agents for crowd control or crowd dispersal shall be approved by the Chief of Police unless necessary for the immediate preservation of human life.

**308.2.4 PEPPERBALL PROJECTILE SYSTEM (PPS)**

The use of Pepperball projectiles may be considered for use to bring under control an individual or groups of individuals who are engaging in or are about to engage in violent or criminal behavior.

[REDACTED] In crowd control situations, the Chief of Police (or their designee) shall have the overall authority on the use and deployment of pepper projectiles.

**308.2.5 CAROTID RESTRAINT HOLD & POSITIONAL ASPHYXIA**

Per GC § 7286.5(a) and Assembly Bill 1196 the Fresno Police Department does not authorize the use of a carotid restraint or choke hold by any peace officer. Per Government Code § 7286.5(a) and Assembly Bill 490, the Fresno Police Department does not authorize techniques or transport methods that involve substantial risk of positional asphyxia. GC § 7286.5(b)(4) defines positional asphyxia as "situating a person in a manner that compresses their airway and reduces the ability to sustain adequate breathing. This includes, without limitation, the use of any physical restraint that causes a person's airway to be compressed or impairs the person's breathing or respiratory capacity, including any action in which pressure or body weight is unreasonably applied against a restrained person's neck, torso, or back, or

positioning a restrained person without reasonable monitoring for signs of asphyxia.” Members should monitor subjects for signs of positional asphyxia, attempt to keep the person in a position that allows for adequate breathing and monitoring, provide medical aid, and request EMS.

#### 308.2.6 PAIN COMPLIANCE / CONTROL HOLD TECHNIQUES

Pain compliance / control hold techniques may be effective in controlling a physically or actively resisting individual. Members utilizing any pain compliance/control hold technique should consider:

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

#### 308.2.7 BODY STRIKES

Utilizing a body part (i.e. Forearm, elbow, knee, etc.) as a striking device may be appropriate when circumstances necessitate the immediate use of this force option to effectively bring an incident under control.

#### 308.2.8 LESS LETHAL IMPACT PROJECTILES

Less lethal impact projectiles are those munitions that are fired, launched or otherwise propelled that may reduce the likelihood of serious injury or death to the suspect. Less lethal impact projectiles include beanbag projectiles, launchable wooden, foam, or rubber batons, and rubber pellets.

- (a) Only Department authorized less lethal munitions shall be utilized in less lethal weapons. Less lethal munitions shall only be discharged from designated less lethal shotguns.
- (b) Members carrying less lethal shotguns will inspect the shotgun at the beginning of each shift to ensure that it is in proper working order and loaded only with approved less lethal munitions.
- (c) Storage of less lethal impact projectiles shall, when practical, be in accordance with manufacturer's recommendations.
- (d) Munitions that have been removed from their original container shall be clearly and conspicuously identified as less lethal to prevent confusion with lethal munitions.
- (e) The head and neck should not be intentionally targeted, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.
- (f) Non-SWAT trained members shall not deploy less lethal shotgun ammunition as a distraction device or to increase visibility (i.e. Shooting out a window). Members considering the use of distraction devices in dangerous situations should contact a SWAT supervisor or commander.

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

- 1) Distance and angle to target;
- 2) Type and thickness of suspect's clothing;
- 3) The suspect's proximity to others;
- 4) The location of the suspect; and
- 5) Whether the suspect's actions dictate the need for an immediate response and the use of control devices appears appropriate.

#### 308.2.9 CANINE (K-9) APPLICATION

The use of a Department K-9 with a trained handler may assist in providing specialized assistance in handling high risk calls, and locating criminal offenders, illegal narcotics, and dangerous explosives.

#### 308.2.10 ELECTRONIC CONTROL DEVICE (ECD)

When properly applied in accordance with Policy §309, the (ECD) device is considered a non-deadly control device which is intended to temporarily incapacitate a violent or potentially violent individual without causing serious injury.

#### 308.2.11 FIREARMS

The use of firearms is considered deadly force and shall be applied in accordance with Policy §300.

The above list is not meant to be all inclusive, as there may be other appropriate force options available to members during any given situation.

### **308.3 WHEN FORCE OPTIONS MAY BE USED**

When a decision has been made to restrain or arrest a suspect, approved force options may only be used when their use appears reasonable under the circumstances. The safety of hostages, innocent persons, and officers takes priority over the safety of subjects engaged in criminal or suicidal behavior.

Members should take into consideration factors which would impair the subject's ability to comply with orders or place the subject at risk for sustaining significant injuries. These factors include age (children and elderly), pregnancy, physical or mental disabilities, and limited English proficiency.

A verbal warning, when feasible, should precede the application of the chosen force option, unless it would otherwise endanger the safety of members or when it is not practical due to the circumstances. The purpose of the warning is to:

- (a) Provide the individual with a reasonable opportunity to voluntarily comply; and
- (b) To provide other members and individuals with a warning that the chosen force option may be deployed.

The fact that a verbal and/or other warning was given or the reasons it was not given shall be documented by the member deploying the force option.

Although force may be used to prevent a subject from swallowing evidence/narcotics, officers are discouraged from doing so except when necessary for the suspect's safety.

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

### **308.4 WEAPONS OF NECESSITY**

Due to the immediacy with which a member must apply force, together with the absence of time and/or physical ability of the member to select alternative methods, it may be objectively reasonable for the member to apply that method of force most readily available to accomplish a legitimate law enforcement purpose.

### **308.5 MEDICAL TREATMENT**

Prior to booking or release, members shall provide/seek appropriate medical assistance from EMS or CRMC for any person(s) who has:

- (a) Sustained visible injury;
- (b) Expressed a complaint of pain;
- (c) Been rendered unconscious (requires medical clearance from CRMC);
- (d) Received a ECD application (Medical treatment for ECD requires clearance from CRMC as outlined in Policy §309);
- (e) Been struck with less lethal impact projectiles (requires medical clearance from CRMC).

Exception: When O.C. spray or PPS is used, the subject may be treated on scene or by EMS, and then taken to FCJ. Subject(s) who have been struck with a PPS projectile, shall be transported to CRMC for clearance prior to booking at FCJ as outlined in Policy §301.

When possible, members should render CPR/First Aid consistent with training until EMS arrives. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, when practical, should be witnessed by another officer and/or medical personnel. If an audio recording is made of contact or an interview with the individual, any refusal should be included, if possible.

A Person who exhibits extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond physical characteristics and unusually high tolerance to pain or who require a protracted physical encounter with multiple officers to bring under control may be at an increased risk of sudden death. Calls involving these people should be considered medical emergencies and these individuals 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. Officers shall not use the term “excited delirium” to describe a person in an incident report. Officers may describe the characteristics of an individual’s conduct, but shall not generally describe the individual’s demeanor, conduct, or physical and mental condition at issue as “excited delirium”.

### **308.6 USE OF FORCE TRAINING / CERTIFICATION**

At least annually, members authorized to carry weapons shall receive in-service training on the Department’s use-of-deadly force policies, shoot/don’t shoot scenarios, and demonstrate proficiency with all approved deadly weapons that the member is authorized to use. In-service training for less lethal weapons and incident de-escalation shall occur at least every two years. Proficiency training shall be conducted by a certified weapons instructor.

#### **308.6.1 WEAPON SAFETY**

Officers shall never draw or display weapons unnecessarily or draw them in any public place except for official use.

The drawing, displaying, and firing of weapons are limited to range training and actual field situations. Actual weapons capable of firing shall not be used in simulated training exercises. When weapons are necessary to simulate police tactics, the Department will utilize trainer weapons that are incapable of being fired.

Exceptions to these weapons’ safety requirements are:

- (a) SWAT training simulations, due to the specialized weaponry utilized by SWAT personnel, combined with their increased level of training (This exception shall not relieve SWAT personnel from exercising sound weapons safety);
- (b) Department sanctioned and properly supervised simunitions training; or
- (c) Department sanctioned and properly supervised training utilizing other Department approved training munitions.

#### **308.6.2 FAILURE TO DEMONSTRATE PROFICIENCY**

When a member fails to demonstrate proficiency in the use of an authorized force option, they shall be provided with remedial training. If the member is unable to demonstrate proficiency after remedial training has been provided, an individualized remedial training plan shall be implemented. The member’s Division Commander shall be notified by the Training Section Supervisor via e-mail of the remedial training plan. Members who fail to complete the remedial training plan, or who fail to demonstrate a minimum level of proficiency, shall be referred to their Division Commander through the Training Section Commander. They will be assigned to modified duty until they are able to complete the remedial training plan and demonstrate proficiency in the use of the authorized force option. The Training Section Supervisor shall provide the member’s Division Commander with a memorandum containing the details of the circumstances regarding the failure to complete the remedial training plan or show a minimal level of proficiency.

Members returning from a leave of absence who have not met their training/qualification requirement will be assigned to modified duty until they train/qualify.

A member who is unable to demonstrate proficiency for any reason, (e.g. injury, illness, duty status, or scheduling conflict, etc), will submit a memorandum to their supervisor that details the circumstances surrounding the failure to train/qualify. The supervisor shall immediately forward the information to the Training Section Commander.

### **309.1 POLICY**

Only electronic control devices (ECDs) & dart cartridges issued by the Department shall be used by officers and only after the officers have successfully completed a Department approved ECD training course on its proper use and deployment.

#### **309.1.1 PURPOSE AND SCOPE**

When properly applied in accordance with this policy and training received, the ECD is considered a non-deadly control device that is intended to control a subject who poses an immediate threat, while minimizing the risk of injury to officers and suspects.

### **309.2 USE OF THE ECD**

As with any law enforcement equipment, the ECD has limitations and restrictions requiring consideration before its use. The ECD should only be used when its operator can safely approach the subject within the operational range of the ECD. Although the ECD is generally effective in controlling most individuals, members should be alert to the potential for failure and be prepared with other options. When practical the ECD should be utilized with the dart cartridge in order to get and maintain a positive and continuous contact with the recipient.

#### **309.2.1 CARRYING THE ECD**

Only ECDs & cartridges issued by the Department shall be used by officers and only after they have successfully completed a Department approved ECD training course on its proper use and deployment. Officers shall, at minimum, be re-certified with the ECD once every two years, or more frequently if required by the manufacturer of the ECD. Officers shall demonstrate proficiency in use of the ECD on an annual basis.

Officers issued an ECD should carry them in the field, ensuring immediate access when necessary. ECDs are issued for use during a member's current assignment. Those leaving a particular assignment may be required to return the device to the Department's inventory.

An ECD shall be carried in only Department approved tactical thigh or belt holsters on the opposite side of the Department member's handgun, or in a Department approved holster designed for a tactical load bearing vest. The ECD shall be carried with the flap secured over the weapon (M26) or securely holstered (X26) for retention.

Additionally:

- (a) All ECDs shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device;
- (b) When practical, members should carry a total of two or more ECD cartridges on their person when carrying an ECD;
- (c) Members shall be responsible for ensuring that their issued ECD is functioning properly by conducting a pre-shift spark test;
- (d) The ECD should not be drawn with the member's gun hand or dominant hand; and
- (e) Members should never hold both a firearm and the ECD at the same time.

#### **309.2.2 VERBAL AND VISUAL WARNINGS**

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

- (a) Provide the individual with a reasonable opportunity to voluntarily comply; and
- (b) Provide other members and individuals with a warning that an ECD may be deployed.

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

The fact that a verbal and/or other warning was given or the reasons it was not given shall be documented by the member deploying the ECD.

### **309.3 APPLICATION OF THE ECD**

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

- (a) A violent or physically resisting subject; or
- (b) A subject who, by words or action has demonstrated an intention to be violent or who poses an immediate threat to officers, themselves or others.
  - 1) When practical, the member should give a verbal warning of the intended use of the ECD followed by a reasonable opportunity to voluntarily comply.
  - 2) The member must be able to articulate a reasonable belief that other available options appeared ineffective, impractical or would have presented a greater danger to the member, the subject or others.

Non-compliance with directives, non-violent physical resistance, or mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the ECD to apprehend an individual.

#### **309.3.1 MULTIPLE APPLICATIONS OF THE ECD**

When the first application of the ECD appears to be ineffective in gaining control of an individual and if circumstances allow, the member should consider the following before additional applications of the ECD:

- (a) Whether the probes or darts are making proper contact;
- (b) Whether the application of the ECD is interfering with the ability of the individual to comply; and
- (c) Whether verbal commands, other options or tactics may be more effective.

Members should generally not intentionally apply more than one ECD at a time against a single subject. This, however, shall not preclude any member from deploying more than one reasonable application of the ECD on an individual. Each application will be evaluated individually for reasonableness.

### **309.4 SPECIAL DEPLOYMENT CONSIDERATIONS**

The use of the ECD should generally be avoided in the following situations unless the totality of the circumstances indicate that other available options reasonably appear ineffective, impractical, or would present a greater danger to the member, the subject or others, and the member reasonably believes that the need to control the individual outweighs the risk of using the ECD. This includes:

- (a) Pregnant females;
- (b) Elderly individuals or obvious juveniles;
- (c) Individuals with obviously low body mass (e.g. extremely thin or emaciated);
- (d) Individuals who are handcuffed or otherwise restrained;
- (e) Individuals who have been recently sprayed with a flammable chemical or who are otherwise in close proximity to any flammable material; or
- (f) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

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



#### 309.4.1 DANGEROUS ANIMALS

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

#### 309.5 TARGETING CONSIDERATIONS

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

#### 309.6 DOCUMENTATION OF USE

All ECD discharges shall be reported to a supervisor as soon as practical, and documented in the related arrest/crime report.

##### 309.6.1 MEMBERS RESPONSIBILITIES

The police report shall include:

- (a) The complete circumstances surrounding the use of an ECD;
- (b) Name of the Department member using the ECD;
- (c) Serial number of the ECD used;
- (d) Serial number of the ECD cartridge(s) used;
- (e) Model of the ECD used;
- (f) Verbal warnings if given or reason for not doing so;
- (g) Number of applications and duration of applications (e.g. 3 sec., 5 sec., etc); and
- (h) Location and description of application sites.

All accidental discharges shall be documented as above in a Synoptical Report.

##### 309.6.2 SUPERVISOR RESPONSIBILITIES

Supervisors shall prepare a Use of Force Form and forward through the supervisor's chain of command via IA Pro BlueTeam.

#### 309.7 MEDICAL TREATMENT

Whenever an ECD is applied, the suspect will be transported to Community Regional Medical Center (CRMC) for medical clearance. Department members shall not remove ECD darts.

Subjects exposed to the probes without penetration or by a "drive stun" may be transported to CRMC in a patrol/transportation vehicle. All others shall be transported by ambulance.

#### 309.8 EVIDENCE COLLECTION

When members utilize the ECD:

- (a) Expended ECD cartridges, probes and wires shall be booked into evidence under the case number;
- (b) Probes shall be packaged in a manner that protects against accidental exposure; and
- (c) When possible, Department members shall request the Crime Scene Investigation Bureau (CSIB) respond to the scene or to medical facility for photos of injuries or probe impact sites.

#### 309.9 CARE & USE OF ECDS

ECD cartridges will be issued by the Duty Office. Members requesting replacement cartridges will be required to provide the case number in which their expended cartridge(s) was/were used, or turn in the defective cartridge when seeking a replacement.

The Duty Office will maintain an ECD Cartridge Log listing the date, officer's name, case number under which the previous cartridge was deployed and the serial number of the new cartridge. All requests for repairs or replacement of inoperative or damaged units shall be forwarded to the Training Section.

### **310.1 POLICY**

The Department is committed to investigating officer involved shootings (OIS) to ensure member compliance with state and federal mandates, and with Department policy. An OIS investigation shall be initiated whenever a member intentionally uses deadly force against another person and will not apply for situations involving warning shots only, dog OIS's, or unintentional weapon discharges that do not result in the injury or death of any person.

#### **310.1.1 PURPOSE AND SCOPE**

To establish policy for the investigation of an incident in which a member intentionally discharges a firearm at a person. The intent of this policy is to ensure that such incidents be investigated in a thorough and impartial manner.

The OIS investigation process will apply to the following situations, unless otherwise directed by the Chief of Police, when an officer, either on or off duty:

- (a) Intentionally discharges a firearm at a person;
- (b) Accidentally discharges a firearm resulting in the injury or death of any person;
- (c) Intentionally utilizes a vehicle to strike or attempt to strike a pedestrian suspect; or
- (d) Is involved in a situation which results in an in-custody death.

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

### **310.2 DUTIES OF INITIAL ON SCENE SUPERVISOR**

Upon arrival at the scene of an officer involved shooting (OIS), the first uninvolved supervisor shall:

- (a) Take all reasonable steps to obtain emergency medical attention for all apparently injured individuals unless already requested, and secure the scene(s);
  - 1) Of any weapons that need to be secured or protected.
- (b) When necessary, take command of and secure the incident scene with additional personnel until relieved by a detective supervisor or other assigned personnel;
- (c) Obtain a public safety statement from the involved officer, limited to the following:
  - 1) Identification of officer(s) who discharged their firearm(s);
  - 2) Approximate number of rounds fired and direction fired;
  - 3) Whether or not suspect(s) fired any rounds;
  - 4) Location of any possibly injured persons;
  - 5) Location of any witnesses;
  - 6) Approximate location of officer when their weapon was discharged; and
    - I. Description of suspect;
    - II. Mode and direction of travel;
    - III. Time elapsed since departure;
    - IV. Crimes they are wanted for;
    - V. Location of any weapons that need to be secured or protected.

When necessary, compel the involved officer to provide public safety information;

The following template may be used:

1. "Officer, I am ordering you to give me a public safety statement. Due to the immediate need to take action, you do not have the right to wait for representation before answering these limited questions"
2. "In what direction did you fire rounds"

Note: Public safety statements should not be audio or video recorded.

- (d) Attempt to obtain any additional necessary information from witness officers on-scene, when available;
- (e) Provide involved and witness officers with an admonition not to discuss the incident pending further direction;
- (f) Provide all necessary information to the Field Commander and the ComCen. When feasible, sensitive information should be communicated over secure networks;
- (g) Brief arriving investigators and staff members regarding the information they obtained from the involved or witness officers;
- (h) Ensure the involved officers are provided a secure location to await for the arrival of OIS investigators; and
- (i) Coordinate with the Street Violence Bureau (SVB) Commander, homicide detectives and/or lead investigator to arrange for the involved officers to be transported from the scene separately, when possible. Generally, involved officers will not be transported from the scene to the interview location until after the walk-through with investigators has occurred (absent an extended wait or exceptional circumstances).

The Incident Commander or Homicide Sergeant should admonish each officer that the incident shall not be discussed except with authorized personnel or representatives.

#### 310.2.1 INVOLVED MEMBER(S)

As soon as possible, when the scene is secure and there are sufficient personnel present to continue with the investigation, the involved member(s) should be removed from the immediate scene and not further participate in investigative activities (e.g., searching, interviewing, contacting witnesses, etc.).

NOTE: The involved officer should not be required to provide more than one public safety statement or be compelled to provide information outside of the public safety statement. Involved officers may participate in a voluntary walk-through with Homicide investigators to facilitate the investigation.

#### 310.2.2 INCIDENT COMMANDER DUTIES

The Incident Commander shall be responsible for coordinating all aspects of the incident unless relieved by the Chief of Police or designee, or a Division Commander. All media contacts shall be handled by the Incident Commander, PIO, or Office of the Chief.

#### 310.2.3 NOTIFICATIONS

The Duty Office shall be notified as soon as practical by the on-scene supervisor and will initiate the OIS call out protocol. Notifications shall include a Fresno Police Officers Association Legal Defense Trustee. All outside inquiries about the incident shall be directed to the Incident Commander, PIO, or Office of the Chief.

#### 310.2.4 DEPARTMENT OF JUSTICE QUALIFYING OIS

Pursuant to AB 1506, the Department of Justice (DOJ) is required to investigate "incidents of an officer-involved shooting resulting in the death of an unarmed civilian." (Gov. Code, § 12525.3 (b)(1).) The Street Violence Bureau determines which events qualify for notification under this statute. The SVB Commander, or their designee, shall make the appropriate notifications to the Department of Justice when an officer involved shooting falls under this requirement.

### **310.3 ACTIVATION OF OFFICER INVOLVED SHOOTING (OIS) TEAMS**

An OIS investigation shall be initiated whenever a member intentionally uses deadly force against another person and will not apply for situations involving warning shots only, dog OIS's, or unintentional weapon discharges that do not result in injury. Other types of officer involved firearm discharges (except during Department training), shall be documented in an Administrative Review Memo.

The SVB Commander shall be advised of the nature of injuries (if any) and will determine the extent of the OIS Team response.

The OIS investigative and review process described below will apply to the following situations, unless otherwise directed by the Chief of Police, when an officer, either on or off duty:

- (a) Intentionally discharges a firearm at a person;
- (b) Accidentally discharges a firearm resulting in the injury or death of any person;
- (c) Intentionally utilizes a vehicle to strike or attempt to strike a pedestrian suspect; or
- (d) Is involved in a situation which results in an in-custody death.

An OIS incident involves the response of the following personnel, each of whom conducts their own review and/or investigation:

### 310.3.1 TYPES OF INVESTIGATIONS

An OIS involves several independent investigations utilizing resources within the Department. The investigations include:

- (a) A criminal investigation of the OIS;
- (b) A civil liability investigation to determine potential liability conducted by the involved officer's agency; and
- (c) An administrative investigation conducted by the involved officer's agency, to determine if there were any violations of Department policy.

The Chief of Police or their designee may relinquish the criminal investigation to an outside agency.

### 310.3.2 CRIMINAL INVESTIGATION

The Fresno Police Department Homicide Unit is responsible for the criminal investigation of any OIS involving a Fresno Police Officer that occurs within the City of Fresno (as assigned by the Homicide Unit supervisor). A representative from the Fresno County District Attorney's (D.A.'s) Office will be present to monitor the criminal investigation. Upon completion of the criminal investigation by Homicide investigators, the case will be submitted to the DA's Office for review.

### 310.3.3 JURISDICTION

Jurisdiction for the criminal investigation will be determined by the location of the shooting and the agency employing the involved officer(s):

### 310.3.4 ALLIED AGENCY OFFICER WITHIN THIS JURISDICTION

The Fresno Police Department is responsible for conducting the criminal investigation whenever an officer from an allied agency is involved in an OIS within the City of Fresno.

### 310.3.5 FRESNO POLICE OFFICER IN ANOTHER JURISDICTION

The agency where the OIS occurred has criminal jurisdiction and is responsible for conducting the criminal investigation of the incident. That agency may relinquish its authority to conduct a criminal investigation to another agency upon mutual agreement.

### 310.3.6 ADMINISTRATIVE INVESTIGATION

The Department will conduct an internal administrative investigation into any OIS involving a Fresno Police Officer to determine conformance with Department policy. This investigation will be conducted under the supervision of the Internal Affairs Bureau and will be considered a confidential peace officer personnel file.

The administrative investigation team is responsible for reviewing the shooting incident and determining whether Department policies and procedures were followed during the course of the shooting incident. The administrative shooting team is comprised of one or two Internal Affairs supervisors, who will respond to the scene of the OIS and participate in the walk-through, as determined by the SVB Commander. The Internal Affairs Commander may be called by members of the administrative shooting team when staff support is deemed necessary.

When an OIS involves an officer from an allied agency, the officer's employing agency will be responsible for any administrative investigation.

### 310.3.7 CIVIL LIABILITY INVESTIGATION

A civil liability investigation will be conducted regarding any OIS involving a Fresno Police Officer to determine facts which would establish or refute the civil culpability of the member involved in a shooting. All materials generated in this capacity shall be considered attorney work product and may not be used for any other purpose. The civil liability response is not intended to interfere with any other investigation but shall be given reasonable access to all other investigations.

The civil liability team investigates the OIS to determine facts which would establish or refute the civil culpability of the member involved in the shooting. The civil liability team members are appointed by the Chief of Police and work under the direction of the City Attorney's Office representative present at the scene of the incident. These investigations shall be maintained in strict confidence. All information concerning the case will be divulged only to designated representatives of the City Attorney's Office. All documentation prepared by team members shall be forwarded to and retained by the City Attorney's Office.

A member of the Regional Training Center shall respond to the scene of the OIS to review the incident.

When an OIS involves an officer from an allied agency, the officer's employing agency will be responsible for any civil liability investigation.

### 310.4 OIS INVESTIGATION PROCESS

Upon completion of the criminal and administrative investigations as described above, the reports shall be forwarded simultaneously for review to the involved officer's chain of command (Division Commander, Captain, and Lieutenant), via an electronic distribution process.

After review of both the administrative and criminal investigation reports, the involved officer's Lieutenant, Captain and Division Commander will meet with the Administrative Division Commander and Chief of Police for the purpose of rendering a final disposition.

The entire investigative review process shall be completed and forwarded to the Internal Affairs Bureau for closure within six (6) months of the OIS.

Upon closure of an administrative investigation where the OIS was determined to be within policy, *the* involved officer(s) will meet with their Division Commander. The meeting is intended to discuss Department policies and procedures related to officer involved shootings and use of deadly force, and to provide feedback relevant to the investigation. The meeting will also serve as an opportunity for the involved officer(s) to provide feedback to the Division Commander regarding Department policies, procedures, and practices, as well as to discuss potential future training related to the use of deadly force.

OIS investigations that result in proposed corrective measures or discipline will be handled consistent with Policy §340

#### 310.4.1 INVESTIGATION STATUS UPDATE

In the event of a fatal OIS, the Chief of Police or their designee will contact the involved officer and the family of the deceased three (3) months after the OIS to provide an update of the investigation. The update will be limited to the status of the investigation as being on-going or completed. The involved officer and the family will be re-contacted by the Chief of Police or the same designee, when possible, at the conclusion of the investigation.

### 310.5 OFFICER INVOLVED SHOOTING REVIEW COMMITTEE (OISRC)

The OISRC is separate from the OIS investigation process. The OIS review is not intended to determine violations of policy, procedure, or whether or not an OIS is legally justified.

The purpose of the OISRC is to:

- (a) Provide timely feedback to the involved officers;

- (b) Provide timely feedback to staff and Department members;
- (c) Evaluate the need for policy review;
- (d) Evaluate training needs; and
- (e) Evaluate equipment needs.

The OISRC shall consist of the following members:

- (a) The involved officer's Bureau Captain (committee chairperson) and Section/District Commander (or Captain as designated by the Division Commander);
- (b) Legal Advisor or designated representative;
- (c) SWAT Commander or designated SWAT supervisor;
- (d) Regional Training Center Commander or designated Regional Training Center supervisor;
  - 1) When possible, this should be the same representative that responded to the OIS scene.
- (e) Policy and Procedures Unit representative; and
- (f) FPOA representative.

The Office of Independent Review will be invited to the OISRC meeting and may attend at their discretion.

The involved member's Bureau Commander shall serve as the committee chairperson. When more than one chain of command is involved, the affected Division Commanders will determine the chairperson. The chairperson must hold the rank of Captain. If no Captain is in the involved officer's chain of command, the Division Commander will assign a Captain.

Within 30 days of the OIS, the chairperson of the OISRC will provide a verbal briefing to the Chief of Police on the review committee's recommendations.

The briefing should include the following information:

- (a) A synopsis of the OIS incident;
- (b) The need for policy review (if applicable);
- (c) Department training needs identified (if applicable); and
- (d) Equipment needs identified (if applicable).

The Chief of Police shall also be briefed by the chairperson before any actions are taken by the Department as a result of the review (such as policy revision or training modifications).

The chairperson will also meet with the involved officer to discuss the OISRC process as it relates to Department policy, training, and equipment, as well as an opportunity for the involved officer to provide feedback on the OIS process.

#### 310.5.1 RCTB

When deemed appropriate by the OISRC, training issues or other pertinent issues identified as a result of the meeting will be addressed in an RCTB. The RCTB will be drafted by the Policy and Procedures Unit and will not contain names of involved personnel or other specific identifying information.

The proposed RCTB will be reviewed by the OISRC chairperson before being submitted to the Chief of Police for approval.

Once the RCTB is approved by the Chief of Police and the involved officer(s) have had the opportunity to review it, the RCTB shall be distributed to all personnel via PowerDMS and as a briefing item to be discussed by officers and supervisors.

#### 310.5.2 REVIEW WITH INVOLVED OFFICER(S)

The chairperson will meet with the involved officer(s) within 60 days of the OIS incident. The involved officer(s) shall be allowed to bring an FPOA representative of their choosing to the meeting. The purpose of the meeting is to discuss the OISRC process as it relates to Department policy, training, and

equipment, provide relevant feedback to the involved officer(s), as well as an opportunity for the officer(s) to provide feedback on the OIS process.

### **310.6 INVOLVED OFFICERS**

Any officer who discharges their weapon shall be placed on paid administrative leave following an OIS. The officer shall meet with a licensed mental health clinician prior to returning to full duty. Prior to returning to full duty, the officer shall attend mandatory post-OIS training at the FPDRTC.

The following shall be considered for the involved officer(s):

- (a) Requests for legal representation will be accommodated;
- (b) Discussions with licensed attorneys will be considered privileged as attorney client communications;
- (c) Members who were either involved in or witnessed an OIS may consult individually with legal counsel or FPOA representatives, but shall not consult with legal counsel and/or FPOA representatives collectively or in groups, prior to being interviewed;
- (d) Discussions with FPOA Legal Defense representatives will be privileged only as to the discussion of non-criminal information [Government Code §3303(i)].

#### **310.6.1 ADMINISTRATIVE LEAVE**

During the investigation, detectives shall make reasonable accommodations for the officer's physical and emotional needs [GC §3303(d)]. Officers should only be placed on Administrative Leave (AL) and scheduled for a mental health review after the primary OIS investigator has released them. Administrative Leave may be authorized by the involved officer's Section/District Commander or the on-scene Field Commander, with Division Commander concurrence. The Employee Services Coordinator (ESC) will be notified of all AL approvals.

#### **310.6.2 MENTAL HEALTH REVIEW**

After the OIS, any officer using deadly force will be placed on AL pending a meeting with a contracted licensed mental health clinician from the Department's referral list. The meeting with a contracted licensed mental health clinician shall be scheduled by the Employee Services Coordinator (ESC). The involved officer must meet with the contracted licensed mental health clinician prior to returning to duty. Officers who have been involved in two or more OIS incidents shall meet with two separate contracted psychologists from the Department's referral list.

The contracted licensed mental health clinician will conduct the mental health review. If additional mental health services are recommended, the officer will be referred to another licensed mental health clinician. If no additional services are needed, the officer will have a follow-up visit with the contracted licensed mental health clinician approximately one month later. Verification of the completion of the mental health review will be sent to the Personnel Bureau and the officer's Division Commander.

Between the initial visit and potential follow-up visits with the contracted licensed mental health clinician, the officer may return to their regular duty, or another assignment as needed.

Officers who seek consultation or receive counseling through the Department's contracted licensed mental health clinician are assured confidentiality exists both within the mental health review and in therapy except where required or allowed by law. These exceptions will be clearly articulated to the officer prior to the completion of the mental health review. Some of the circumstances where disclosure is required or allowed by law are:

- (a) where there is a reasonable suspicion of child, dependent, or elder abuse or neglect;
- (b) where an officer presents a danger to self, to other(s), to property, or is gravely disabled;
- (c) when an officer's family member(s) communicate(s) to a therapist that the officer presents a danger to other(s);
- (d) pursuant to a legal proceeding by or against you (e.g., a proceeding where your mental competence is at issue; a proceeding where you raise the issue of a mental or emotional condition; and/or

- (e) when an officer enlists the services of a mental health professional to aid in the commission of a crime or to avoid detection or apprehension of oneself.

In the event of such an occurrence, the Chief of Police or their designee shall be notified or action taken to ensure protection of those concerned.

Although the Department will honor the sensitivity of communications with Companion Officers, there is no legal privilege to such, and peer counselors are cautioned not to discuss the facts of any incident with an involved or witness officer [GC §8669.4].

#### 310.6.3 MANDATORY POST-OIS TRAINING

After the involved officer meets with the licensed mental health clinician, the ESC shall coordinate post-OIS training for the officer at FPDRTC. The officer shall attend the mandatory post-OIS training within 30 days of the OIS incident.

#### 310.6.4 OTHER INVOLVED PERSONNEL

The Field Commander shall identify officers indirectly involved in the event and consult with the involved officer's Bureau Commander to determine whether or not administrative leave, post-OIS training, and/or a mental health review are warranted. When administrative leave, a mental health review, or post-OIS training is granted, the ESC shall be notified to coordinate the appropriate services.

### 310.7 INVESTIGATION PROCEDURES

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

- (a) Interviews with involved officers should be scheduled between 24 and 48 hours after the OIS incident. Officers also have the option of being interviewed outside the 24-to-48-hour period, if they so choose;
- (b) Care should be taken to preserve the integrity of any physical evidence present on the officer, equipment or clothing (e.g., blood, fingerprints, etc.) until investigators or lab personnel can properly retrieve it;
- (c) When a suspect is in custody and could be under the influence of alcohol and/or drugs, a blood draw for lab analysis shall be obtained;
- (d) An IA investigator, Civil Liability team member, and Regional Training Center representative, shall be afforded the opportunity for a brief crime scene examination as soon as the crime scene is secured by the assigned scene investigator from the Homicide Unit;
- (e) All investigative interviews of members and witnesses in OIS cases shall be recorded and the recording shall be preserved as evidence;
- (f) IA, Civil Liability, and Regional Training Center personnel shall be allowed to remotely monitor, but not record, the interviews. (IA investigators are allowed to attend for observational purposes only)
- (g) Before concluding each interview, the Homicide Investigator shall temporarily suspend the interview in order to determine whether Civil Liability investigators have additional questions related to the criminal investigation they would like asked;
- (h) The Homicide Investigator may confer with their supervisor and the Legal Advisor before determining whether the suggested questions should be asked.
- (i) All recorded interviews shall be transcribed to hard copy as soon as possible after the interviews are completed;
- (j) AVL Data related to the OIS shall be retrieved and retained by Internal Affairs investigators;
- (k) A high priority shall be placed on isolating involved members and witnesses to avoid discussion of the shooting incident prior to interviews. Investigations Division members should coordinate transportation of these parties to HQ and their supervision until interviews are completed;
- (l) All OIS investigations are confidential and should be treated as such. Members are to refrain from discussing the circumstances of a case with anyone not authorized by law or policy to receive the information, and then only with those who need the information to perform their official duties; and
- (m) Involved officers shall not be required to submit to a blood test, unless there is reasonable cause to believe the employee is under the influence of drugs or alcohol, as set forth in City of Fresno Administrative Order 2-25.



The criminal and civil investigations must be kept separate and independent to the greatest extent feasible. IA investigators performing an administrative investigation are prohibited from sharing information related to the administrative investigation with any of the criminal investigators.

### 310.7.1 WEAPONS

An officer's discharged firearm should not be manipulated (i.e., unloaded, reloaded, magazine removal, etc.) or handled by others prior to inspection by the assigned criminal investigator. When the shooting does not require a shooting team response, the firearm shall not be manipulated or handled until it has been inspected by the supervisor conducting the administrative review.

The assigned Homicide Investigator may inspect the shooting member's weapon and ammunition at the scene, however, the member should be allowed to retain their gun until it can be exchanged at HQ, unless circumstances necessitate its immediate removal. When an officer's weapon is taken or left at the scene (e.g. evidence) the officer will be provided with a comparable replacement weapon as soon as practical.

When a shooting involves a Department issued handgun, a supervisor shall obtain a replacement from the Duty Office and issue it to the involved officer. In so far as it is reasonable to do so, the replacement firearm shall be provided before the discharged firearm is taken from the involved officer.

When a member is involved in an incident with their optional on-duty handgun, backup on-duty handgun, or other authorized off-duty firearm, during the course and scope of their employment and their weapon is booked as evidence, they will be provided with a replacement weapon by the Department. An approved replacement will be provided by the Regional Training Center to be used during the time their weapon is unavailable. The replacement weapon shall be returned to the Department when the member receives their original weapon back.

### 310.7.2 REPORTS

The appropriate patrol unit will write the original crime report. The primary investigator shall determine the appropriate title for the crime report. All other investigative reports shall be documented in a supplemental report form.

In the event suspects remain outstanding or are subject to prosecution for related offenses, the Department may require involved officers to complete a police report in order to facilitate the apprehension and prosecution of those individuals [GC §3304(a)]. Involved officers shall not be deprived of the right to consult with legal counsel prior to completing any such police report.

The Homicide Investigator's final report shall include a synopsis of the shooting incident as developed from statements and evidence.

Copies of investigative reports documenting an OIS shall not be released to anyone without *the* approval of the Investigations Division Commander, until unrestricted.

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 OIS.

### 310.7.3 BOOKING FIREARMS OR OTHER ITEMS

All firearms discharged by officers under circumstances requiring investigation and/or administrative review shall be booked into evidence using standard evidence booking procedures. For each discharged firearm, all associated magazines and ammunition in possession of the officer at the time of the shooting shall be booked. In addition, the booking officer shall direct an e-mail to the Armorer describing the type of shooting, the date of occurrence, and the case number of the incident. When an officer utilizes an item or weapon other than a firearm, it shall be kept as evidence using evidence booking protocols.

Requests for an Armorer's Report shall be made through the Regional Training Center Commander within five business days of the discharge of the weapon. In the case of an OIS, the criminal investigator assigned to the incident shall make the request. In cases not criminally investigated, such as a discharge at an attacking animal, the sergeant completing the administrative review will request the Armorer's Report.

### **310.8 MEDIA RELATIONS**

All media contacts shall be handled by the Incident Commander, PIO, or Office of the Chief. The identities of involved officers shall not be released, absent their consent or as required by law. No involved officer shall be subjected to contact from the media [GC §3303(e)] and no involved officer shall make any comments to the media unless authorized by the Chief of Police or designee.

Members receiving inquiries regarding OIS incidents 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.

The identities of involved officers shall not be released, absent their consent or as required by law. In the event the name of an involved officer is required to be released, the Department will notify the involved officer as soon as practical, prior to the release. No involved officer shall be subjected to contact from the media [GC §3303(e)] and no involved officer shall make any comments to the media, unless authorized by the Chief of Police or designee.

No information is to be released to news media without approval of the primary investigator assigned to the case, their supervisor, or Investigations Division Commander.

Members receiving inquiries regarding OIS incidents 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.

### **310.9 REFERENCES**

Policy §1032 – Fitness for Duty and Employee Intervention Programs

Policy §300 – Use of Force

### **311.1 POLICY**

Lost, stolen, and found bicycles will be reported consistent with the procedures for Synoptical Reports. When identifiable suspect information is present, a crime report will be completed.

#### **311.1.1 PURPOSE AND SCOPE**

This policy provides guidelines members will follow to investigate lost, stolen, or found bicycles effectively utilizing available resources.

### **311.2 STOLEN BICYCLE SYSTEM (SBS)**

#### **311.2.1 REQUIRED INFORMATION – ENTRIES AND QUERIES**

The member documenting a bicycle case shall obtain the following minimum information which is required for a bicycle to be entered into the SBS:

- (a) **Type:** Boys, girls or undefined (used for unicycles, tandem bicycles or tricycles);
- (b) **Speed:** Single, two-speed, ten-speed, etc;
- (c) **Serial Number:** This is the frame number, NOT the model number. When a victim or the investigating member cannot differentiate between the frame and model numbers, both shall be included in the report;
- (d) **Brand;** and
- (e) **Color.**

Additional descriptive data may be entered in SBS to further identify the bicycle.

When persons reporting bicycle thefts, etc., are unable to supply any of the mandatory information needed for SBS entry, they shall be instructed to contact the Department should they locate the required information.

#### **311.2.2 LOST BICYCLES**

Where it is determined that a bicycle has been misplaced or lost a Synoptical Report shall be completed. When the serial number is available, a teletype entry containing the mandatory information shall be completed.

#### **311.2.3 FOUND/ABANDONED BICYCLES**

Prior to booking found or abandoned bicycles, they shall be checked through SBS and the results shall be noted in the Synoptical Report.

Members investigating found bicycle cases shall inform RP's of their right to claim the bicycle (Policy § 804).

#### **311.2.4 TELETYPE ENTRIES**

Members shall complete a teletype entry for all bicycle reports where the mandatory information is known.

**312 Firearms**  
**312.1 POLICY**

The Chief of Police or their designee establishes approval for all firearms and ammunition carried on-duty or off-duty by any member of this Department.

**312.1.1 PURPOSE AND SCOPE**

This policy establishes procedures for the acquisition, handling, and documentation of training in the use of firearms carried by authorized members of the Department. All weapons shall be maintained in a state of operational readiness and are subject to inspection at any time.

**312.2 DEFINITIONS**

**Issued On-Duty** - The handgun issued by the Department to authorized members. Authorized uniformed members while on-duty shall carry the Department issued handgun, in a Department approved holster, with Department provided ammunition.

**Optional On-Duty** - An authorized handgun, meeting Department specifications, purchased and maintained by a member that is carried in lieu of the issued on-duty handgun. Sworn members working plainclothes assignments while on-duty may carry either the issued on-duty or optional on-duty handgun.

[REDACTED]

**Authorized Off-Duty** - Is a weapon, meeting Department specifications, carried by sworn members while not on-duty.

**312.3 APPROVED HANDGUNS, LIGHTS, HOLSTERS, & AMMUNITION**

**312.3.1 ISSUED 'ON-DUTY' HANDGUN**

The authorized Department issued firearm is:

[REDACTED] Once a member has successfully completed the transition course, [REDACTED] will be considered the member's duty pistol.

Replacement handguns, ammunition, and magazines are available at the RTC during normal business hours or at the Duty Office after hours. Replacement handguns checked out through a Duty Officer shall be approved by the requesting member's supervisor. In the event a duty-gun must be replaced by the Duty Office or RTC staff, the member shall receive the same model firearm. The Duty Officer issuing a replacement handgun shall notify the Rangemaster so that a new replacement may be obtained. Plainclothes officers will carry the Department issued handgun when conducting pre-planned tactical operations (i.e., service of search warrants, parole searches, probation searches, etc.).

**312.3.2 ISSUED AND OPTIONAL "ON-DUTY" HANDGUN LIGHTS**

The authorized rail mounted handgun lights are:

- (a) Streamlight M3 (Department issued);
- (b) Streamlight TLR-1 (Department issued/Optional);
- (c) Streamlight TLR-1S (Optional); or
- (d) Streamlight TLR-2 (Optional).
- (e) Streamlight TLR-7 (Issued)

The purchase and maintenance of optional rail mounted lights which are authorized for use with Department issued handguns are the sole responsibility of the officer.

### 312.3.3 ISSUED AND OPTIONAL ON-DUTY HANDGUN HOLSTERS

Uniformed officers shall carry their Department issued handgun in their Department issued holster, or the Department approved optional drop or 'thigh' holster. If using an optional 'thigh' holster, officers are prohibited from removing the "ALS Guard" from the Safariland ALS holster. When wearing the Safariland ALS holster on a duty belt, the "ALS Guard" is optional. When utilizing the Department issued holster, the rail mounted handgun light shall be affixed.

Plainclothes or off-duty officers carrying the Department issued handgun will carry it in a holster that will protect it from rust and prevent unnecessary damage or wear. Any optional holster used by plainclothes or off-duty members must be in good working order, have retention capability, and be constructed of material and by design that will protect the trigger from accidental manipulations. Plainclothes officers conducting tactical operations, and those members assigned to specialized units that are authorized to wear Class C uniforms, may utilize an optional drop or 'thigh' holster. Officers may only wear a drop or "thigh" holster that is approved by the Regional Training Center Commander. Purchase of optional holsters are the responsibility of the individual officer. Any deviations from the holster specifications shall require approval by the Regional Training Center Commander.

### 312.3.4 GENERAL SPECIFICATIONS

The barrel length and calibers may differ depending on the type of handgun. The following specifications apply to all optional on-duty, backup, and off-duty handguns:

- (a) Factory condition – NOT modified;
- (b) Trigger pull of at least 3.5 lbs. minimum;
- (c) Caliber - .380, .38 Special, 9mm,\* 357, .40, .45 auto. (\*.357 revolvers will be allowed, but only for use with .38 Special ammunition);
- (d) Action - No single action only revolvers or single action semi-auto pistols except "1911" design handguns which are equipped with firing-pin block safety; and approved striker fire pistols.
- (e) Type
  - 1) Revolvers:
    - (a) Double Action only; no single action revolvers. Weapons with exposed hammers, hammer shrouds, enclosed hammers are acceptable.
  - 2) Semi-Autos:
    - (a) Hammer Fire Pistols: All hammer fired pistols must have a firing pin block safety mechanism. Single action semi-auto pistols are not authorized, except "1911" design handguns that are equipped with a firing pin block safety and an external manual safety.
    - (b) Striker Fire Pistols: All striker fire pistols must have a striker block safety mechanism.

### 312.3.5 INSPECTION

Prior to use, all weapons are subject to review, inspection, and approval by the Armorer.

### 312.3.6 RECORD MAINTENANCE


The Armorer(s) will maintain a record for each weapon approved for official use.

### 312.3.7 OPTIONAL "ON-DUTY" HANDGUN

Plainclothes officers desiring to carry an optional on-duty weapon in lieu of the Department issued handgun must meet the specifications set forth in this policy.

The purchase and maintenance of the handgun and ammunition is the sole responsibility of the officer. Minimum barrel length for optional on-duty is 2".

**Note** - A member may not carry both the issued on-duty and the optional on-duty handgun simultaneously.




### 312.3.9 AUTHORIZED "OFF-DUTY" FIREARMS

Permission to carry any firearm "off-duty" is only granted by the Chief of Police or designee. It is not a "right" and as such, can be rescinded at any time by the Chief of Police or designee (e.g., administrative leave, suspension, etc). The decision as to whether or not an officer carries an off-duty handgun shall be the sole discretion of the officer.

The purchase and maintenance of the firearm and ammunition is the sole responsibility of the officer. In addition to the general specifications above, the following specifications apply:

- (a) .32 autos are also authorized; and
- (b) Barrel – Not less than 1 1/2" in length.



Officers electing to utilize a red dot sighting system on their patrol rifles shall also have a back-up iron sighting system on the rifle. Back-up iron sighting systems must be approved by the department armorer. Officers electing to purchase a personal red dot optic will be allowed to do so at their own expense. Individually purchased red dot optics will not be replaced by the department in the event they are taken as evidence during an investigation.

### 312.3.11 APPROVED AMMUNITION

All Department issued firearms must be loaded with Department approved ammunition, including approved spare magazines. Ammunition for (2) additional magazines can be obtained from the Department Armorer. Officers may, at their own expense, purchase additional factory manufactured magazines provided they are Glock OEM 17 round Gen 5 and are black in color. Prior to carrying any spare magazines and ammunition on-duty, the officer will have the equipment inspected by a Department Armorer. Spare magazines will not be replaced by the Department in the event they are taken as evidence during an investigation.

When carried, the optional on-duty, back-up, and off-duty handguns must be loaded with ammunition that meets the following specifications:

- (a) Must be original factory-loaded ammunition. Reloads, whether commercially or privately done, are prohibited.
- (b) Specifically prohibited are fully non-jacketed, "double-slugs", shot loads, glazer safety slugs or any bullet type other than that as specified above. Likewise, bullets may not be altered or modified from their original factory characteristics and design.

Any requests for ammunition for use outside normal Department operations require approval from the Regional Training Center Commander.

### **312.4 SHOTGUN & SHOTGUN AMMUNITION**

Only Department issued shotguns and shotgun ammunition shall be carried while on-duty. These shotguns and ammunition shall not be altered, modified, or repaired by anyone other than the Armorer. Shotguns shall be carried in vehicles only in an approved locking device and with no rounds in the chamber.

#### **312.4.1 USE OF SLUG AMMUNITION**

Only current SWAT Team members and supervisors that have attended a POST certified Tactical Shotgun Course are authorized to use shotgun slug ammunition. Approved members will be issued a box of five cartridges (green in color) for use during enforcement activities. At the conclusion of their shift, the assigned member will remove all shotgun slug ammunition from the shotgun, retaining them with their other assigned gear. The shotgun will be reloaded with the standard issued 00 buck ammunition, red in color. All replacement slug ammunition will be issued by the Armorer.

Shotgun slugs should be utilized when circumstances would render Department issued buckshot ineffective. These circumstances may include, but are not limited to:

- (a) Distance to target;
- (b) Ability to penetrate a barricade/obstruction; or
- (c) Accuracy of a single projectile.

#### **312.4.2 ASSIGNED DEPARTMENT SHOTGUNS**

Depending upon shotgun availability and officer assignment, shotguns will be individually issued to officers upon their request. Preference for issuance will be given to officers in uniformed assignment. Consistent with all assigned firearms, officers, who are assigned a shotgun, are required to train, qualify, and maintain their assigned shotgun. Officers assigned a shotgun are responsible for the safe handling and storage of the firearm as outlined by policy and law. Shotguns or rifles removed from vehicles or Department work sites will be loaded and unloaded in the parking lot and outside of any vehicle (except where a clearing barrel is available). Similar to assigned patrol rifles, individually assigned shotguns can only be secured in Department safes or lockers. Officers shall not modify their assigned shotgun.

### **312.5 SAFE HANDLING AND STORAGE OF FIREARMS**

Officers will ensure that all firearms and ammunition are secured consistent with the provisions of Penal Code §25100.

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

- (a) Officers will not display any firearm unless deadly force is authorized, for officer safety reasons, training, or at a Department range;
- (b) Off-duty handguns shall be concealed and carried in a holster or in a device specifically designed for a firearm that covers the trigger and trigger guard and constructed of material and design which protects the trigger from accidental manipulations,
- (c) Officers shall only dry fire with an unloaded firearm and in a safe manner;
- (d) Members shall treat all firearms as if loaded; and
- (e) Weapons will not be carried by any officer who has consumed any amount of an alcoholic beverage or taken any drugs that would tend to adversely affect the officer's senses or judgment.

#### **312.5.1 STORAGE**

Officers will not place or store any firearm or other weapon on any Department premise except where it can be locked up.

- (a) Members shall ensure that all firearms and ammunition are locked and secured while in their homes, vehicles, or any other area under their control, and in a manner that will keep them inaccessible to children and others who should not have access. Members shall not permit department-issued firearms to be handled by anyone not authorized by the Department to do so. Members should be aware that negligent storage of a firearm could result in civil and criminal liability (PC §25100).
- (b) When leaving a handgun in an unattended vehicle, members shall ensure that it is locked in the trunk, or in a locked container which is placed out of view, or in a locked container that is

permanently affixed to the vehicle's interior and not in plain view (PC §16850; PC §25140; PC §25452). Members are exempt from this requirement during circumstances requiring immediate aid or action in the course of official duties (PC §25140).

### **312.6 CARRYING FIREARMS OUT OF STATE**

Pursuant to 18 United States Code 926B and 926C, a full time sworn officer or qualified retired officer (See: Policy §220) of this Department is authorized to carry a concealed firearm in all other states subject to the following:

- (a) The officer will carry their Department identification whenever carrying such weapon.
- (b) The officer will remain subject to this and all other Department policies (including qualifying and training) and may not be the subject of any current disciplinary action.
- (c) The officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.
- (d) Officers are cautioned that individual states may restrict or prohibit carrying firearms in certain areas such as government buildings, property and parks.

### **312.7 FIREARMS QUALIFICATIONS**

Sworn members and reserve officers are required to train tri-annually (every four months) with their Department issued handgun and any additional firearms as determined by the Rangemaster. The training shall occur at a Department approved range. One of the triannual trainings shall serve as the annual firearms qualification requirement as determined by the Rangemaster and will include qualification on all firearms for which they are qualified to carry. Under extraordinary circumstances an officer may be required to utilize a different firearm in an official capacity if the weapon they are qualified to use is not readily available during that emergency.

When possible, members shall train/qualify on-duty during scheduled range hours. Qualifying scores shall be determined by the Rangemaster. Sworn members may not carry weapons on-duty/off-duty, or in any official capacity, for which they do not hold a current Department qualification. If a sworn member fails to attend any required firearms training or qualification, they will be placed on modified duty status until the training/qualification is completed. A member will not be allowed to work a duty shift, overtime shift or contract services assignment until they have completed the required firearms training or qualification. Sworn members who are on long term absence whose firearm qualification expires are not authorized to carry a Department firearm.

Probationary officers in training shall qualify as specified above and will receive additional firearms training as determined by the Rangemaster. Probationary officers shall not carry any off-duty weapon, either Department issued or privately owned, until after they have completed the basic academy and have been certified in firearms proficiency by the Rangemaster. (This does not prohibit the officers and recruits from transporting the unloaded Department issued weapon to and from official training activities.)

#### **312.7.1 FAILURE TO DEMONSTRATE PROFICIENCY**

When a member fails to demonstrate proficiency with an issued or optional firearm, they shall be provided with remedial training. If the member is unable to demonstrate proficiency after remedial training has been provided, an individualized remedial training plan shall be implemented. The members Division Commander shall be notified by the Rangemaster via e-mail of the remedial training plan. Members who fail to complete the remedial training plan, or who fail to meet the annual qualification mandate, shall be referred to their Division Commander through the Regional Training Center commander. They will be assigned to modified duty until they are able to complete the remedial training plan and demonstrate proficiency with assigned firearms. The Rangemaster shall provide the member's Division Commander with a memorandum containing the details of the circumstances regarding the failure to complete the remedial training plan or show a minimal level of proficiency. Under no circumstances will a member be allowed to work a duty shift when they have failed to demonstrate proficiency with an issued firearm.

Members returning from a leave of absence who have not met their qualification requirement will be assigned to modified duty until they qualify.



A member who is unable to demonstrate proficiency for any reason, (e.g. injury, illness, duty status, or scheduling conflict, etc), will submit a memorandum to their supervisor (prior to the end of the trimester, when possible), that details the circumstances surrounding the failure to qualify. The supervisor shall immediately forward the information to the Regional Training Center Commander.

### **312.8 OUT OF STATE PEACE OFFICERS IN CALIFORNIA**

Pursuant to 18 USC 926B and 926C, any full-time or qualified retired out-of-state peace officer is authorized to carry a concealed firearm in California subject to the following:

- (a) The full-time sworn officer will have in their possession a photographic identification issued by the governmental agency for which the individual is employed as a law enforcement officer.
- (b) The qualified retired peace officer will have in their possession a photographic identification from the issuing law enforcement agency which indicates that the officer has met the state's training and qualification standards within one year of the date of issuance.
- (c) The officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.
- (d) Out-of-state peace officers are not authorized to carry a concealed firearm into government buildings or areas expressly restricted by state or local law.

### **312.9 FLYING WHILE ARMED**

The Office of Law Enforcement/Federal Air Marshal Service maintains oversight of the Law Enforcement Officers flying armed program under Title 49 Code of Federal Regulation (CFR) §1544.219 Carriage of Accessible Weapons.

To qualify to fly armed, Federal Regulation states that an officer must meet the following basic requirements:

- (a) Be a Federal Law Enforcement Officer (LEO) or a full-time municipal, county, or state LEO who is a direct employee of a government agency;
- (b) Be sworn and commissioned to enforce criminal statutes or immigration statutes;
- (c) Be authorized by the employing agency to have the weapon in connection with assigned duties; and
- (d) Have completed the training program, "Law Enforcement Officers Flying Armed."

In addition to the above requirements, the officer must demonstrate a need to have the weapon accessible from the time they would otherwise check the weapon until the time it would be claimed after deplaning. The need to have the weapon accessible must be determined by the employing agency, department, or service and be based on one of the following:

- (a) The provision of protective duty, for instance, assigned to a principal or advance team, or on travel required to be prepared to engage in a protective function;
- (b) The conduct of a hazardous surveillance operation;
- (c) On official travel required to report to another location, armed and prepared for duty;
- (d) Employed as a Federal LEO, whether or not on official travel, and armed in accordance with an agency-wide policy governing that type of travel established by the employing agency by directive or policy statement;
- (e) Control of a prisoner, in accordance with Title 49 CFR §1544.221, or an armed LEO on a round trip ticket returning from escorting, or traveling to pick up a prisoner' or
- (f) TSA Federal Air Marshal on duty status.

Officers who must fly while armed shall:

- (a) Have completed the training program "Law Enforcement Officers Flying Armed";
- (b) Be flying in an official capacity, not for vacation or pleasure purposes;
- (c) Ensure the Department has submitted a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the Fresno 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) Prior to travel, obtain an official letter signed by the Chief of Police authorizing armed travel.

- (e) The letter must be in the officer's possession during travel and outline the officer's necessity to fly armed, must detail the itinerary, and shall include that the officer(s) has completed the mandatory TSA training for Law Enforcement Officers Flying Armed;
- (f) Carry their Department identification card and California driver's license. Additionally, officer(s), when requested, must present their Identification to airline officials;
- (g) 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;
- (h) Not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft;
- (i) At all times keep their weapon concealed and out of view; and
- (j) Keep the weapon on their person or in immediate reach, when the armed LEO is not in uniform, or on their person, if the armed LEO is in uniform.

The weapon shall not be placed in an overhead storage bin.

### **312.10 REPAIR OR MODIFICATIONS OF DUTY WEAPONS**

The Department Armorer, authorized department member(s), and factory representatives are the only person(s) authorized to repair or modify any Department-owned weapon. The Department Armorer and authorized department member(s) are only allowed to repair or modify any Department-owned weapon within their scope of training. In addition, adjustments to Department-owned weapons can be made to maintain operational readiness in accordance with command staff's directions to test new equipment.

**Exception:** Officers are allowed to place black colored grip tape on the frame of their duty gun provided it does not interfere with any of the controls or cover any pins. Officers are allowed to purchase and install aftermarket magazine floor plates that are black in color and have been approved by the Armorer/Rangemaster. Officers are allowed to purchase a Glock factory "Extended Ambidextrous Slide Stop Lever" model SP47249. The lever must be black in color. The installation is considered an internal modification and must be performed by the Department Armorer or authorized Department member(s).

Any repairs to the officer's personally owned weapon will be done at their own expense, must meet Department specifications, must be re-inspected by the Department Armorer or authorized department member(s), and the officer must re-qualify prior to being authorized to carry.

Department issued handguns in need of repair or service shall be unloaded and submitted with issued magazines and ammunition. Handguns may be given directly to the Armorer or The Duty Office for exchange with a memo specifically describing the problems or needed work. Any officer issued a replacement or loaner handgun shall respond to the RTC as soon as practical and demonstrate proficiency to the Training Manager or their designee. The proficiency demonstration, along with the handgun serial number, shall be documented and placed into the officer's training record. This process shall occur each time an officer receives a loaner handgun, replacement handgun, or their original department-issued handgun is returned to them after being repaired.

Department shotguns in need of service or repairs shall be unloaded and submitted with a memo taped to the stock describing the problems and the area/unit/officer the shotgun came from. Shotguns shall be given directly to the Armorer during normal range hours of operation.

A firearm that is jammed with a live round shall be given to the Armorer or Rangemaster. When the Armorer or Rangemaster is not available, it shall be given to the PECS Supervisor to store until it can be turned over to the Armorer. When no one is available from the PECS, it may be placed in an evidence locker with a note affixed to the outside of the locker stating that it contains a defective firearm with a live round inside.

#### **312.10.1 LASER SIGHTS**

Authorized laser sights may be purchased by officers subject to the following conditions:

- (a) Laser sights are authorized on optional on-duty handguns and back-up handguns after they have been examined by the Department Armorer/Rangemaster and approved by the Chief of Police.

### 312.10.1 MINIATURIZED RED DOT SIGHT (MRDS)-HANDGUN

Officers may purchase an approved miniaturized red-dot sighting system (MRDS) to be used on their department issued handgun. Prior to using the MRDS on duty the department member must have passed the department's MRDS class and the annual qualification.

Officers are required to purchase the following equipment along with the authorized MRDS:

Note: A list of authorized items shall be maintained in the rangemasters office. Because manufacturer model numbers frequently change, officers are encouraged to contact the department rangemasters for a list of approved equipment prior to purchase.

- (a) Department authorized Suppressor Night Sights
- (b) Compatible Safariland RDS holster with ALS retention system.
- (c) Compatible CH Precision Weapon Systems mounting plate

All maintenance and repair of MRDS shall be conducted by the department rangemaster/armorer. Only an authorized Fresno Police Department Armorer may mount and un-mount the MRDS from the department member's handgun to perform maintenance (I.E. Battery Change). Individually purchased red-dot sighting systems will not be replaced by the Department if they are taken as evidence during an investigation.

### 312.10.2 MRDS- Optional/Back-up Handguns

Members are authorized to use a MRDS on an optional and / or back-up weapon if it meets the following specifications:

- (a) Must have an appropriate back up iron sighting system in case of optic failure
- (b) Compatible CH Precision Weapon Systems mounting plate if plate is necessary for mounting
- (c) Range staff will maintain a list of approved MRDS. Prior to purchase, members shall go to the RTC for the approved list.

If a department member buys the necessary equipment for mounting a MRDS on an optional / back-up weapon all equipment must be installed by a department armorer. The department member will be required to attend the department's MRDS class and qualify with the weapon prior to use. Members are required to qualify annually with their MRDS weapon.

### 312.10.3 SWAT WEAPON EQUIPMENT

Based on the mission of the SWAT team and the specialized tools and equipment that are utilized to carry out that mission, certain equipment installed on these weapons can increase operational performance of both the weapon as well as the end user, thereby increasing safety and mission success. Any equipment added to SWAT weapons shall not include swapping of internal or critical components, or modifications that would place the weapon outside of factory specifications (i.e., decreasing the weight in trigger.) Any modifications or equipment added to SWAT weapons shall be first approved by the SWAT chain of Command, and the SWAT Commander will maintain a list of approved weapon equipment.

## 312.11 DUTY WEAPON REMOVAL / SUSPENSION OF PEACE OFFICER POWERS

When the Department intends to suspend the peace officer powers of an individual, that officer's duty weapon, badge, and Department identification card will be removed by a supervisor or commander. The reinstatement of the peace officers' powers will be at the discretion of the Chief of Police. The officer will be told that their peace officer powers have been suspended. The Department may have other legitimate reasons beyond that of suspension of peace officer powers to remove duty weapon, badge, and Department identification card from an officer.

A member's peace Officer's powers may be suspended by the Chief of Police, Division Commander, or designee:

- (a) Those involving medical, which includes mental and physical considerations (including member reported stress) ;

- (b) Internal investigation of a major allegation as defined in Policy §1020;
- (c) Service of a Letter of Intent to Terminate; or
- (d) Other circumstances that necessitate such removal as determined by a supervisor or commander.

**Exception:** When the officer is the owner of their optional “on-duty” weapon it will not be removed unless legal justification is present (e.g., domestic violence firearm seizure, Welfare & Institutions Code §5150).

When a member’s duty weapon, badge, and Department identification have been removed they will be booked into the PECS. The member booking the weapon, badge, etc. shall notify the PECS and Training Unit supervisors by voicemail/email of the involved member’s name and case number.

The officer will be told that their peace officer powers have been suspended and whether they may carry a concealed weapon. The Department may have other legitimate reasons beyond that of suspension of peace officer powers to remove duty weapon, badge, and Department identification card from an officer.

### **312.12 OFF-DUTY RANGE USE**

The FPDRTC range is available for off-duty use by FPD sworn members only. Non-sworn personnel, to include family members and friends, are not permitted onto the range unless a specific exception has been granted by the Chief of Police or their designee.

#### **312.12.1 GENERAL REQUIREMENTS**

- (a) Prior to off-duty range use, officers are required to sign the liability release form;
- (b) Off-duty officers must sign in at the Range Office prior to utilizing the facility;
- (c) One range will be designated for off-duty use each day;
- (d) Off-duty officers are required to follow the direction of FPDRTC staff, obey all posted safety rules, and Rangemaster instructions;
- (e) All weapons and ammunition being used on the range are subject to inspection by FPDRTC Rangemasters; and
- (f) Any injuries must be immediately reported to FPDRTC staff; however, off-duty use is not covered by workers’ compensation.

#### **312.12.2 OFF-DUTY USE HOURS OF OPERATION (May vary based on the needs of the FPDRTC)**

- (a) **Day** – Tuesday thru Friday, 0800-1600 hours;
- (b) **Evening** – Tuesday thru Thursday, 1600-2000 hours; (Range will be CLOSED during evening hours when there is not a regularly scheduled Rangemaster present);
- (c) **Holidays** - CLOSED

#### **312.12.3 AUTHORIZED WEAPONS**

The following weapons are authorized for use on the FPDRTC range while off-duty:

- (a) Assigned duty weapon;
- (b) Pistols which meet the general specifications as outlined in this policy;
- (c) Shotguns:
  - 1) 12-gauge, pump action;
  - 2) Remington 870 or other make/model similar to Department issued shotgun; and
- (d) Rifles:
  - 1) AR-15 type platform or other make/model similar to Department issued patrol rifle.

#### **312.12.4 AUTHORIZED AMMUNITION FOR OFF-DUTY RANGE USE**

When utilizing a Department issued handgun, only original factory-loaded ammunition shall be used.

While utilizing any Department authorized off-duty, backup, or optional firearm, only original factory-loaded ammunition shall be used.

#### **312.12.5 TARGET USE**

- (a) Cardboard target backers and wooden stands are provided;
- (b) Off-duty officers must provide their own targets for use on the range;

- 1) Only paper, plastic, or cardboard targets may be used;
- (c) Use of the 200-yard range, sniper tower, and electric targeting systems are not authorized.

**312.13 TESTING AND EVALUATION OF GUN PARTS**

The department recognizes the ongoing need to test and evaluate gun parts to provide the best possible options for our department members. To regulate and standardize the gun parts deployed in the field, any unauthorized gun part shall undergo a three-step process prior to approval. Equipment testing shall be approved by the RTC Training Sergeant and occur within the RTC. This policy section is specific to RTC Training Staff only and the process is as follows:

**Step 1: Initial Test and Evaluation**

If a gun part or accessory is identified by the RTC Training Staff that could benefit the agency, the information shall be sent to the RTC Training Sergeant for consideration. If approved the part will be ordered and sent to the RTC for in-house evaluation only within a closed training environment. Any personally purchased or individual officer purchases shall not be considered for testing and evaluation or installed on any department owned firearms. Under no circumstances shall a gun with testing and evaluation parts or accessories be deployed in the field or carried off-duty before final approval. All testing and evaluation equipment shall remain onsite at the RTC during the evaluation period.

**Step 2: Field Test**

After the evaluation period, if the part meets or exceeds expectations, RTC Training Staff will prepare a memorandum documenting the justification of the part and its benefits. The RTC Training Sergeant will decide whether to field test the equipment. The RTC Training Sergeant will forward the request and documentation to the Training Commander for field testing approval. Once approved, deployment of the equipment will be temporarily assigned to a department member with specific parameters and expectations. When the field test is completed, the part or accessory shall be removed from the gun and returned to factory shipping standards. This shall be done regardless of whether the part is approved or not.

**Step 3: Equipment Adoption and Approval**

A memorandum documenting the testing and evaluation process will be completed following the field test. The memorandum is to include the recommendations and to seek approval for consideration of implementation. The memorandum will be forwarded through the chain of command for final approval by the Chief of Police or designee.

**OVERVIEW FOR DEPARTMENT ISSUED/AUTHORIZED HANDGUNS**

	<b>Issued "On-Duty"</b>	<b>Optional "On-Duty"</b>	<b>"Backup" On-Duty</b>	<b>Authorized "Off-Duty"</b>
<b>When to Carry</b>	Uniformed on-duty <b>Must</b>	Plainclothes on-duty <b>May</b>	Plainclothes/Uniformed On-duty <b>May</b>	All sworn off-duty members/ <del>CCW</del> <b>May</b>
<b>Weapon</b>	Dept. issued	Member provided		
<b>Minimum Barrel Length</b>	Per factory specifications	2"	1"	1"
<b>Authorized Calibers</b>	.40, 9mm	.380, .38 Special, 9mm, 357 with 38 Special ammo only, .40, and .45 auto	.22, .22 mag, .25 auto, .32 auto, 380, .38 Special, 9mm, 357 with 38 Special ammo only, .40, and .45 auto	.22, .22 mag, .25 auto, .32 auto, 380, .38 Special, 9mm, 357 with 38 Special ammo only, .40, and .45 auto

<b>Holster</b>	Dept. Authorized Visible	Must be in an approved holster	Must be carried in an approved holster or trigger guard device	Must be carried in an approved holster or trigger guard device
<b>Ammo</b>	Dept. issued only	Dept. Authorized – Officer provided (See specs Section A – Approved Handguns, Holsters & Ammunition)		
<b>Prohibited Ammo</b>	Any reloads, slugs, fully non-jacketed, double slugs, shot loads, glazer safety slugs, altered or modified from original factory characteristics and design, or other type not specified, is prohibited			
<b>Special Conditions</b>	During a pre-planned tactical operation or search warrant - must carry Dept issued on-duty firearm	Must meet department specifications.	Only one at a time	May be rescinded by Chief at anytime
<b>Qualifications</b>	Must train triannually & qualify annually with dept. supplied ammo	Prior to carrying, must qualify with Officer provided ammo (see specs Section A – Approved Handguns, Holsters & Ammunition)		
<b>Lights</b>	Dept. provided	Must be maintained by member		
<b>Laser</b>	Authorized on Beretta Only	Yes - (Must be approved by Dept. Armorer and maintained by the department member) It is the members responsibility to qualify with the alternative sighting system		
<b>Probationary Officers</b>	Yes - (Must pass range qualifications prior to carrying)			
<b>Modifications</b>	Only by Armorer	No (Unless the provisions of Section 312.10 are met)		
<b>Inspection Required before carrying</b>	Yes			

### **313.1 POLICY**

Department members will investigate allegations of counterfeit currency in accordance with established policies and procedures, with noted exceptions.

#### **313.1.1 PURPOSE AND SCOPE**

Counterfeiting of U.S. Currency and Coin is the primary jurisdiction of the U.S. Secret Service; however members will assist in the investigation when necessary. All other counterfeiting activities are the responsibility of this Department.

### **313.2 COUNTERFEIT NOTE – PASSER NOT PRESENT**

When a business discovers a counterfeit note (U.S. currency) and the person who passed the note is not present, the RP should be instructed to contact the Secret Service for dispositional instructions.

When the passer is known and no longer present, that information should be forwarded to the Secret Service.

### **313.3 COUNTERFEIT NOTE – PASSER PRESENT**

When a business discovers a counterfeit note and the passer is present, the Department should be notified and an officer dispatched to the business to contact the passer.

When the officer determines that the possession/pass did not meet the elements of a crime (Penal Code §648), information on the passer should be obtained, along with a statement on how the passer received the counterfeit note. This information shall be documented in a general incident report (GI report), the counterfeit note shall be confiscated, and the passer released.

When the responding officer determines that the passer had knowledge of the counterfeit note, appropriate enforcement action shall be taken and a crime report prepared. This action may include arrest and/or contact with the Secret Service for their response and/or input. The counterfeit note(s) shall be seized as evidence.

### **313.4 QUESTIONABLE NOTES**

When there is a question as to whether or not a note is counterfeit it may be forwarded by the business to the Secret Service.

When the note is in possession of an individual, an officer shall be dispatched and shall attempt to verify the authenticity of the note.

When the authenticity cannot be established, the note should be seized and a receipt given to the person in possession.

The note shall be booked as evidence and a GI report prepared. Follow-up investigators will determine the authenticity of the note and will either forward it to the Secret Service or return it to the person from whom it was seized.

### **313.5 OTHER COUNTERFEIT DOCUMENTS**

Investigation of counterfeit or false documents enumerated in PC §476, other than U.S. currency, is the responsibility of the Department. Such cases shall be investigated under the same guidelines as other criminal offenses.

**314.1 POLICY**

It is the policy of this Department to balance the importance of apprehending suspects who unlawfully flee from law enforcement against the risks associated with vehicle pursuits.

**314.1.1 PURPOSE AND SCOPE**

This policy provides guidelines for vehicle pursuits in order to protect the safety of the public, the involved officers and fleeing suspects.

**314.2 DEFINITIONS**

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

**Vehicle Pursuit** - 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.



### 314.3 OFFICER RESPONSIBILITIES

It shall be the policy of this Department that a motor vehicle pursuit shall be conducted using authorized department emergency vehicles that are equipped with and displaying a steady forward red light and siren as required by Vehicle Code §21055 for exemption from compliance with the rules of the road. This 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 VC §21056.

#### 314.3.1 WHEN TO INITIATE A PURSUIT

Officers are authorized to initiate a pursuit when it is reasonable to believe that a suspect, who has been given appropriate signal to stop by a law enforcement officer, is attempting to evade arrest or detention by fleeing in a vehicle.

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

- (a) Seriousness of the known or reasonably suspected crime and its relationship to community safety;
- (b) The importance of protecting the public and balancing the known or reasonably suspected offense and the apparent need for immediate capture against the risks to officers, innocent motorists and others;
- (c) Apparent nature of the fleeing suspect(s) (e.g., whether the suspect(s) represent a serious threat to public safety);
- (d) The identity of the suspect(s) has been verified and there is comparatively minimal risk in allowing the suspect(s) to be apprehended at a later time;
- (e) Safety of the public in the area of the pursuit, including the type of area, time of day, the amount of vehicular and pedestrian traffic and the speed of the pursuit relative to these factors;
- (f) Pursuing officer(s) familiarity with the area of the pursuit, the quality of radio communications between the pursuing units and the dispatcher/supervisor and the driving capabilities of the pursuing officers under the conditions of the pursuit;
- (g) Weather, traffic and road conditions that substantially increase the danger of the pursuit beyond the worth of apprehending the suspect;
- (h) Performance capabilities of the vehicles used in the pursuit in relation to the speeds and other conditions of the pursuit;
- (i) Vehicle speeds;
- (j) Other persons in or on the pursued vehicle (e.g., passengers, co-offenders and hostages);
- (k) Availability of other resources such as air support;
- (l) The police unit is carrying any passengers other than law enforcement personnel. If the police unit is carrying any passengers and engages/participates in a pursuit, then it must be under extreme circumstances; and
- (m) Emergency lighting and siren limitations on unmarked police department vehicles that may reduce visibility of the vehicle, such as visor or dash-mounted lights, concealable or temporary emergency lighting equipment, and concealed or obstructed siren positioning.

#### 314.3.2 WHEN TO TERMINATE A PURSUIT

Pursuits should be discontinued whenever the totality of objective circumstances known or which reasonably ought to be known to the officer or supervisor during the pursuit indicates that the present risks of continuing the pursuit reasonably appear to outweigh the risks resulting from the suspect(s)' escape. Any officer involved in the pursuit may terminate the pursuit with due cause.

The factors listed in Policy §314.3.1 are expressly included herein and will apply equally to the decision to discontinue as well as the decision to initiate a pursuit. Officers and supervisors must objectively and continuously weigh the seriousness of the offense against the potential danger to innocent motorists and themselves when electing to continue a pursuit.

When instructed to terminate, all units shall comply by immediately turning off their lights and siren and driving in compliance with all VC provisions.

In addition to the factors listed in Policy §314.3.1 the following factors should also be considered in deciding whether to terminate a pursuit:

- (a) Distance between the pursuing officers and the fleeing vehicle(s) is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time and/or distance;
- (b) Pursued vehicle's location is no longer definitely known;
- (c) Officer's pursuit vehicle sustains any type of damage that renders it unsafe to drive;
- (d) Hazards to uninvolved bystanders or motorists;
- (e) If the identity of the offender is known and it does not reasonably appear that the need for immediate capture outweighs the risks associated with continuing the pursuit, officers should strongly consider discontinuing the pursuit and apprehending the offender at a later time;
- (f) Directed by a supervisor.
- (g) The pursuing vehicle's emergency lighting equipment or siren becomes partially or completely inoperable.
- (h) Extended pursuits of violators for misdemeanors not involving violence, risk of serious harm, or weapons (independent of the pursuit) are generally discouraged; and
- (i) The danger that the continued pursuit poses to the public, officers, or the suspect, balanced against the risk of allowing the suspect to remain at large.

### 314.3.3 SPEED LIMITS

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

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

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

### 314.4 PURSUIT UNITS

Pursuit units should be limited to three vehicles (two units and a supervisor); however, the number of units involved will vary with the circumstances. Only a supervisor or Field Commander may authorize additional units to join a pursuit if, after assessing the factors outlined above, it appears that the number of officers involved would be insufficient to safely arrest the suspect(s). All other officers should stay out of the pursuit but should remain alert to its progress and location. Any officer who drops out of a pursuit may then, if necessary, proceed to the termination point at legal speeds, following the appropriate rules of the road.

Unmarked police department emergency vehicles, even those equipped with emergency equipment, are prohibited from initiating or joining in any pursuit, unless there is an extreme circumstance. They shall discontinue their pursuit upon the arrival of a distinctively marked patrol vehicle equipped with emergency overhead lighting.

#### 314.4.1 MOTORCYCLE/TRANSPORT WAGON OFFICERS

Police motorcycles and transport wagons are prohibited from initiating or joining in any pursuit unless there is an extreme circumstance. A distinctively marked patrol vehicle equipped with emergency overhead lighting should replace a police motorcycle or transport wagon as soon as practical.

**EXCEPTION:** Police motorcycles may engage in a pursuit when the suspect operating a motor vehicle is driving in a legal manner but willfully failing to yield to an officer's signal to stop until relieved by a distinctively marked patrol vehicle equipped with emergency overhead lighting.

#### 314.4.2 VEHICLES WITHOUT EMERGENCY EQUIPMENT

Officers operating vehicles not equipped with red light and siren are prohibited from initiating or joining

### 314.4.3 PRIMARY UNIT RESPONSIBILITIES

The initial pursuing unit will be designated as the primary pursuit unit and will be responsible for the conduct of the pursuit unless it is unable to remain reasonably close enough to the suspect'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.

The primary unit should notify the Communications Center (ComCen) that a vehicle pursuit has been initiated and as soon as practical provide information including, but not limited to:

- (a) Reason for the pursuit;
- (b) Location and direction of travel;
- (c) Speed of the fleeing vehicle;
- (d) Description of the fleeing vehicle and license number, if known;
- (e) Number of known occupants;
- (f) The identity or description of the known occupants;
- (g) Known or suspected weapons, threat of force, violence, injuries, hostages, or other unusual hazards;
- (h) The weather, road, and traffic conditions;
- (i) The need for any additional resources or equipment; and
- (j) The identity of other law enforcement agencies involved in the pursuit.

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 safe pursuit tactics, the primary officer should relinquish the responsibility of broadcasting the progress of the pursuit to a secondary unit or aircraft joining the pursuit.

### 314.4.4 SECONDARY UNIT(S) RESPONSIBILITIES

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

- (a) The officer in the secondary unit should immediately notify the dispatcher of entry into the pursuit;
- (b) Remain a safe distance behind the primary unit unless directed to assume the role of primary officer, or if the primary unit is unable to continue the pursuit;
- (c) The secondary officer should be responsible for broadcasting the progress of the pursuit unless the situation indicates otherwise;
- (d) Identifying the need for additional resources or equipment as appropriate; and
- (e) Serving as backup to the primary pursuing officer once the suspect has been stopped.

### 314.4.5 PURSUIT DRIVING

The decision to use or not 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 regard and 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 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; and
  - 3) Requesting other units to observe exits available to the suspect(s).

- (d) Notifying the California Highway Patrol and/or other jurisdictional agency if it appears that the pursuit may enter their jurisdiction; and
- (e) Officers involved in a pursuit should not attempt to pass other units unless the situation indicates otherwise or requested to do so by the primary unit and with a clear understanding of the maneuver process between the involved units.

#### 314.4.6 UNITS NOT INVOLVED IN THE PURSUIT

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

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.

#### 314.4.7 PURSUIT TRAILING

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

[REDACTED]

#### 314.5 SUPERVISORY CONTROL AND RESPONSIBILITIES

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

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

- (a) Upon becoming aware of a pursuit, immediately ascertaining all reasonably available information to continuously assess the situation and risk factors associated with the pursuit in order to ensure that the pursuit is conducted within established Department guidelines;
- (b) Engaging in the pursuit, when appropriate, to provide on-scene supervision;
- (c) Exercising management and control of the pursuit even if not engaged in it;
- (d) Ensuring that no more than the number of required police units needed are involved in the pursuit under the guidelines set forth in this policy;
- (e) Directing that the pursuit be terminated if, in their judgment, it is unjustified to continue the pursuit under the guidelines of this policy;
- (f) Ensuring that aircraft are requested if available;
- (g) Ensuring that the proper radio channel is being used;
- (h) Ensuring the notification and/or coordination of outside agencies if the pursuit either leaves or is likely to leave the jurisdiction of this agency;
- (i) Control and manage FPD units when a pursuit enters another jurisdiction;

- (j) Respond to the termination point of all pursuits; and
- (k) Preparing post-pursuit critique and analysis of the pursuit to be forwarded via BlueTeam to the Pursuit Review Officer.

#### **314.5.1 FIELD COMMANDER RESPONSIBILITIES**

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

#### **314.6 COMMUNICATIONS**

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

#### **314.6.1 COMMUNICATION CENTER RESPONSIBILITIES**

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

- (a) Coordinate pursuit communications of the involved units and personnel;
- (b) Notify and coordinate with other involved or affected agencies and provide continual updates to the Fresno County Sheriff's Department as practical;
- (c) Ensure that a field supervisor is notified of the pursuit;
- (d) Assign an incident number and log all pursuit activities;
- (e) Broadcast pursuit updates as well as other pertinent information as necessary;
- (f) Broadcast when a pursuit is terminated and ensure that all channels re-broadcast the termination.
- (g) Determine availability of air support and notify the supervisor/pursuing units of the availability;
- (h) If the initiating agency's communications center does not possess the ability to make the appropriate safety broadcasts to all affected allied agencies, then that agency should consider aborting the pursuit;
- (i) In the event pursuing units are actively engaged in a multi-agency pursuit and are unable to effectively communicate with the agency with primary pursuit responsibilities, then the allied agency should consider discontinuing its involvement in the pursuit. The primary pursuing agency should be notified of the assisting agency's discontinuance in the pursuit; and
- (j) Notify the Shift Sergeant and Field Commander as soon as practical.

#### **314.7 LOSS OF PURSUED VEHICLE**

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

#### **314.8 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.

Because vehicle pursuits frequently have the potential to rapidly cross jurisdictional boundaries of multiple law enforcement agencies, it is both the intent and desire of the Fresno County Police Chiefs and Sheriffs Association to adopt an interagency pursuit guideline. These guidelines will facilitate coordination and communication among affected agencies within the parameters of existing resources. The following procedures were developed and endorsed by the Fresno County Police Chiefs and Sheriffs Association. Members shall adhere to this agreement when a pursuit extends outside of the City, or when another agency's pursuit enters the City.

### 314.8.1 NOTIFICATIONS

Recognizing that vehicle pursuits are often spontaneous and rapidly changing events which present involved personnel with multiple issues and demands, each initiating agency will make every reasonable effort to promptly notify the next agency into whose jurisdiction the pursuit may foreseeably proceed should it leave the jurisdiction of the initiating agency.

Once the next foreseeable agency has been notified of the pursuit, the initiating agency will then make every reasonable effort to promptly notify the Fresno County Sheriff's Department (FCSD) of the existence of the pursuit.

Once FCSD has been notified of the pursuit, the initiating agency will then make every reasonable effort to promptly notify the California Highway Patrol (CHP) of the existence of the pursuit.

### 314.8.2 RADIO COMMUNICATIONS

Radio communications will be conducted on the initiating agency's primary radio channel unless instructed otherwise by a supervisor or communications dispatcher.

All pursuit radio traffic should be transferred to the FCSD communications center for dispatching purposes when all of the following conditions are present:

- (a) The pursuing police department has communication capabilities with the FCSD. Agencies capable of communicating with FCSD include, but are not limited to, the following police departments: Coalinga, Firebaugh, Fowler, Huron, Kerman, Kingsburg, Mendota, Parlier, Reedley, Sanger, and Selma; and
- (b) The pursuit leaves the pursuing agency's city limits and enters into an unincorporated area of Fresno County.

**Exception:** Some agencies have a 24-hour dispatch center with sufficient staffing and resources to safely meet all radio communications responsibilities during vehicle pursuit, (i.e., Clovis PD, Fresno PD, and the CHP). These agencies may elect to handle their own radio traffic during pursuits that enter into unincorporated areas of Fresno County. However, the pursuing agency's communications center should continually provide updates of pertinent information to the FCSD communications center.

### 314.8.3 COMMUNICATIONS CENTER (COMCEN) RESPONSIBILITIES

Each initiating agency's ComCen should be responsible for the following:

- (a) Informing the on-duty field supervisor;
- (b) Notifying allied agencies if a potential involvement can be expected, and specifying whether assistance is requested or if the notification is for information only;
- (c) Relaying pertinent information to or from allied agencies, and providing continual updates to the FCSD communications center;
- (d) Determining the availability of law enforcement aircraft and notifying the supervisor and/or the primary unit of the availability;
- (e) If the initiating agency's communications center does not possess the ability to make the appropriate safety broadcasts to all affected allied agencies, then that agency should consider aborting the pursuit; and
- (f) In the event pursuing units are actively engaged in a multi-agency pursuit and are unable to effectively communicate with the agency with primary pursuit responsibilities, then the allied agency should consider discontinuing its involvement in the pursuit. The primary pursuing agency should be notified of the assisting agency's discontinuance in the pursuit.

#### 314.8.4 CONTROL OF THE PURSUIT

If the initiating agency has the ability and elects to have its involved unit(s) conduct all radio communications on the FCSD frequency, the initiating agency shall maintain control of the pursuit and its units.

FCSD shall have no control or responsibility over the involved unit(s) from the initiating agency unless and until the initiating agency expressly relinquishes control of the pursuit to the FCSD.

Should any agency expressly request that FCSD take over or assume the pursuit and FCSD agrees, it is thereafter understood that FCSD shall immediately have complete control and responsibility over the pursuit once FCSD units are on scene and established as the primary pursuing unit. All other agencies should discontinue their involvement in the pursuit unless the FCSD request continued assistance.

Should any agency expressly request that the California Highway Patrol (CHP), Fresno Police Department (FPD) or the Clovis Police Department (CPD) take over or assume the pursuit and the agency agrees, it is understood that CHP, FPD, or CPD unit(s) shall thereafter have immediate and complete control and responsibility of the pursuit. All other agencies should discontinue their involvement in the pursuit unless the controlling agency requests additional assistance.

#### 314.8.5 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY

In the event that units from multiple agencies continue to participate in a pursuit which has not been expressly turned over or relinquished to FCSD, control and responsibility for each involved unit shall remain with the unit's own agency or the agency that assumed the pursuit.

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. When the distance involved makes this impractical, the officer should meet the arresting officers at the FCJ or other place of confinement.

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. The agency initiating the pursuit should assume responsibility for handling the prosecution of the violation for which the pursuit was initiated. When non-traffic violations have occurred subsequent to the pursuit being relinquished to another agency, the agency that has assumed the pursuit and witnessed these violations will be responsible for their prosecution.

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, FCSD, and CHP units, a request for CHP assistance will mean that they will assume responsibilities for the pursuit. For the same reasons, when a pursuit leaves the freeway and a request for assistance is made to this Department, the CHP should relinquish control.

#### 314.8.6 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 pursuing agency and with approval from a supervisor. The exception to this is when a single unit from the initiating agency is in pursuit. Under this circumstance, a supervisor may authorize units from this Department to join the pursuit until sufficient units from the initiating agency joins 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:

- (k) Ability to maintain the pursuit;
- (l) Circumstances serious enough to continue the pursuit;
- (m) Adequate staffing to continue the pursuit;
- (n) The public's safety within this jurisdiction; and
- (o) Safety of the pursuing officers.

As soon as practical, a supervisor or Field Commander should review a request for assistance from another agency. The Field Commander or supervisor, after consideration of the above factors, may decline to assist in, or assume the other agency's pursuit.

Assistance to a pursuing allied agency by officers of this Department will terminate at the City limits provided that the pursuing officers have sufficient assistance from other sources. Ongoing participation from this Department may continue only until sufficient assistance is present.

In the event that a pursuit from another agency terminates within this jurisdiction, officers shall provide appropriate assistance to officers from the allied agency including, but not limited to, scene control, coordination and completion of supplemental reports and any other assistance requested or needed.

**314.9 WHEN PURSUIT INTERVENTION IS AUTHORIZED**

Whenever practicable, an officer shall seek approval from a supervisor before employing any pursuit intervention to stop the pursued vehicle. In deciding whether to use intervention tactics, officers/supervisors should balance the risks of allowing the pursuit to continue with the potential hazards to the public arising from the use of each tactic, the officers, and persons in or on the pursued vehicle to determine which, if any, intervention tactic may be reasonable.

**314.9.2 USE OF FIREARMS**

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

**314.9.3 INTERVENTION STANDARDS**

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

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- (g) Canine handlers involved in a pursuit are discouraged from using any intervention technique that creates a likelihood of injury or damage to specialized canine equipment (dog/vehicle). When possible, an effort shall be made to designate another officer as the officer initiating an intervention technique.
- (h) Transport wagons are discouraged from engaging in vehicle pursuits and from using pursuit intervention techniques, due to their size and limited capabilities.

314.9.4 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 pursuing officer should coordinate efforts to apprehend the suspects following the pursuit. Officers should consider safety of the public and the involved officers when formulating plans for setting up perimeters or for containing and capturing the suspects.

### 314.10 REPORTING REQUIREMENTS

Whenever a pursuit occurs, prior to completion of their shift, supervisors shall:

- (a) Create a pursuit review package using the BlueTeam web interface to include answering related questions and selecting appropriate entries via drop down boxes;
- (b) Click "save" (can be accessed by the IA secretary);

The supervisor shall ensure a written report and critique is prepared in an approved format (pursuit review form), to determine whether or not the pursuit was within Department guidelines. Once it has been completed, the supervisor shall submit the critique via BlueTeam along with the police report (and all associated reports, i.e. collision report), audio recording of the pursuit AVL data, and Body Worn Camera footage shall be submitted to the Pursuit Review Officer for review and a determination of the findings.

The (a) ~~The primary officer shall complete a report with the appropriate~~ and state regulations:

- (b) Pursuant to VC §14602.1(b), the Pursuit Review Officer shall complete form CHP 187A, Allied Agency Vehicle Pursuit Report, to be filed with the CHP either electronically or on paper not later than 30 days after the pursuit. This pursuit report shall minimally contain the following information:
  - 1) Whether any person involved in the pursuit or subsequent arrest was injured, specifying the nature of that injury and differentiating between the suspect driver, a suspect passenger and the officers involved;
  - 2) The violation(s) that caused the pursuit to be initiated;
  - 3) The identity of the officers involved in the pursuit;
  - 4) The means or methods used to stop the suspect being pursued;
  - 5) The charges filed with the court by the district attorney;
  - 6) The conditions of the pursuit, including, but not limited to, all of the following:
    - I. Duration;
    - II. Mileage;
    - III. Number of officers involved
    - IV. Maximum number of units involved;
    - V. Time of day;
    - VI. Weather conditions; and
    - VII. 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; and
  - 9) How the pursuit was terminated.
- (c) After first obtaining available information, a field supervisor shall promptly complete a pursuit critique forwarding the critique to the Pursuit Review Officer via BlueTeam. This memo should minimally contain the following information:
  - 1) Date and time of pursuit;
  - 2) Length of pursuit;
  - 3) Involved units and officers;
  - 4) Initial reason for pursuit;
  - 5) Starting and termination points;
  - 6) Disposition: arrest, citation, etc. Arrestee information should be provided if applicable;
  - 7) Injuries and/or property damage;
  - 8) Medical treatment;
  - 9) Name of supervisor at scene;
  - 10) A preliminary determination, simply stating whether or not the pursuit appears to be in compliance with this policy; and
  - 11) Determine the need for any additional review and/or follow up.

The Pursuit Review Officer shall forward the critique and their findings to the Bureau Commander through the involved officer's chain of command via BlueTeam. The Pursuit Review Officer, or any staff officer in the chain of command, may return the critique to the supervisor and direct an internal investigation be conducted. The Pursuit Review Officer will conduct a documented annual analysis of pursuit reports.

Automated Vehicle Locator (AVL) data, including an analysis of the data, shall be included in pursuits resulting in administrative investigations or pursuits involving a collision resulting in serious injury or death. AVL data should be reviewed by members of the Field Automation System Unit for an accurate interpretation.

#### **314.11 REGULAR AND PERIODIC PURSUIT TRAINING**

In addition to initial and supplementary POST training on pursuits required by PC §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. [VC §17004.7(d)].

#### **314.12 POLICY REVIEW**

Each sworn member of this Department shall certify in writing that they have received, read and understand this policy initially and upon any amendments. The Policy and Procedures Unit will conduct a documented annual review of pursuit policies and reporting procedures.

#### **314.13 APPLICATION OF MOTOR VEHICLE PURSUIT POLICY**

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

**315.1 POLICY**

When members are dispatched to a Call For Service (CFS), they should place themselves enroute and respond without delay.

**315.1.1 PURPOSE AND SCOPE**

The Department recognizes the importance of timely response of police services to its citizens. The purpose of this policy is to provide a guideline to accomplish this task.

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**315.4 TELEPHONIC REPORTING**

When the priority of the call (i.e. 7, 8, "T") or the type of call indicates it may be handled telephonically, a member's physical presence is not required.

The following types of calls may be handled telephonically:

- (a) Petty theft (including bicycles);
- (b) Grand theft;
- (c) Vehicle theft;
- (d) Vandalism;
- (e) Lost property;
- (f) Out of jurisdiction missing person;
- (g) Walk away from board and care facility;
- (h) Runaway juvenile from a group/foster home (12 years of age and over);
- (i) Threatening phone call;
- (j) Courtesy report for out-of-town agency;
- (k) Prior disturbance;
- (l) Violation of restraining order;
- (m) Follow-up information on prior cases;
- (n) Prior hit and run accident; and
- (o) Calls approved by a supervisor.

### 315.4.1 EXCEPTIONS

The calls listed above shall not be handled telephonically when:

- (a) There is a suspect in custody;
- (b) There is a probability of immediate apprehension of a suspect;
- (c) An involved party is in immediate physical danger;
- (d) There are exigent circumstances which require the physical presence of a member (e.g., excessively high value of loss, potential witnesses in the area, etc.);
- (e) A prior disturbance or restraining order violation involves domestic violence;
- (f) There is a probability of recovering usable evidence; or
- (g) The property being reported could be either lost or stolen, and the serial number is not known at the time of the report. This includes serialized City of Fresno trash cans. The victim is to be advised to complete their own report via the Internet, or by responding to Police HQ, or any District Station open to the public.

### 315.5 RESPONDING TO CALLS FOR SERVICE

When members are dispatched to a call, they should place themselves enroute and respond without delay. Members handling calls for service (CFS) should direct their attention toward the long term solution of the problem.

Personnel assigned to modified duty with telephonic report responsibilities may be assigned to re-contact reporting parties for additional information on calls that have been holding for an extended period. If officers are no longer needed, the call may be cleared out, when appropriate.

#### 315.5.1 CONFLICTING REQUESTS FOR SERVICE

When a member is dispatched to a call and encounters another situation requiring police service while enroute, they should advise the Emergency Services Dispatcher (ESD) of the situation and proceed according to the instructions of the ESD. When the member is instructed to continue on the original call, they should advise the person(s) involved in the second incident that another member will respond as soon as possible. Members encountering such a situation should not instruct the contacting citizen to call the Department. Instead, sufficient information shall be provided to the ESD to prepare an event for later dispatching.

Members responding to a high priority call (priority "0" and "1") should not stop or delay their response for any activity other than another emergency. The ESD shall be immediately notified of a new incident to permit a decision to be made as to whether the unit will be preempted for the new emergency or required to respond to the original call.

#### 315.5.2 SELF-INITIATION DURING CALL RESPONSES

Members responding to a high priority call shall not self-initiate any activity that will delay their response to the call except as necessary to protect lives or property.

- (a) When such a delay occurs, the responding member shall immediately advise the ESD and request that they be released from the call and reassigned to the new incident.
- (b) The ESD may permit preemption consistent with the priority of pending CFS.

Field supervisors are responsible for monitoring personnel under their supervision to ensure that self-initiated preemptions from CFS are warranted.

#### 315.5.3 NON-DISPATCHED UNITS

Field units should not go by the location of a call assigned to another unit unless requested, or it reasonably appears necessary for officer safety purposes.

#### 315.5.4 "ANY UNIT" RESPONSES FOR "0" PRIORITY EMERGENCY CFS

- (a) When an ESD asks for a response from "any unit" or "any unit available," the request shall be construed as applying to all uniformed field officers, supervisors, and staff; regardless of location, or area of assignment. When an ESD requests a response from officers in a certain

policing District, it shall apply to all uniformed officers, supervisors, and staff who are logged on to the MDS, including traffic and bike units who are assigned to, temporarily within, or immediately adjacent to the affected District;

- (b) When an ESD broadcasts an "any unit" request, officers, supervisors and staff that are available or can make themselves available shall acknowledge by radio, give their location, and await instructions from the ESD;
- (c) The ESD shall utilize the AVL map or the AVL unit recommender in determining the closest appropriate unit to send or break from a lower priority CFS in order to respond to the higher priority CFS for which the request was made. The ESD will follow communications Policy in determining which unit(s) should be dispatched to a CFS;
- (d) When there is no immediate response, utilizing the AVL unit recommender, ESD's will break the required number of units from lower priority CFS and dispatch them to handle the higher priority CFS;
- (e) ESD's shall not request "any unit" responses for "0" priority CFS when there are patrol units assigned to that District "in service" and available to respond. Units assigned to that District shall be dispatched to CFS within their District unless there is a unit from a different District which is closer to the CFS, and the District unit would have an extended arrival time;
- (f) ESD's shall advise a field supervisor, Operations Commander, or Field Commander when no units are available to respond to a "0" priority CFS; and
- (g) When an ESD determines that a patrol vehicle's AVL is malfunctioning or not registering, the District supervisor of that unit will be notified. The supervisor will ensure that the vehicle is pulled from service at the earliest opportunity and tagged for repair.

#### 315.5.5 CROSS-DISTRICT DISPATCHING

ESD's shall strive to ensure that the officers assigned to a particular beat or District respond to the CFS within their District of responsibility.

- (a) It may become necessary to direct resources to Districts where emergency CFS are backlogged when there is little likelihood of CFS being answered within a reasonable time.
- (b) Under these circumstances, all uniformed officers, supervisors, and staff who are logged on to the MDS, including traffic and bike units who are temporarily within, or immediately adjacent to the affected District may also be cross-District dispatched for "0" priority CFS.
- (c) Plainclothes units should not be sent by themselves to CFS requiring the presence of uniformed officers.
- (d) Only uniformed patrol officers assigned to a beat or District shall be subject to cross-District dispatch of "1" priority CFS. CFS in the priority "2", "3", "4" and T categories may be cross-District dispatched to Cadets.
- (e) Officers and Cadets may be dispatched to any call at the discretion of a District, Operations or Field Commander.

#### 315.5.6 LATE CFS

Field members on duty are considered available for assignment to CFS until they go off duty.

- (a) Members shall not "log off" or turn their radios off more than five minutes before their shift is over.
- (b) ESD's should try not to assign low priority CFS that will extend a field unit beyond the end of their shift.

- (d) Members receiving such CFS will handle them without questions or complaints to ComCen personnel.
- (e) When an officer feels an ESD acted improperly, it may be brought to the attention of the member's immediate supervisor who will discuss it with the ComCen supervisor after the call is completed.

#### 315.5.7 CALL ARRIVAL/MULTIPLE UNIT RESPONSES

A member's first consideration on arriving at a call should be the protection of life balanced by the need for officer safety.

- (a) When assistance appears to be needed, it should be requested immediately.



- (b) Pending the arrival of assistance, the member should take the safest measures possible to provide necessary assistance to those at risk of injury without unnecessarily jeopardizing their own safety.
- (c) When more than one unit is sent on a call, the primary unit (i.e. the member designated by the ComCen to handle the call) is responsible for coordinating the response and arrival of assisting units.
- (d) The first unit arriving on a multi-unit call shall advise of their arrival on the radio to alert assisting unit(s).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

### **315.6 GENERAL CALL HANDLING**

Members handling CFS should direct their attention toward the long term solution of the problem. When appropriate, district problems which require strategic approaches shall be referred to the district commander for consideration of assignment to the POP Team.

#### **315.6.1 PRELIMINARY CONTACTS & EVALUATION**

RP's who are identified in the call should be contacted as soon as possible after arrival, unless the RP has requested that they not be contacted. When the RP is unknown, any potential witnesses should be contacted to determine the exact nature of the call. The first arriving officer shall evaluate the need for additional assistance and/or immediate actions that need to be taken. The primary officer assigned to a call is ultimately responsible for handling the call.

Members shall take all reasonable and appropriate actions to resolve complaints after a complete determination of the facts has been made. When a report is taken, the field member shall provide the victim/RP with a Department business card containing the member's name, badge and phone numbers, and case number. The member should also complete the back of the card to reflect the applicable follow-up actions available. When no report is written, the member may also leave a card to facilitate re-contact to further discuss the problem. When a call is handled telephonically, the required information shall be provided verbally to the caller.

#### **315.6.2 INTERVIEWING INVOLVED PARTIES (IPS)**

The primary officer shall make every effort to interview all parties involved in an incident before deciding on a course of action or disposition of the call. The RP or witness identity should not be disclosed to other IPs without the express permission of the parties in question.

#### **315.6.3 PUBLIC SATISFACTION**

When possible, members shall strive to resolve calls to the satisfaction of all parties involved and to provide services as appropriate.

#### **315.6.4 INFORMING RP OF ACTION TO BE TAKEN / DISPOSITION**

Members shall attempt to inform the RP of the course of action that will be taken by the police unless no contact has been requested. When members are successful in resolving a complaint they should attempt to notify the RP of the incident disposition in a timely manner.

#### **315.6.5 INABILITY TO ACT**

Should members be unable to take action in response to a CFS, they shall attempt to inform the RP as to why they cannot act. This may involve giving information regarding the law, explaining the rights of the involved parties, the limited authority vested in the police, or the lack of a criminal violation.

#### **315.6.6 REFERRALS**

Members may make referrals to appropriate public or private agencies/organizations when they may enhance the resolution of the complaint. When explaining the availability of services available through

private providers, members shall not make specific recommendations of businesses but should attempt to provide a range of options.

### 315.6.7 CIVIL LAW

Members should not attempt to explain civil law in civil cases beyond their expertise and training. Members may relate general legal principles and procedures whereby a person may obtain assistance such as retaining or consulting with an attorney.

### 315.6.8 CHRONIC/SPITE COMPLAINTS

When a chronic problem is identified, the RP should be re-contacted periodically to determine if the conditions complained of have improved and to assure the party of a continued police effort on their behalf. Sector officers are responsible for developing courses of action designed to abate the cause(s) of complaints.

### 315.6.9 911 HANG-UPS WITH UNKNOWN CIRCUMSTANCES

Members responding to 911 hang-ups with unknown circumstances shall take the following steps:

- (a) Check for signs of a struggle (e.g. broken/damaged property);
- (b) Ensure a call-back was attempted by ComCen;
- (c) Knock on the door and announce police presence;
- (d) Request ComCen call-back while officers are present to listen for a phone ringing inside the residence/structure;
- (e) Contact neighbors for any potential information;
- (f) Check prior calls at the location for information on the occupants;
- (g) Add notes to the event documenting efforts to contact the caller; and
- (h) Prior to clearing 911 hang-up calls from cell phones, wait until ComCen has made every attempt to narrow down the originating calls location.

When the primary officer is unable to make contact with the caller, they shall contact a supervisor to advise them of the situation. The supervisor will then determine whether officers should clear the call or make a forced entry.

### 315.6.10 CELL PHONE EMERGENCY PINGS

When an officer believes in good faith that an emergency involves the danger of death or serious physical injury to any person and requires access to the electronic information, the officer may request an emergency ping to obtain electronic information pursuant to the emergency exception of the California Electronic Communications Privacy Act (CalECPA) with supervisor approval.

When electronic information is obtained from the emergency ping request, the supervisor shall notify the corresponding investigation unit supervisor of the emergency ping and request for the filing of a warrant, order or motion seeking approval of the emergency disclosure within three days. [Penal Code §1546.2(a)]

[REDACTED]



A Police Chaplain will be automatically dispatched, at the time of receipt of the call, to the scene of all:

- (a) Deaths,
- (b) Officer involved shootings (of people),
- (c) Injuries where death is likely to result, and
- (d) Fatal accidents.

When an officer subsequently determines that the Chaplain cannot be utilized on a call within these categories, the ComCen should be notified as soon as such a determination is made so that the Chaplain may be canceled.

When there is any other type of call where an officer believes a Chaplain may be of assistance, the ComCen shall be requested to dispatch one or more, as needed.

### **315.11 CITIZENS ON PATROL**

Citizens on Patrol (COP's) should be utilized to assist with traffic and crime scene control, vehicle towing/impounds and parking violations. COP's may also be assigned to assist on other non-emergency CFS, based on the needs of the Department.

### **315.12 GRAFFITI ABATEMENT**

Graffiti Abatement employees are responsible for checking the Graffiti Hotline and responding to calls for graffiti abatement. Whenever possible, graffiti abatement should occur within 24 hours of being reported to the Hotline. Prior to eradicating graffiti, digital photographs of the graffiti will be taken by a member of the Graffiti Abatement Team. The photographs should be emailed to a member of MAGEC and the appropriate District Investigations/Problem Oriented Policing supervisor.

### **315.13 SUPERVISORY RESPONSIBILITY**

Field supervisors shall monitor CFS to ensure that only the necessary units remain on a call and that the call is handled in the shortest possible time.

Supervisors receiving photographs of graffiti reported to the Graffiti Abatement Team should forward the photos to the appropriate investigator for informational purposes.

### **316.1 POLICY**

Officers responding "Code-3" (with lights and siren) 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.

Officers responding Code-3 are not relieved of the duty to continue to drive with due regard for the safety of all persons. When responding Code-3, officers shall activate their body-worn camera as set forth within Policy §450.4.

#### **316.1.1 PURPOSE AND SCOPE**

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



### **316.2 VEHICLES AUTHORIZED FOR CODE-3 OPERATION**

No vehicle transporting prisoners shall operate Code-3 at any time for any reason. Patrol wagons or plain cars with interior-mounted or spotlight type red lights and sirens shall not be operated Code-3 except in cases of an emergency, and then only when a patrol vehicle is unavailable to respond.

### **316.3 AUTHORIZED CODE-3 RESPONSES**

Operation of a vehicle Code-3 is authorized and should be utilized under these conditions:

- (a) While in immediate pursuit (mandatory);
- (b) When directed by, or approval is received from, a supervisor or staff officer;
- (c) In response to an officer/firefighter/paramedic call for help (emergency situations only);
- (d) In response to ALL priority "0" calls for service (CFS);
- (e) In response to a life-threatening incident (non-crime related) where serious injury or death is potentially imminent or has been reported; or
- (f) In response to priority "1" CFS which are in-progress AND the suspect(s) are in the immediate vicinity and apprehension is likely.

### **316.4 NOTIFICATION OF CODE-3 RESPONSE**

Except in response to a call of an officer needs help, any officers responding Code-3 shall state over the radio that they are responding Code-3 and give their location.

### **316.5 SUPERVISORY RESPONSIBILITY**

It is the responsibility of all supervisors to review Code-3 responses by their subordinates to ensure compliance with this order. Supervisors shall monitor their subordinates' emergency driving to ensure that they drive with due regard for the safety of all persons using the highway. Improper driving behavior that is identified shall be corrected through counseling, training, or disciplinary measures.

### **316.6 CODE-3 VEHICLE OPERATION**

Members utilizing Code-3 shall drive with due regard for the safety of all persons using the highway. The vehicle's emergency warning lights shall be activated, and the siren shall be sounded as may be reasonably necessary to warn other drivers and pedestrians (VC §§21055, 21056, 21057, and 22350.)

The use of any other warning equipment without a red light and siren does not provide an exemption from the Vehicle Code.

### **316.7 CODE-3 REQUESTS FOR ASSISTANCE**

Members may request Code-3 assistance when confronted with an emergency situation which:

- (a) Presents a clear and present danger to the member's or other persons' safety; or
- (b) Threatens to rapidly evolve into a clear and present danger to the member's or other persons' safety.

When possible, requests for assistance Code-3 shall include the number of officers needed to respond. Unless otherwise specified by the requesting officer, the ComCen will dispatch a minimum of two units to respond to the Code-3 request.

Upon resolution of the situation, the immediate supervisor of the member requesting assistance Code-3 shall review the circumstances relating to the request and the necessity of a Code-3 response.

### **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 Shift Sergeant, field supervisor, or the ComCen of the equipment failure so that another unit may be assigned to the emergency response.

### **316.9 EMERGENCY VEHICLE PREEMPTION**

[REDACTED]  
[REDACTED]  
[REDACTED] Members utilizing EVP technology shall drive with due regard for the safety of all persons using the highway and keep in mind the following;

- (a) Intersections being entered against the signal should be cleared one lane at a time;
- (b) Passing on the right should be avoided except under circumstances ensuring it is a safe maneuver;
- (c) Alertness for distracted drivers and pedestrians who are unaware of your approach, despite your lights and sirens;
- (d) Awareness that drivers ahead of you may not hear your siren on the approach and may make abrupt and panicked driving maneuvers at the last second, so drive accordingly.

## Fresno Police Department Policy Manual

### Mail Offenses

#### 317.1 POLICY

Members who are assigned to any U.S. mail offense are responsible for conducting the initial investigation and reporting the incident in the absence of a Postal Inspector. Members shall request special routing to the Postal Inspector of pertinent reports they have written.

##### 317.1.1 PURPOSE AND SCOPE

Title 18, United States Code §1708, makes it a felony to possess stolen mail. Officers who come into contact with persons suspected of possessing stolen mail shall consider enforcement action as with any other criminal offense. Officers may, upon probable cause, seize and book the suspected stolen mail. A copy of reports of the incident shall be forwarded to the Postal Inspector by records Bureau personnel.

#### 317.2 NOTIFICATION OF POSTAL INSPECTOR

The Postal Inspection Service has authority to conduct primary and follow-up investigations of offenses having to do with the mail, including:

- (a) Post Office burglary, robbery, etc.;
- (b) Theft of mail;
- (c) Possession of stolen mail;
- (d) Assaulting mail custodian;
- (e) Forgery of postal money orders;
- (f) Fraudulent use of the mail;
- (g) Obscene matter in the mail;
- (h) Explosives, poisons, etc., in the mail; and
- (i) Damage to mailboxes or mail.

## Fresno Police Department Policy Manual

# Canine Program

### 318.1 POLICY

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

#### 318.1.1 PURPOSE AND SCOPE

The Fresno Police Department maintains a high regard for human life and a high respect for the rule of law. This policy establishes guidelines for the use of canines to augment police services to the community including, but not limited to locating individuals and contraband and apprehending criminal offenders.

### 318.2 TRAINING

Before assignment in the field, each canine team shall be trained and certified to meet current California P.O.S.T. standards or the Department's chosen certifying agency. Cross trained dog teams or those dog teams trained exclusively for the detection of narcotics and/or explosives shall be trained and certified to meet the standards established for such detection dogs by the California Narcotic Canine Association or the Department's chosen certifying agency.

### 318.3 CANINE SUPERVISOR

The canine supervisor shall be appointed by and directly responsible to the Canine Unit Commander or the authorized designee.

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

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

### 318.4 HANDLER RESPONSIBILITIES

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

The canine handler is responsible for the following:

- (a) Except as required during appropriate deployment, the handler shall not expose the canine to any foreseeable and unreasonable risk of harm.
- (b) The handler shall maintain all department equipment under their control in a clean and serviceable condition.
- (c) When not in service and not secured inside a lockable, enclosed garage, all Department equipment will be removed and secured away from the vehicle.
- (d) Handlers shall permit the canine supervisor to conduct spontaneous on-site inspections of affected areas of their homes as well as their canine vehicles to verify that conditions and equipment conform to this policy.
- (e) Any changes in the living status of the handler that may affect the lodging or environment of the canine shall be reported to the canine supervisor as soon as possible.



- (f) If the handler has a change in residence, they will be responsible for the transfer and installation of the canine kennel to the new place of residence.
- (g) When off-duty, the canine shall be in a kennel provided by the City at the home of the handler. When a canine is kenneled at the handler's home, the gate shall be secured with a lock. When off-duty, the canine may be let out of the kennel while under the direct control of the handler.
- (h) 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.
- (i) Under no circumstances will the canine be lodged at another location unless approved by the canine supervisor or Unit Commander.
- (j) When off-duty, the handler shall not involve the canine in any law enforcement activity or official conduct unless approved in advance by the canine supervisor or Unit Commander.
- (k) When a canine handler is off-duty for an extended number of days, it may be necessary to temporarily relocate the canine. In those situations, the handler shall give reasonable notice to the canine supervisor so that appropriate arrangements can be made.

### **318.5 PREPARATION FOR DEPLOYMENT**

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

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

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

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

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

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

### **318.6 WARNINGS AND ANNOUNCEMENTS**

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

- (a) Providing adequate time for anyone within the search area to make themselves known and give up/come out;
- (b) Having announcements made by a different officer at a different location so as to not compromise the canine's position;
- (c) Utilization of public address systems (car or helicopter); and
- (d) Giving several announcements, speaking slowly and clearly enough to be understood.

- (e) During a search for a suspect, the canine may alert to the presence of a concealed suspect. When this occurs, and when reasonable and tactically feasible, an additional “announcement” should be given to afford the suspect another opportunity to peacefully surrender.

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

### **318.7 APPREHENSION GUIDELINES**

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

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

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

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

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

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

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

Whenever a canine deployment results in a bite or causes injury to an intended suspect, a supervisor should be promptly notified and the injuries documented in a canine use report. The responding supervisor shall complete the Use of Force documentation in IA Pro/Blue Team and forward to the Canine Supervisor for review.

The injured person shall be treated by emergency medical services personnel as soon as practical and, if appropriate, transported to an appropriate medical facility for further treatment. The deployment and injuries should also be included in any related incident or arrest report.

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

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

### **318.9 NON-APPREHENSION GUIDELINES**

Properly trained canines may be used to track or search for non-criminals (e.g., lost children, individuals who may be disoriented or in need of medical attention). The canine handler is responsible

for determining the canine's suitability for such assignments based on the conditions and the particular abilities of the canine. When the canine is deployed in a search or other non-apprehension operation, the following guidelines apply.

- (a) Absent a change in circumstances that present an imminent threat to officers, the canine or the public, such operations should be conducted on-leash or under conditions that minimize the likelihood the canine will bite or otherwise injure the individual, if located.
- (b) Unless otherwise directed by a supervisor, assisting members should take direction from the handler in order to minimize interference with the canine.
- (c) Throughout the deployment the handler should periodically give verbal assurances that the canine will not bite or hurt the individual and encourage the individual to make themselves known.
- (d) Once the individual has been located, the handler should place the canine in a down-stay or otherwise secure it as soon as reasonably practicable.

### **318.10 NARCOTICS DETECTION**

A canine trained in narcotics detection may be used in accordance with current law and under certain circumstances, including:

- (a) The search of vehicles, buildings, bags and other articles.
- (b) Assisting in the search for narcotics during a search warrant service.
- (c) Obtaining a search warrant by using the narcotics-detection trained canine in support of probable cause.

A narcotics-detection trained canine will not be used to search a person for narcotics. A canine will not be used to conduct random searches of school locker(s) or vehicle searches on school sites.

### **318.11 BOMB / EXPLOSIVE DETECTION**

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

- (a) Assisting in the search of a building, structure, area, vehicle or article where an actual or suspected explosive device has been reported or located.
- (b) Assisting with searches at transportation facilities and vehicles (e.g., buses, airplanes, trains).
- (c) Preventive searches at special events, VIP visits, official buildings and other restricted areas. Searches of individuals should remain minimally intrusive and shall be strictly limited to the purpose of detecting explosives.
- (d) Assisting in the search of scenes where an explosion has occurred and an explosive device or secondary explosive device is suspected.

At no time will an explosive-detection trained canine be used to render a suspected device safe or clear.

### **318.12 ARTICLE DETECTION**

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

### **318.13 OUTSIDE AGENCY REQUEST**

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

- (a) Canine teams shall not be used for any assignment that is not consistent with this policy.
- (b) The canine handler has the authority to decline a request for any specific assignment that they deem unsuitable.
- (c) It is the responsibility of the canine handler to coordinate operations with agency personnel in order to minimize the risk of unintended injury.
- (d) It shall be the responsibility of the canine handler to complete all necessary reports.

### **318.14 PUBLIC DEMONSTRATIONS**

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

### **318.15 CANINE IN PUBLIC AREAS**

The canine shall be kept on a leash when in areas that allow access to the public. Exceptions to this rule would include specific law enforcement operations for which the canine is trained.

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

### **318.16 CANINE INJURY AND MEDICAL CARE**

In the event that a canine is injured, or there is an indication that the canine is not in good physical condition, the injury or condition shall be reported to the canine supervisor or on-duty Commander as soon as practicable and appropriately documented. Arrangements for treatment shall be made by the handler for the canine's injury or condition to receive prompt attention as necessary.

The unit commander has the final authority in regards to medical treatment and procedures for the canines.

All medical attention shall be rendered by the designated canine veterinarian, except during an emergency where treatment should be obtained from the nearest available veterinarian. All records of medical treatment outside of the veterinary file shall be maintained by the canine unit supervisor.

### **318.17 HANDLER SELECTION**

The minimum qualifications for the assignment of canine handler include:

- (a) An officer who is currently off probation;
- (b) Residing in an adequately fenced, single-family residence with a yard (minimum 6-foot high fence with locking gates). Officers living in an apartment are not qualified;
- (c) Willingness (and authority) to allow a City owned kennel to be installed by a contractor;
- (d) Take-home vehicles require the handler to live inside the City of Fresno or no more than fifteen (15) miles from the city limits;
  - 1) Canine Officers who reside farther than fifteen (15) miles from the City limits must leave their assigned vehicles at an approved City facility, and provide approved secure transportation for the canine from that point to their residences; and
- (e) Agreeing to be assigned to the position for the service life of the canine absent promotion opportunities.

### **318.18 HANDLER COMPENSATION**

Canine handlers shall be available for call-out under conditions specified by the canine supervisor.

Canine handler shall be compensated for time spent in the care, feeding, grooming and other needs of the canine in accordance with the Fair Labor Standards Act (FLSA), and according to the terms of the collective bargaining agreement (29 United States Code §207).

### **318.19 TRAINING**

Before assignment in the field, each canine team shall be trained and certified to meet current POST guidelines or other recognized and approved certification standards. Each canine team shall thereafter be recertified to a current POST, California Narcotic Canine Association (CNCA) or other recognized and approved certification standards on an annual basis.

Cross-trained canine teams or those canine teams trained exclusively for the detection of narcotics and/or explosives also shall be trained and certified by the CNCA or other recognized and approved certification standards established for their particular skills.

All canine training should be conducted while on-duty unless otherwise approved by the canine supervisor or Unit Commander.

Additional training considerations are as follows:

- (a) Canine handlers are encouraged to engage in additional training with approval of the canine supervisor.
- (b) To ensure that all training is consistent, no handler, trainer or outside vendor is authorized to train to a standard that is not reviewed and approved by this department.
- (c) Because canines may be exposed to dangerous substances such as opioids, the canine coordinator should also provide training for the canine handlers about the risks of exposure and treatment for it.

### **318.20 FAILURE TO COMPLETE TRAINING**

Any canine team failing to graduate or obtain certification shall not be deployed in the field for tasks the team is not certified to perform until graduation or certification is achieved. Other restriction to canine deployment may be imposed on the handler by the canine supervisor (e.g., leash, muzzle) as deemed necessary and/or appropriate until standards are met.

### **318.21 TRAINING RECORDS**

All canine training records shall be maintained by the Canine Supervisor.

### **318.22 TRAINING AIDS**

Training aids are required to effectively train and maintain the skills of canines. Officers possessing, using or transporting controlled substances or explosives for canine training purposes must comply with federal and state requirements. Alternatively, officers may work with outside trainers with the applicable licenses or permits, with the approval of the canine unit supervisor.

### **318.23 CONTROLLED SUBSTANCE TRAINING AIDS**

Officers acting in the performance of their official duties may possess or transfer controlled substances for the purpose of narcotics-detection canine training in compliance with state and federal laws (HS § 11367.5; 21 USC §823(f)).

The Chief of Police or the authorized designee may authorize a member to seek a court order to allow controlled substances seized by the Department to be possessed by the member or a narcotics-detection canine trainer who is working under the direction of this department for training purposes, provided the controlled substances are no longer needed as criminal evidence.

As an alternative, the Chief of Police or the authorized designee may request narcotics training aids from the Drug Enforcement Administration (DEA).

These procedures are not required if the canine handler uses commercially available synthetic substances that are not controlled narcotics.

### **318.24 CONTROLLED SUBSTANCE PROCEDURES**

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

- (a) All controlled substance training samples shall be weighed and tested prior to dispensing to the individual canine handler or trainer.
- (b) The weight and test results shall be recorded and maintained by this department.

- (c) Any person possessing controlled substance training samples pursuant to court order or DEA registration shall maintain custody and control of the controlled substances and shall keep records regarding any loss of, or damage to, those controlled substances.
- (d) All controlled substance training samples will be stored in locked, airtight and watertight cases at all times, except during training. The locked cases shall be secured in an approved manner inside the canine handler's assigned patrol vehicle during transport and stored in an appropriate locked container. There are no exceptions to this procedure.
- (e) The canine supervisor shall periodically inspect every controlled substance training sample for damage or tampering and take any appropriate action.
- (f) Any unusable controlled substance training samples shall be returned to the Property/Evidence Section or to the dispensing agency.
- (g) All controlled substance samples shall be returned to the dispensing agency upon the conclusion of the training or upon demand by the dispensing agency.
- (h) Officers will maintain copies of the authorizing court orders with the training aids.

### **318.25 EXPLOSIVE TRAINING AIDS**

Officers may possess, transport, store or use explosives or destructive devices in compliance with state and federal laws (Penal Code §18800; 18 USC §842; 27 Code of Federal Regulations §555.41).

Explosive training aids designed specifically for canine teams should be used whenever feasible. Due to the safety concerns in the handling and transportation of explosives, inert or non-hazardous training aids should be employed whenever feasible.

The use of explosives or destructive devices for training aids by canine teams is subject to the following:

- (a) All explosive training aids, when not in use, shall be properly stored in a secure facility appropriate for the type of materials.
- (b) An inventory ledger shall be maintained to document the type and quantity of explosive training aids that are stored.
- (c) The canine supervisor shall be responsible to verify the explosive training aids on hand against the inventory ledger once each quarter.
- (d) Only members of the canine team shall have access to the explosive training aids storage facility.
- (e) A primary and secondary custodian will be designated to minimize the possibility of loss of explosive training aids during and after the training. Generally, the handler will be designated as the primary custodian while the trainer or authorized second person on-scene will be designated as the secondary custodian.
- (f) Any lost or damaged explosive training aids shall be promptly reported to the canine supervisor, 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.

## Fresno Police Department Policy Manual

# Robberies & Alarms

### 319.1 POLICY

Unless advised otherwise by a reporting party, members will respond to all person and business robberies, robbery alarms, and silent hold-up alarm calls for service, as though they were "in progress", exercising caution and making safety a priority.

#### 319.1.1 PURPOSE AND SCOPE

The purpose of this policy is to provide a guideline for responding to robberies or alarm calls.

### 319.2 ROBBERY IN PROGRESS

A dispatcher receiving a call of a robbery in progress (including Sonitrol alarms), or one that has just occurred, shall attempt to keep the caller on the line and obtain the following information, which shall be broadcast as it is received:

- (a) Exact location of occurrence and name of the bank or business;
- (b) Whether the suspect(s) are present or have fled;
- (c) Complete description of suspect(s) and vehicle, direction of flight, and elapsed time since departure;
- (d) Weapon(s) used; and
- (e) Property taken.

### 319.3 ROBBERY ALARMS

A dispatcher, upon being notified of a silent hold-up alarm, shall broadcast the location and the name of the bank or business.

- (a) Dispatchers shall not attempt to re-contact the bank or business until asked to do so by responding units.
- (b) When a dispatcher is directed to re-contact the bank or business they shall follow the procedures listed in Section 319.2.

When the alarm is false, bank or business management personnel should be requested to exit and make contact with the responding officer and follow their directions. Additionally:

- (a) The description of the person initiating such contact shall be given to the officer;
- (b) The arriving officer shall direct the person who exits to an area of safety to ensure that a suspect did not send the employee out as a decoy;
- (c) The officer shall then check the premises to ensure that no further assistance is required; and
- (d) A False Alarm Notification card shall be completed and provided to an employee;
- (e) The officer shall make a note in the event report that a card was left with an employee;
- (f) The disposition code "E" for false alarm shall be used to clear the event.

### 319.4 OFFICER'S RESPONSE / ARRIVAL AT SCENE

A minimum of two officers will be dispatched to "robbery in progress", "robbery just occurred", and "silent hold-up alarm" calls.

- (a) The responding officer shall direct the dispatcher to re-contact the bank or business when appropriate.
- (b) When the suspect(s) have left the location, the primary unit or designee shall make contact with the victim(s) and witness(es), and shall broadcast a complete description of the suspect(s) and vehicle(s) as soon as possible.
- (c) All other responding units should check the area for suspect(s), witnesses and evidence.

When responding officers have reason to believe the suspect(s) are still present, officers shall assume a position to observe the location without being visible to the suspect(s).

- (a) Marked units should be out of immediate sight of the location.

(b) All exits to the bank or business shall be covered.

[REDACTED]

**319.5 INVESTIGATIVE REQUIREMENTS**

While the initial suspect(s) description (check boxes) on the report may appropriately describe a composite of victim/witness descriptions, the report narrative shall list each victim/witness description and actions of the suspect(s) separately in their respective statements.

- (a) The crime report shall reflect whether each witness/victim can identify the suspect(s) and whether they can do so by photo, in person, or both.

Every attempt shall be made to locate and preserve physical evidence (fingerprints, blood, masks, hats, etc.) at each robbery scene. Arrangements to photograph injuries sustained by the victim should be made as soon as possible after the incident is reported.

In any business robbery, both the business and the clerk(s) who were robbed (regardless of any personal loss), shall be listed as victims. Any customer who may also have been robbed shall also be listed as a victim.

**319.6 DETECTIVE NOTIFICATION**

The Robbery Unit supervisor shall be promptly notified by the ComCen when a confirmed bank robbery has occurred.

- (a) Field units investigating other robberies, where the assistance of a detective is needed, shall contact the Robbery Unit supervisor or, in their absence, a Unit investigator.
- (b) When the decision is made to utilize a detective, the primary officer retains complete responsibility for the initial investigation, reporting, and evidence collection.

**319.7 FBI NOTIFICATION**

The FBI shall be promptly notified by the ComCen when a confirmed bank robbery has occurred.

[REDACTED]

**319.9 SPECIAL VIDEO TAPE BOOKING PROCEDURE**

Video tape evidence from robberies shall be booked into the appropriate locker in the Property Evidence Control Section.

- (a) Tapes shall not be booked at any district station.
- (b) These videos will be listed on a separate Property Evidence Report from any other evidence booked.



## Fresno Police Department Policy Manual

# Domestic Violence

### 320 Domestic Violence

#### 320.1 POLICY

The official Department response to cases of domestic violence shall be to stress the enforcement of the laws, to protect the victim, and to communicate the attitude that violent conduct in the home is criminal behavior and will not be tolerated.

##### 320.1.1 PURPOSE AND SCOPE

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

#### 320.2 DEFINITIONS

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

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

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

- (a) Sexual relations between the parties while sharing the same living quarters;
- (b) Sharing of income or expenses;
- (c) Joint use or ownership of property;
- (d) Whether the parties hold themselves out as husband and wife;
- (e) The continuity of the relationship; and
- (f) The length of the relationship.

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

#### 320.3 ENFORCEMENT OF DOMESTIC VIOLENCE

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

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

- (m) Actual or perceived characteristics such as race, sex, sexual orientation, gender, gender identity or expression, age, ethnicity, religion, creed, color, national origin, disability, marital status of the victim or suspect, military and veteran status, or any other classification or status protected by law.
- (n) The social status, community status, or professional position of the victim or suspect.

### **320.4 DOMINANT AGGRESSOR**

In responding to domestic violence incidents, officers shall make reasonable efforts to identify the dominant aggressor in any incident. The dominant aggressor is the person determined to be the most significant, rather than the first, aggressor. In identifying the dominant aggressor, an officer shall consider:

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

### **320.5 FELONY ARRESTS**

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

### **320.6 MISDEMEANOR ARRESTS**

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

- (a) Police officers may make an arrest without a warrant for a misdemeanor assault or battery not committed in their presence when it is committed upon:
  - 1) A current or former spouse;
  - 2) A current or former cohabitant (FC §6209 definition);
  - 3) A fiancé or fiancée;
  - 4) A person with whom the suspect currently is having or has previously had an engagement or dating relationship;
  - 5) A person with whom the suspect has parented a child;
  - 6) A child of the suspect or a child of one of the above listed categories; or
  - 7) Any person who is 65 years of age or older and who is related to the suspect by blood or legal guardianship.
  - 8) Any other person related to the suspect by consanguinity or affinity within the second degree. Consanguinity or affinity within the first and second degree include children, step-children, spouse, son or daughter-in-law, grandchildren, parents, parent-in-law, step-parent, brother or sister, grandparents, and step-grandparents.
- (b) Both of the following conditions must be present in order to make an arrest in this situation pursuant to PC §836(d):
  - 1) The peace officer has probable cause to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed; and
  - 2) The peace officer makes the arrest as soon as probable cause arises to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.

There is no specific time frame in which an arrest for the above violations may be made. However, it has been determined that the authority to arrest continues during the time the officer is still actively investigating the case and/or attempting to locate the violator throughout the course of that officer's work shift. Since this arrest authority does not carry on indefinitely, officers shall not place suspects who are wanted only on misdemeanor domestic violence charges on broadcast sheets, nor on the DCB.

### **320.7 FIELD RELEASE (CITE & RELEASE)**

A field release may not be used, and a physical arrest shall be made when:

- (a) The subject is arrested for a violation of PC §243(e)(1), PC §273.5, PC §646.9 or a protective order involving domestic violence when:
  - 1) The detained person made threats to kill or harm;
  - 2) Has engaged in violence against; or

- 3) Has gone to the residence or workplace of the protected party.
- (b) There is a reasonable likelihood that the offense may continue or resume, or that the safety of persons or property would be imminently endangered by releasing the arrested person in the field (PC §853.6).

Cite & releases will be done in accordance with Policy §420.

Any one of the following may support the likelihood of a continuing offense:

- (a) Whether the suspect has a prior history of arrests or citations involving domestic violence
- (b) Whether the suspect is violating a criminal court issued Stay Away Order
- (c) Whether the suspect has previously violated, or is currently violating, a valid temporary restraining order
- (d) Whether the suspect has a prior history of other assaultive behavior (e.g., arrests or convictions for assault and battery or aggravated assaults)
- (e) Statements taken from the victim that the suspect has a history of physical abuse towards the victim
- (f) Statements taken from the victim expressing fear of retaliation or further violence should the suspect be released.

Note: If the subject is arrested in violation of PC §273.5 or PC §646.9 and cannot be booked into FCJ for an extended period (i.e., hospital standby, rejection by jail, etc.), the officer shall notify their immediate supervisor. The supervisor shall assess the factors surrounding the arrestee and, if necessary, contact the Field Commander to determine the final disposition of the arrestee.

### **320.8 PRIVATE PERSON'S ARREST**

The Department will assist with all private person arrests that are made lawfully pursuant to PC §837. 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 (PC §847).

Officers will advise the victim of their right to make a private person's arrest when a crime has been committed outside the officer's presence which does not meet the requirements for an officer-initiated arrest either because it is not a felony or a qualifying misdemeanor offense under PC §836(d). Advisements regarding private person's arrests should be held out of the presence of the suspect. Officers shall not dissuade victims from making a lawful private person's arrest. Officers should refer to the provisions of Policy §364 for further options regarding the disposition of private person's arrests.

### **320.9 SUSPECT NOT PRESENT**

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

### **320.10 MANDATORY NOTIFICATIONS**

Members shall contact the Domestic Violence Unit supervisor to determine the need for response or involvement by a follow-up investigator for incidents involving any of the following circumstances:

- (a) Domestic violence involving serious injury and the victim will be treated at the hospital;
- (b) Domestic violence involving a Department employee as the victim or suspect; or
- (c) Domestic violence offenses that will become high profile which may cause media inquiries early in the investigation.
- (d) Notify the Domestic Violence Unit Supervisor by email any time an emergency phone ping is initiated on a domestic violence related call for service.

### **320.11 EVIDENCE**

#### **320.11.1 WEAPONS**

Suspects often use objects (e.g., beer bottles) and/or weapons to commit assaults. All objects and weapons used in the commission of crimes should be photographed and booked into evidence. If an object/weapon is not booked, the officer must provide sufficient reason in the police report.

### 320.11.2 VICTIM PHOTOGRAPHS

All victim injuries shall be photographed regardless of severity by the officer or the Crime Scene Investigations Section (CSIS), unless the victim refuses. Officers shall not utilize Axon body worn cameras as the sole method of capturing victim injuries when the above listed options are available. Refer to Policy §805.

Officers shall make an attempt in all felony cases resulting in serious injury requiring medical attention, or from strangulation, to have the victim's injuries photographed by CSIS personnel. If CSIS is unavailable to respond or it is determined that it will be a prolonged response, officers should consider seeking the victim's consent to be transported to the CSIS to be photographed. If the officer has a department issued device, they may use the department device to take injury photos. The officer shall ensure that the injury is visible in the photographs prior to leaving the scene.

Photographs in intimate areas shall be photographed by a same sex CSIS Technician or officer. Refer to Policy §347.4.4.

### 320.11.3 SUSPECT IDENTIFICATION

Officers investigating any domestic violence related call for service that results in an incident or crime report, shall make every effort to identify any party of the intimate relationship who is no longer present during the law enforcement contact by the following ways:

#### Personal Photograph

- (a) The officer shall request the victim to point out the suspect in the photograph.
- (b) The photograph shall be labeled with the case number and officer's badge number.
- (c) A copy of the photograph shall be turned in with the original report and the photograph shall be booked into evidence.
- (d) If the personal photograph is digital and not a hard copy, the officer shall capture the image and upload it into Axon via Axon Capture or request the victim provide the photograph via Axon Citizen Link.

#### EMUG booking photograph or CalPhoto

The victim may view an EMUG booking photo or CalPhoto. The officer shall have the victim identify the person in the photo by name and as the person responsible for the crime. If EMUG, CalPhoto, or personal photograph are unavailable, and officers utilize iQuery/Offendertrack/FSO CAD the booking photograph shown to the victim shall be captured and uploaded by the officer into Axon.

#### In-Person Identification

If both parties of the intimate relationship are present during the law enforcement contact, officers shall document the in-person identification of the dominant aggressor or all involved parties, including at the scene of an incident where probable cause is not developed (i.e. GI).

If no photos are available, unique tattoo or scar information shall be documented in the narrative of the report as being provided by the victim to identify the suspect.

## 320.12 CONFISCATION OF FIREARMS

Officers should consider the use of a gun violence restraining order during a domestic disturbance response to any residence which is associated with a firearm registration or record, during a response in which a firearm is present, or during a response in which one of the involved parties owns or possesses a firearm (PC §18108(b)). An officer handling an incident of domestic violence which involves a threat to human life or physical assault shall seize all firearms present at the scene of the incident found to be in plain sight or found as a result of a consensual or lawful search when it appears necessary to do so for the protection of officers or other persons present. Any firearm confiscated as a result of a domestic violence incident shall first be checked in the Automated Firearms System (AFS) on either the MDS or through the ComCen to determine if the firearm is stolen. When the firearm is found not to be stolen, it shall be booked

for evidence or safekeeping as necessary. Any ammunition confiscated with the firearm shall also be booked [PC §12028.5(b)].

A member who seizes a firearm during an incident of domestic violence shall provide the owner or another adult household member with a “Fresno Police Department Receipt and Notice of Rights for Confiscated Firearms/Other Deadly Weapons” Form. The receipt shall describe the make, identification or serial numbers on the firearm, and also the case number. The receipt shall also include the name and residential mailing address of the owner or person who possessed the weapon and notice of where the weapon may be recovered, along with the applicable time limit for recovery (PC §18250; PC § 18255; PC §33800; FC §6389(c)(2)). A case number shall be obtained from the ComCen at the time the property is confiscated. The owner or household member shall then sign the receipt. The top (green) copy of the receipt shall be given to the owner or household member, the hard and pink copies shall be attached to the appropriate report form, and the yellow copy shall be attached to the PER accompanying the weapon being booked.

### **320.13 RETURN OF FIREARMS**

When a firearm is seized and the involved person/suspect inquires how to get their firearm/weapon back, officers shall refer the involved person/suspect to the listed directions on the form.

### **320.14 COURT PROTECTIVE ORDERS**

Various types of restraining orders may be issued by various courts in domestic violence cases. The court orders under PC §13701(b) includes:

- (a) Emergency Protective Order (EPO) - PC §273.6
- (b) Domestic Violence Protective Order - PC §166(c)(1)
- (c) Criminal Court Protective Order - PC §166(c)(1)
- (d) Order to Show Cause and Temporary Restraining Order (TRO) - PC §273.6
- (e) Order After Hearing - PC §273.6
- (f) Restraining Order – Juvenile
- (g) Judgment of Dissolution and Order
- (h) Child Custody Order

All valid out of state and tribal court restraining and protective orders should be enforced. PC § 13710 requires all law enforcement agencies to maintain complete and systematic records of all protection orders relating to domestic violence incidents, restraining orders, and proofs of service which are in effect. This section also requires that these records be used to inform law enforcement officers responding to domestic violence calls of the existence, terms, and effective dates of protection orders on file. It shall be the responsibility of the Records Bureau to maintain these records.

### **320.15 STAY-AWAY ORDERS**

Stay-away orders are issued in criminal cases when the probability of victim intimidation exists. Violation of a stay-away order is a misdemeanor under PC §166(c)(1).

Witness intimidation is also a violation of PC §136.1 and potentially a violation of PC §422. Examples of witness intimidation include attempting to prevent or dissuade a victim from attending or giving testimony at any proceeding or using force or expressing or implying a threat of force or violence related to the court proceeding. Officers will use the same guidelines for verification and enforcement of stay-away orders as listed in Policy §§330.16 and 330.32.

### **320.16 EMERGENCY PROTECTIVE ORDERS**

Members should request an EPO when the investigating officer has grounds to believe that a person is in immediate harm and present danger of domestic violence based on an allegation of recent abuse or threat of abuse [FC §6203 & §6211].

Note: There may be other nondomestic violence related incidents in which officers could request an EPO. EPO's can be issued 24 hours per day, seven days per week.

A judicial officer may issue an EPO whenever a law enforcement officer asserts reasonable grounds that one or more of the criteria listed on the EPO Form is met or there is a potential for continued or escalated violence. The fact that the endangered person has left the household to avoid abuse or whether the suspect is in custody does not affect the availability of an emergency protective order.

Under PC §646.91, a peace officer may also obtain an EPO when the officer has reasonable grounds to believe that a person or the person's immediate family is in immediate and present danger of being stalked.

- (a) Any such EPO shall be reduced to writing, signed by the officer and include all of the information required by PC §646.91(c).
- (b) Any officer seeking such an order shall serve the order on the restrained person if such person can be reasonably located and shall provide the person protected with a copy of the order. A copy of the order shall also be filed with the court as soon as practicable after issuance.
- (c) Any officer requesting such an order shall carry copies of the order while on duty and shall use every reasonable means to enforce the order.

EPO'S may be obtained to prohibit a suspect who resides with a complainant, regardless of their marital status or relationship from continuing a specified behavior or act as described on the EPO form.

### 320.16.1 PROCEDURES FOR ISSUANCE OF EPO'S

When officers have identified both qualifying abuse and a qualifying relationship between the person to be restrained and the person to be protected, the officer shall contact their immediate supervisor and provide the supervisor with the facts of the case.

The supervisor shall ensure the facts of the case support a reasonable belief of immediate harm and present danger of domestic violence within a qualifying relationship. The fact that the endangered person has left the household to avoid abuse or whether the suspect is in custody does not affect the availability of an emergency protective order. If there is insufficient information to determine if domestic violence or a qualifying relationship exists with immediate and present danger, the supervisor shall guide the officer in their investigation to obtain the required information. If the information presented to the supervisor is sufficient, the supervisor shall grant the officer permission to contact a judicial officer through the established procedure.

A judicial officer shall be contacted through the Court Dispatch Center at 457-4999, regardless of the time of day. Between the hours of 1800-0600, weekends, and court holidays, calls will be forwarded and processed by the Sheriff's Department Communications Center. The determination of the designated judicial officer to issue or not to issue an EPO will be final.

Note: The temporary inability of FSD dispatch to locate a judicial officer does not relieve officers of their obligations under this section.

In all domestic violence situations, the investigating officer shall ensure that the victim understands the circumstances under which an EPO can be issued, and our policy of seeking an EPO on the victim's behalf anytime there is reason to believe the victim is in immediate and present danger of domestic violence.

The expiration date for EPO's shall be no later than the close of the fifth judicial business day or the seventh calendar day following the day of issuance, whichever comes earliest.

The issuing officer shall inform the person to be protected of:

- (a) The expiration date and time of the EPO; and
- (b) The need to apply to the court for a temporary restraining order beyond that date.

The officer who completes an EPO shall turn the EPO in to the Records Section by the completion of their shift.

An EPO shall be personally served upon the restrained party by the issuing officer when the restrained party can be reasonably located. When the restrained party cannot be located, the issuing officer shall

contact the ComCen to have a premise history placed on the affected addresses listing the name of the restrained party and the fact that an unserved EPO is on file in the Records Section. The premise history shall include the EPO's date of expiration. When a valid EPO is in effect and proof of service has been verified, the officer shall use every reasonable means to enforce the order.

When an EPO is issued for a child, the officer shall give the child's copy of the EPO to the parent, guardian, or social worker who is retaining custody of the child. EPO processes are the same for a child as for an adult.

### 320.16.2 REQUIRED REPORTS FOR EPO WITH NO CRIME

When an EPO is issued under circumstances where no crime has occurred, the issuing officer shall:

- (a) Prepare a GIDV-Domestic Violence report titled "EPO" and the "Domestic Violence" box shall be checked;
- (b) The person to be restrained shall be listed as an "Involved Party"; and
- (c) The person to be protected shall be listed as a "Victim".

Note: The race, sex, and DOB of the person to be protected shall be indicated next to their name listed in item #1 of the EPO.

### 320.16.3 DISTRIBUTION OF EPO FORMS

- (a) The white copy shall be turned in to the Records Section by the end of the work shift;
- (b) One copy shall be provided to the protected party, when present;
- (c) One copy shall be provided to the restrained party, when present; and
- (d) The fourth and any undelivered protected party copies shall also be forwarded to Records.

Records shall maintain a seven-day file of all served and unserved EPO's

### 320.16.4 VERIFICATION OF EPO'S

Prior to enforcement of an EPO, officers shall determine if the order is valid, by contacting the issuing agency or examining a copy of the order to establish:

- (a) The order has not expired;
- (b) Whether proof of service or prior notice exists or can be established; and
- (c) The terms of the restraining order.

### 320.16.5 UNSERVED EPO'S

When an officer is in possession of an unserved copy of an EPO and encounters the restrained party within the effective period, they shall provide the copy to the restrained party and shall complete the "Restraining/Emergency Protective Order Proof of Service Form".

All other officers encountering unserved restrained parties listed in active EPO's (and other court orders) shall follow the procedures listed above.

## 320.17 RESTRAINING ORDERS

### 320.17.1 VERIFICATION OF RESTRAINING ORDERS

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

- (a) Whether a restraining order is on file with the Department or whether the complainant has a copy of the restraining order in their possession;
- (b) Whether there is valid restraining order on file with the Department of Justice Domestic Violence Restraining Order System [FC §6383(d)];
- (c) Whether the proof of service or prior notice exists or that the suspect was in court when the order was made; and
- (d) The terms of the restraining order.

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

### 320.17.2 ENFORCEMENT PROCEDURES FOR RESTRAINING ORDERS

Violation of a restraining order is a misdemeanor under PC §273.6, PC §166(c)(1) or PC §166(4). An arrest shall be made when probable cause exists to believe the subject of a restraining order has violated the order whether or not in the presence of an officer and evidence of proof of service of the order exists.

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

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

All valid out-of-state and tribal court restraining, and protective orders should be enforced.

### 320.18 SERVICE OF RESTRAINING ORDERS AND EPO'S

When an officer verifies that a restraining order/EPO exists but cannot verify proof of service or prior knowledge of the order by the restrained party, the officer shall, when the restrained party is present:

- (a) Inform the restrained party of the terms of the order;
- (b) Admonish the restrained party that they are now on notice and that violation of the order will result in arrest; and
- (c) Prepare a "Restraining/Emergency Protective Order Proof of Service Form".

When the proof of service is being served on an order in possession of the Sheriff's Department and there is no related FPD case number:

- (a) The Proof of Service - Fresno Police Department Form shall be used;
- (b) All blanks on the form shall be filled in;
- (c) The box labeled "Case Number" shall be used only for the court case number as listed on the restraining order;
- (d) The space provided for the "Department Case Number" shall list the event number assigned to the call;
- (e) The event synopsis shall include the Court Case Number;
- (f) No report other than the Restraining/Emergency Protective Order Proof of Service Form is required when the only action being taken is service of a court order/EPO; and
- (g) Details of the service must be included in the event narrative.

A temporary restraining order, emergency protective order, or an order issued after a hearing shall, at the request of the petitioner, be served on the restrained person by an officer who is present at the scene of a reported domestic violence incident or when the officer receives a request from the petitioner to provide service of the order (Family Code § 6383; Penal Code § 13710).

#### 320.18.1 PROOF OF SERVICE NOT VERIFIED

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

- (a) At the request of the complainant and upon presentation of an endorsed copy of the restraining order and a proof of service form, serve a copy of the order on the suspect. Submit the completed proof of service form to the court, regardless of whether or not the suspect is taken into custody [CCP §527.8(i)(2)];
- (b) Immediately inform the suspect of the terms of the order and place the suspect on notice that violation of the order will result in arrest;
- (c) Obtain the suspect's address; and
- (d) Enforce the order but do not make an arrest for any violation of the order occurring prior to verifying the proof of service or before an officer's admonition of the terms of the order. If the suspect



continues to violate the order after being advised of the terms, an arrest should be made [CCP §527.8(i)(4)].

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

### 320.18.2 WHEN ORDERS ARE NOT VERIFIABLE

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

- (a) Write a report; give the case number to the victim; and
- (b) Inform the victim of how they can contact the appropriate detective or investigative unit for further action [PC §13730(c)].

### 320.19 OFFICER INVOLVED RESTRAINING ORDERS

- (a) All sworn members of this Department who are the subject of an EPO, TRO, or Stay Away Order regarding family violence shall immediately provide an on-duty supervisor with a copy of the order.
- (b) The supervisor shall then advise the involved officer's immediate supervisor, complete a confidential Memo and forward it with a copy of the EPO or TRO, via the chain of command, to the involved officer's Division Commander.
- (c) Notifications should be made as deemed appropriate by the on-duty supervisor depending on the severity of the situation.

### 320.19.1 SUPERVISOR RESPONSIBILITIES IN OFFICER INVOLVED RESTRAINING ORDERS

A supervisor shall respond to any incident of alleged domestic violence involving a law enforcement officer from the Department or any other law enforcement agency. When an employee is involved as victim or a suspect, the Domestic Violence Unit supervisor shall be notified.

The following tasks shall be completed by the on-scene supervisor:

- (a) The involved officer's chain of command shall be notified;
- (b) If the accused is a sworn member, a supervisor above the rank of the accused shall be requested to the scene to supervise the investigation and make appropriate notifications;
- (c) In a case where the Chief of Police is the accused, the City Manager shall be notified;
- (d) The Domestic Violence Unit supervisor shall be notified and will determine if an investigator should respond to the scene;
- (e) The officer's duty weapon will be removed when appropriate;
- (f) The Department's legal advisor shall be notified;
- (g) A confidential Administrative Review Memo will be completed; and
- (h) When a peace officer from another agency is involved, the on-scene supervisor shall notify the district, assistant district, or field commander, who shall make phone notification to the involved officer's agency as soon as practical.

### 320.20 DOMESTIC VIOLENCE FORM

In all cases of domestic violence, whether an arrest is made or not, investigating officers shall furnish the victim with a copy of the Domestic Violence Form and shall orally instruct the victim on its contents (PC §§13700-13701). This form shall include the report number of the investigation to serve as a reference for the victim to contact the Domestic Violence Unit.

### 320.21 PROSECUTION FOLLOW-UP

Officers investigating a felony domestic violence case shall advise the victim that it is no longer necessary to contact the DA's office for charges to be filed. The Domestic Violence Unit will review all felony domestic violence cases and if probable cause exists, they will submit the case(s) to the District Attorney's Office.

In misdemeanor domestic violence cases where the suspect has NOT been arrested or cited, and the victim wishes to file a criminal complaint, the officer shall advise the victim they may leave a voicemail for

the Domestic Violence Unit (DVU) at 621-2225, 24/7. However, the voicemail is checked periodically during normal business hours and is not monitored 24/7. The victim should be reminded that if they feel they are currently in a situation threatening their safety or experiencing domestic violence, they should call 9-1-1. Officers shall record this advisement to the victim with their body worn cameras.

### **320.22 TENANCY ISSUES**

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

### **320.23 VICTIM ASSISTANCE**

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

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

For additional victim assistance, officers may request a Domestic Violence Advocate from FPD or a crisis Navigator from the Marjaree Mason Center. Statistics indicate that victims are more likely to assist with prosecution and to seek services the sooner they meet with an advocate.

### **320.24 REPORTING PROCEDURES**

A police report shall be written to cover all incidents of domestic violence. Officers shall ensure they make the victim(s) and/or involved parties confidential by checking the appropriate check boxes in Axon Records. The "Domestic Violence" checkbox in Axon Records shall be checked as well as indicating the report is a domestic violence incident in the Case Factors. This applies to all domestic violence related crimes (e.g., assault, robbery, sexual assault etc.) and general incident reports.

Children in common, or who are present in the home, should be listed in the report as confidential.

The system will generate a Controlled Document using the listed confidential information.

Department members shall also accept and provide written documentation for all calls or reports, including those made anonymously, of domestic violence involving peace officers. These reports shall be turned into records as a "restricted" report and shall maintain that status until the investigation has been completed. This Department's Domestic Violence Investigation Unit shall also deliver a written copy of reports involving peace officers from different agencies to the involved officer's agency.

In addition, domestic violence reports must also specifically include:

- (a) A notation as to whether the officer(s) who responded to the domestic violence call observed any signs that the alleged abuser was under the influence of alcohol or a controlled substance;
- (b) A notation as to whether any law enforcement agency had previously responded to a domestic violence call, including incidents involving violations of domestic violence restraining orders, at the same address involving the same alleged abuser or victim (PC §13730). This mandate may be accomplished by checking MDS databases and/or through information received from involved parties.
- (c) A notation as to whether or not children were present;
- (d) A specific description of any weapon(s) used;
- (e) A notation if the officer found it necessary, for the protection of the officer or other persons present, to inquire from the parties whether a firearm or other deadly weapon was present and the results of the inquiry; and
- (f) A notation of whether there were indicators that the incident involved strangulation or suffocation. This includes whether any witness or victim reported any incident of strangulation or suffocation, whether any victim reported symptoms of strangulation or suffocation, or whether the officer observed any signs of strangulation or suffocation.

### **320.26 RECORDKEEPING RESPONSIBILITIES**

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

### **320.27 PUBLIC ACCESS TO POLICY**

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

### **320.28 LETHALITY ASSESSMENT**

The Department will conduct a Lethality Assessment Screening process for all domestic violence victims. Officers shall complete the Lethality Assessment with their Body Worn camera activated. After completing the assessment, the officer shall score the assessment. The scoring rubric for the assessment is as follows:

- Any single positive answer in questions 1-3 is an automatic referral to a FPD Domestic Violence Advocate or to a Hot Line Navigator from the Marjaree Mason Center, prior to the officer clearing the scene as this is a “High Danger” score.
- Negative answers to questions 1-3 but a positive answer to at least 4 questions between questions 4-11 activates a referral to an FPD Domestic Violence advocate or a Hot Line Navigator from the Marjaree Mason Center, prior to the officer leaving the scene.
- If not already activated, regardless of how the questions were answered in the above sections an advocate can be requested to the scene upon victim or officer request.

If after scoring the assessment, a “High Danger” score is the result, the officer shall tell the victim: “Based on your answers, you have screened in as a high potential for death; meaning other victims with the same answers/situation have been killed.”

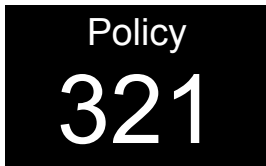
The officer shall then ask the victim if they are willing to speak to an Advocate/Hot Line Navigator. If the victim refuses to speak to the Advocate/Hot Line Navigator, the officer should provide the victim with the safety planning tips located on the Domestic Violence Victim Information Form. The officer shall document in their report if the victim spoke with the Advocate/Hot Line Navigator or refused.

The Lethality Assessment Screening is intended to be a tool designed to help a victim realize their risk within their intimate relationship and that they have options and resources readily available to help them get out. The Lethality Assessment is an evidence-based tool that has been shown to be effective in increasing a survivors’ use of formal and informal safety strategies that also had a correlating effect in

decreasing frequency of severe intimate partner violence. The Lethality Assessment is found in AXON under the Victim Name tab, "Add Forms".

### 320.28.1 ADVOCATE/HOT LINE CONTACT

Day Time DV Advocate	Mon- Fri	Hours 0800-1630	Desk: (559)621- 2236	Cell: (559)519-9111
Swing Time DV Advocate	Fri – Tue	Hours 1430-2230	Desk: (559)621- 2233	Cell: (559)577-8472
Hot Line Navigator	24- Hour	24-Hour Hotline		(559)233-HELP 4357



## Fresno Police Department Policy Manual

# Field Contacts

### 321 Field Contact

#### 321.1 POLICY

The Department will treat the members of the community in strict obedience to the rights against unreasonable search and seizure as guaranteed under the Constitution of the United States of America and of the laws of the State of California.

##### 321.1.1 PURPOSE AND SCOPE

Case law regarding search and seizure is ever changing and frequently subject to interpretation under the varying facts of each situation. This policy is intended to provide a few of the basic guidelines that may assist an officer in field contact situations.

#### 321.2 DEFINITIONS

**Arrest** – Taking a person into custody, in a case and in the manner authorized by law.

**Detention** - Occurs when an officer intentionally, through words, actions or physical force causes an individual to reasonably believe they are being required to restrict their movement. Detentions also occur when an officer actually restrains a person's freedom of movement.

**Consensual Contact** - 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 their contact with the officer is voluntary.

**Consent Search** – A search conducted with the voluntary consent of the person to be searched.

**Field Contact** - A contact with any member of the public, which may be classified as a consensual contact, detention, or an arrest.

**Probable Cause** – A set of facts based on the totality of the circumstances that would lead a person of ordinary care and prudence to entertain an honest and strong suspicion that the person to be arrested is guilty of a crime.

**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. Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability or any other classification or status protected by law should not be considered as factors that create suspicion (although these factors may be used as specific suspect descriptions).

**Voluntary Consent** – Consent given as a product of the individual's free will and uncontaminated by any duress, coercion, intimidating conduct, or other "pressure tactic," whether direct or indirect.

A contact with any member of the public may be classified as a consensual contact, detention, or an arrest. Upon request, a member shall provide their Department issued business cards during any of the below listed Field Contacts.

#### 321.3 CONSENSUAL CONTACTS

A consensual contact is a contact between an officer and an individual which is strictly voluntary. The key element is that the person remains totally free to leave or not cooperate. The officer's uncommunicated state of mind, and the individual citizen's subjective belief, are irrelevant in determining whether a "detention" has occurred. As long as a reasonable person would feel free to

disregard the police and go about their business, the encounter is consensual and no reasonable suspicion is required on the part of the officer.

Examples of consensual contacts include members inquiring about identity, requesting identification or running a warrant check on the subject contacted.

### 321.3.1 CONSENT SEARCHES

A member shall not conduct a search during a consensual contact unless:

- (a) The member receives voluntary consent from the person to be searched.
- (b) Evidence of a crime or contraband is in plain view in the possession of the subject contacted, allowing for immediate seizure of the item; or
- (c) A search is justified by articulable officer safety reasons.

Voluntary consent means:

- (a) The person agreed to the search voluntarily (i.e., not "coerced" by force, threats, tricks, promises, or the exertion of authority); and
- (b) The person has the capacity and the authority, or the apparent authority, to give consent.

Consent may be expressed or implied. It can be withdrawn at any time.

### 321.4 DETENTIONS

The purpose of a detention is to determine whether or not suspicious behavior is innocent or relates to crime. A detention occurs whenever a member, through some form of physical force or show of authority, compels a person to stay during a field investigation of some potentially criminal act. Before a detention exists in the law, it is necessary that the person actually submits to your assertion of authority.

Prior to detaining a person, the member must have a reasonable suspicion, based on articulable facts, that:

- (a) Criminal activity has occurred, is occurring, or is about to occur;
- (b) The person detained is connected with that possible criminal activity;
- (c) Evidence of a crime or contraband is in plain view in the possession of the subject contacted, allowing for immediate seizure of the item; or
- (d) A search is justified by articulable officer safety reasons.

#### 321.4.1 DETENTION FACTORS

Members shall consider the following factors in determining whether there exists a reasonable suspicion to detain an individual:

- (a) A person or vehicle matches the general description of a wanted person or vehicle. This is generally sufficient, by itself, to base a detention on.
- (b) Nighttime/High Crime Area alone will not be sufficient to detain an individual but when coupled with other factors, such as furtive behavior or flight, may be sufficient.
- (c) Flight alone will not be sufficient to detain an individual but when coupled with other factors, such a high crime area, may be sufficient.
- (d) A members training and experience.
- (e) Officer Safety issues; or
- (f) Information you receive from an eyewitness, victim, fellow police officer, dispatcher, or--if accurate--other official channels. This information is generally considered reliable and as such can be the sole basis for a detention as long as the detention is reasonably related to the information obtained.

Members shall include these articulable facts in the appropriate report when a report is required under any provision of the Policy Manual.

Under current law, members do not have to provide Miranda warnings during an interview of someone who is lawfully detained based on:

- (a) Reasonable suspicion;
- (b) A "cite and release" offense;
- (c) Inquiries, concerning identity, made during a detention; or
- (d) Officer Safety issues.

#### 321.4.2 REASONABLE FORCE TO EFFECT A DETENTION

A detainee has no right to resist a lawful detention. Members may use reasonable force to affect the detention. Refer to Policy §300.

#### 321.4.3 LIMITATION ON DETENTIONS

Members shall not detain a person longer than is reasonably necessary to conduct the investigation. A detention must be temporary and last no longer than is necessary to resolve the reason for the stop. A detention legal at its beginning can become an illegal arrest if extended beyond what is reasonably necessary under the circumstances. If the person answers all questions about the suspicious circumstances satisfactorily, so that suspicion decreases or disappears, the person must be released.

Members shall not transport a detainee to another location absent:

- (a) The person(s) voluntarily consents; or
- (b) There are articulable factors that make it unsafe for the member or detainee to stay at that location; or
- (c) There are specific circumstances, such as the medical condition of a victim, which make it impractical to bring that person to the location where the detention occurred.

#### 321.5 ARRESTS

An arrest occurs when a member takes a person into custody. This requires either that a member physically restrain or at least touch the person or the person submits to your authority. The arrest must be based on probable cause.

~~Members~~ shall ensure that a prisoner's property is secured and not damaged while in the member's care. ~~Members~~ should refrain from placing a prisoner's property on their patrol vehicle whenever possible to minimize the risk of inadvertently leaving it there prior to transport.

#### 321.6 FIELD INTERVIEW (FI) CARDS

FI Cards shall be completed with all pertinent information and submitted in Axon Records prior to the end of the member's shift. Actually detaining someone (as opposed to obtaining their voluntary cooperation) for the purpose of obtaining information about them, or photographing them, is illegal unless you have a specific basis for believing the person is involved in criminal activity. Furthermore, extending a detention in order to fill out a field interrogation card may or may not be reasonable, depending on all the circumstances. Generally speaking, if there is something specific which might connect the person to a crime, filling out a field interrogation card will be proper.

Members shall ensure that the FI Card, where appropriate, is routed to the appropriate unit (e.g. route to MAGEC where gang activity/involvement is suspected.)

**322.1 POLICY**

It is the policy of the Fresno 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.

Consistent with CA POST requirements, 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.

**322.1.1 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 the Fresno Police Department personnel to consider when dealing with warrantless search and seizure issues of persons, property, and vehicles, and to strictly limit strip and body cavity searches per Penal Code §4030.

**322.2 DEFINITIONS**

**Consent Search** - This is a search of a person, a person's belongings, residence, vehicle, etc., and it is used by officers in the field after obtaining valid consent. For a consent search to be valid, the consent must be voluntary (i.e., not "coerced" by force, threats, tricks, promises, or the exertion of authority); and obtained from a person with authority, or "apparent" authority, to give that consent.

**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 subject, or other subjects.

**Custody Search (Searches Incident to a Lawful Arrest)** - This search involves a thorough patting down of an individual's clothing, shoes, property and possessions of an arrestee. 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** - This is a search that requires a person to remove or rearrange some or all of their clothing to permit a visual inspection of the underclothing, breasts, buttocks or genitalia of such person [PC §4030(c)].

**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 [PC §4030(d)(1)].

**Visual Body Cavity Search** - Visual body cavity search means visual inspection of a body cavity [PC §4030(d)(3)].

**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:

- (a) Valid consent;
- (b) Probation/Parole authorization;



- (c) Incident to a lawful arrest;
- (d) Legitimate community caretaking interests;
- (e) Vehicle searches under certain circumstances; and
- (f) 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 their familiarity with clearly established rights as determined by case law.

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

### **322.4 SEARCH PROTOCOL**

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

- (a) Officers will strive to conduct searches with dignity and courtesy;
- (b) Officers should explain to the person being searched the reason for the search and how the search will be conducted;
- (c) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition;
- (d) In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated; and
- (e) When the person to be searched is of the opposite sex as the searching officer, a reasonable effort should be made to summon an officer of the same sex as the subject to conduct the search. When it is not practicable to summon an officer of the same sex as the subject, the following guidelines should be followed:
  - 1) Another officer or a supervisor should witness the search;
  - 2) The officer should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon; and
  - 3) 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.
- (f) Metal detecting wands and walk through metal detectors should be utilized whenever available and appropriate (e.g., wand may not be appropriate for an initial pat down search).

### **322.5 PERSON SEARCHES**

#### **322.5.1 WARRANTLESS SEARCHES**

Members shall not conduct a warrantless search of an individual unless:

- (a) The individual to be searched gives consent to search, the search does not exceed the scope of the consent, and the consent is documented on a Consent to Search Form or captured on video;
- (b) The individual to be searched is on active parole or probation with a condition that they are open to search and seizure;
- (c) There is an officer safety reason for a pat down for weapons; and/or
- (d) The individual is under arrest.

#### **322.5.2 PAT DOWN FOR WEAPONS**

Members may conduct a pat down or limited weapons search of a detainee's outer clothing if specific facts exist that indicate the person may be armed.

Members may immediately seize any weapon or other object usable as a weapon which is lawfully discovered during a pat down for weapons. The seizure of any evidence or contraband not immediately identifiable as a weapon is prohibited during a pat down search for weapons unless the member has probable cause, based on the member's training and experience, that the item discovered is contraband.

Containers, which can reasonably be used to hold a weapon can be seized immediately during a pat down search for weapons, and searched to determine if they contain weapons.

### **322.6 STRIP SEARCHES / VISUAL BODY CAVITY SEARCHES**

No person arrested and held in custody on a misdemeanor or infraction offense, except those involving weapons, controlled substances or violence, nor any minor detained prior to a detention hearing on the grounds that he or she is a person described in Section 300, 601 or 602 of the Welfare and Institutions Code, except for those minors alleged to have committed felonies or offenses involving weapons, controlled substances or violence, shall be subjected to a strip search or visual body cavity search unless an officer has determined that there is reasonable suspicion, based upon specific and articulable facts, to believe such person is concealing a weapon or contraband which would be discovered by such a search [PC §4030(f)].

Persons conducting a strip search or a visual body cavity search shall not touch the breasts, buttocks, or genitalia of the person being searched [PC §4030(j)].

All persons conducting or otherwise present during a strip search or visual or physical body cavity search shall be of the same sex as the person being searched, except for physicians or licensed medical personnel. [PC §4030(l)].

All strip, visual and physical body cavity searches shall be conducted in an area of privacy so that the search cannot be observed by persons not participating in the search. Persons are considered to be participating in the search if their official duties relative to search procedure require them to be present at the time the search is conducted [PC §4030(m)].

When a strip search is conducted, the reporting member shall thoroughly document the circumstances surrounding the search and the results of the search.

### **322.7 PHYSICAL BODY CAVITY SEARCH**

No person arrested on a misdemeanor or infraction shall be subjected to a physical body cavity search except under the authority of a search warrant issued by a magistrate specifically authorizing the physical body cavity search [PC §4030(h)].

Only a physician, nurse practitioner, registered nurse, licensed vocational nurse, or Level II Emergency Medical Technician (EMT) may conduct a physical body cavity search [PC §4030(k)].

Privacy requirements, including restricted touching of body parts, are the same as the strip search standard.

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 [PC §4030(i)].

### **322.8 PROPERTY SEARCHES**

As a general rule, officers may enter a crime scene to conduct an investigation. Members of this Department should not physically enter any area where an individual has a reasonable expectation of privacy in order to conduct a search or seizure without:

- (a) Valid consent;
- (b) Probation/Parole authorization;
- (c) A valid search warrant; and/or
- (d) Exigent circumstances.

### 322.8.1 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.

### 322.8.2 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, however consent is only valid if the following criteria are met:

- (a) Voluntary (i.e., clear, specific, and unequivocal);
- (b) Obtained from a person with authority to give the consent; and
- (c) A Consent to Search Form has been completed or captured on video.

NOTE: 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.

While there is no requirement that an individual be told of their right to refuse consent, such a warning may provide strong support for the validity of any consent. At any point that an individual withdraws consent, any related search should be discontinued unless and until otherwise legally permitted. If this occurs, and the officer has probable cause to believe that there is evidence or suspects remaining in areas of the premises not searched under consent, officers should consider obtaining a valid search warrant to continue this search. Officers may secure the premises until such time as the warrant is authorized, then continue the search.

Officers should describe how a voluntary and authorized consent was obtained in any related report(s).

### 322.8.3 EXIGENT CIRCUMSTANCES

Exigent circumstances that may permit entry into premises without a warrant or valid consent generally include any of the following:

- (a) Imminent danger of injury or death;
- (b) Serious damage to property;
- (c) Imminent escape of a suspect; and/or
- (d) The destruction of evidence.

### 322.9 VEHICLES

Absent consent or a valid warrant, members shall not search the vehicle of a detainee unless:

- (a) There exists specific facts that indicate the vehicle in the detainee's immediate possession may have weapons in it. In such cases, vehicle weapons searches are limited to the interior areas where the detainee might have access to a weapon; or
- (b) Members may conduct a warrantless search of any part of a vehicle which is being used on a public thoroughfare, or which is readily capable of such use, as long as they have probable cause to believe the object they are looking for may be located in that portion of the vehicle. The standard of proof is the same as obtaining a warrant but is an exception to the warrant process based on the moveable nature of the vehicle. Members shall document the facts supporting the probable cause to search the vehicle, and the results of the search in the appropriate report when such is required under any provision of the Policy Manual;
- (c) Authorized by Probation/Parole;
- (d) Exigent circumstances exist to conduct the search for articulable public safety reasons; and/or
- (e) A Vehicle Inventory Report is required (e.g., impounds).

### 322.10 DOCUMENTATION OF SEARCHES

When a report is generated related to an incident involving a search (i.e. vehicle impounds, PC 849(b) releases, arrests, etc.), officers are responsible to document the search and to ensure that any required reports are sufficient including, at minimum, documentation of the following:

- (a) Reason for the search;
- (b) Any efforts used to minimize the intrusiveness of any search (e.g., asking for consent or keys);

- (c) What, if any, injuries or damage occurred;
- (d) All steps taken to secure property;
- (e) The results of the search, including a description of any property or contraband seized; and
- (f) 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.

### **322.11 VOLUNTARY TRANSPORTATION**

During the course of an investigation, an officer may need to transport a victim, witness, or involved party to another location. Prior to transporting a person to a destination, officers shall complete a Consent to be Transported Form or capture consent on video.

The form shall contain the following information:

- (a) A case number;
- (b) Signature of the person being transported;
- (c) Signature of a witnessing officer; and
- (d) An advisement that the person may withdraw their consent at any time.

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.

### **323.1 POLICY**

Officers shall take the necessary steps to plan all warrant services carefully to prevent injury to suspects and members. Search warrants are only to be executed by sworn personnel.

#### **323.1.1 PURPOSE AND SCOPE**

A pre-planned tactical operation is any operation where officers plan on taking some sort of enforcement action. Examples of pre-planned tactical operations are search warrants, knock and talks, probation/parole searches, arrest warrants, etc.

### **323.2 COORDINATION WITH SIB**

Any drug enforcement effort shall be coordinated with the Special Investigation Bureau (SIB). Members shall contact a SIB supervisor before proceeding with any drug related investigation likely to lead to a search warrant or “knock and talk” where members have reason to believe a significant quantity of drugs may be located.

### **323.3 SEARCH WARRANT PLAN**

All units shall check with a Law Enforcement event deconfliction system, such as WSIN, before proceeding with any search warrant or drug enforcement related investigation at a specific location. Refer to Policy 610.

The case agent and a member of the unit who will serve the warrant shall develop a plan for serving the warrant.

During the planning stage the case agent, a member of the unit serving the warrant and a unit supervisor shall, in person, observe the location to be searched to determine how the search warrant is served, what resources are needed, and to ensure identification of the right location.

There are some situations where it may not be possible to observe the location in person due to its isolation, counter-surveillance, etc. In such cases the case agent and a unit supervisor will evaluate the location by other means. This could include, but is not limited to:

- (a) Review of any surveillance of the location already conducted;
- (b) Information from confidential informants;
- (c) Video of the location;
- (d) Photographs from ground level; and/or
- (e) Photographs from the air.

“No-Knock” warrants are inherently dangerous and can present a high risk to the safety of both officers and the public. “No-Knock” warrants should only be utilized under the most extreme circumstances for the preservation of life. “No-Knock” warrants can only be obtained through the authorization of a judge, approving “No-Knock” service. Prior to the service of any “No-Knock” warrant, permission shall be obtained from the Chief of Police or their designee. After approval from the Chief of Police or their designee, the “No-Knock” search warrant shall be reviewed by the Unit Commander and SWAT Commander or designee prior to service.

### **323.4 SUPERVISOR RESPONSIBILITIES**

A supervisor shall review and sign the case agent’s plan for the service of every search warrant.

The supervisor shall determine when assistance from the Patrol Division is needed and shall determine the role of the patrol personnel at the search warrant location.

The supervisor or acting supervisor of the unit must be present during the service of the search warrant. When an acting supervisor will be overseeing the warrant service, the Unit Commander or District Commander shall be informed before the warrant is served. A field supervisor or field commander may also be utilized if the unit supervisor is not available.

The supervisor should consider notifying EMS to have an ambulance on stand-by in the area when serving the search warrant.

### **323.5 REQUIRED UNIFORM AND EQUIPMENT**

Plainclothes members participating in the service of a search warrant or are part of a pre-planned tactical operation shall wear Department authorized raid vests. The raid vests shall have visible markings/patches that readily identify the wearer of the vest as a police officer.

There are occasions when a supervisor may elect to have the officers serving the warrant dress in clothing appropriate for the location and type of crime. An example would be detectives, assisted by other officers, serving a search warrant at a school for financial records. The supervisor in charge may decide to have the detectives dress in plainclothes without raid vests but must have at least one officer in a "Class B" uniform present at the location.

Members assisting in serving the warrant shall be armed with their Department issued firearms. Their Department issued firearm(s) shall be the primary weapon when serving any search warrant. A Department issued rifle or shotgun may be used in lieu of the officer's primary duty weapon.

Consideration should be given, when feasible, to having a marked patrol car at the search warrant location to readily identify the serving of the search warrant as a law enforcement operation.

### **323.6 LOCATIONS SECURED PRIOR TO OBTAINING A WARRANT**

In some instances it may be necessary to secure a location prior to obtaining a warrant. Such situations may not require that all the provisions of this order be followed.

Members at the scene of a crime where they are holding the scene pending a search warrant are not required to complete a Risk Assessment Matrix.

### **323.7 TACTICAL OPERATIONS PLAN**

A member of the unit serving the search warrant shall prepare a tactical operation plan for the service of every search warrant. A pre-planned operation intended to apprehend a suspect in a homicide with a firearm will also require preparation of a tactical operation plan, based on time permitting and the exigency of the specific situation. The member will use the Department approved tactical operations plan format located at L:\LIBRARY\FORMS\Search Warrants - Tac Plans. All sections of the tactical operations plans will be completed. The tactical plan may be modified or updated through the Policy & Procedure Unit.

The tactical operations plan should include, but is not limited to, the following:

- (a) A diagram of the specific location where the warrant is to be served;
- (b) A map of the immediate area showing the location where the warrant is to be served, the streets and alleys around the warrant location, proposed location of perimeter units, proposed approach route and parking area of the entry team(s), and any other features that the case agent deems important;
- (c) Intelligence information gathered on the location and suspects. This should include photos of known suspects, photos of the location, RMS on known suspects, weapons histories, and if any children are at the location;
- (d) Listing of personnel and equipment required to serve the warrant. This would include any special weapons that are needed and any assistance needed from Patrol Division members, air support, K-9's, etc.;

- (e) Communication plan listing the primary channel, if the primary channel will be monitored by dispatch, secondary channel, cell phone numbers, etc.;
- (f) Rally point in case of emergencies;
- (g) Location and route to nearest hospital; and
- (h) Any other information the case agent deems relevant.

The case agent will maintain a copy of the original tactical operations plan in the case file. All copies will be destroyed at the completion of the operation.

A separate form should be used to provide member's cell phone numbers, description of undercover officer or vehicles, confidential informants, or other sensitive information. These forms will not be part of the tactical operations plan and will be destroyed after the conclusion of the operation.

### **323.8 BRIEFING**

A briefing shall be conducted before serving a search warrant or executing a pre-planned tactical operation to apprehend a violent felony suspect. Attendance at the briefing is mandatory for all members serving the search warrant, participating in the service of the warrant or pre-planned tactical operation. The briefing should include, but not be limited to, the following:

- (a) A description of the search warrant location;
- (b) A description of suspect(s), crime(s) involved, weapons, and contraband;
- (c) Identification of point of entry, secondary entry points, rally point(s) and zones of fire;
- (d) Designation of entry team members, equipment they require and how they will deploy;
- (e) Designation of perimeter team members, equipment they require and how they will deploy;
- (f) Role of assisting units such as Patrol Division, air support, etc.; and
- (g) Review of the information contained in the tactical operations plan.

Members at the briefing shall be given a copy of the search warrant tactical operations plan.

### **323.9 NOTIFICATIONS**

Units preparing to serve a search warrant shall notify the Duty Office and the ComCen supervisor prior to serving the search warrant.

- (a) The notification shall include the location where the search warrant will be served and the expected time of service.
- (b) The supervisor shall notify the ComCen supervisor of any special requirements such as a channel dedicated to the unit while they serve the warrant, whether a dispatcher is needed to monitor the channel, etc.
- (c) When a location is secured prior to obtaining a search warrant, the Duty Office and the ComCen supervisor shall be notified of the operation as soon possible.
- (d) The Unit Commander, District Commander, or their designee, shall consult with the SWAT Commander or designee to determine if SWAT will assist in serving the warrant.

The case agent shall notify any law enforcement agency of a pending search warrant in their jurisdiction prior to serving the warrant.

### **323.10 POST SERVICE DUTIES**

A receipt listing seized items shall be left in an in a prominent location. The goldenrod copy of the Property and Evidence Report (PER) may serve as the receipt.

A "Notice of Service" shall be left in a prominent location. After the search warrant location is secure, the case agent may consider having the layout of the location recorded for future reference. This may be done by drawing a diagram, taking photographs, video, etc.

Photographs should be taken at the conclusion of a search warrant to document any damage or lack of damage at the location. The photographs may be taken by the unit serving the warrant or by a Crime Scene Bureau technician.

### **323.11 RISK ASSESSMENT MATRIX**

The Risk Assessment Matrix is used during the search warrant planning stage to determine when consultation with SWAT is required. The Risk Assessment Matrix is a YES/NO criteria based questionnaire and includes information such as the type of crime and criminal histories of suspects involved, that are related to the service of warrants. The case agent, member completing the tactical operations plan or a unit supervisor shall complete the Risk Assessment Matrix and will record any affirmative responses (YES) that apply to their warrant. All boxes shall be marked. The member completing the Risk Assessment Matrix will include all available information including, but not limited to criminal histories/rap sheets, RMS, Automated Firearm System (AFS), prior police reports, social media, and confidential/citizen informants. Risk Matrix numerical values are for FPD operations only. The values are for consistency of preplanned operation service and notification guidelines to include SWAT consultation.

- (a) If any boxes in items 1-5 are marked YES, SWAT should be contacted.
- (b) If two or more boxes in items 6-11 are marked YES, SWAT should be contacted.
- (c) The unit supervisor shall notify the Bureau or District Commander before the service of any warrant or consultation with the SWAT commander or designee.
- (d) The unit member, or unit supervisor, completing the Risk Assessment Matrix shall consult with the SWAT Commander, or designee, if the above criterion is reached to determine if SWAT will assist in serving the warrant.
- (e) SWAT notification shall be reflected in the tactical operations plan and any police report associated with the service of the search warrant. If SWAT was not used, this shall be reflected under "SWAT Contacted" and "SWAT Utilized" on the Risk Assessment and the police report as well. The name of the SWAT commander or designee consulted shall be included in the tactical operations plan and police report.

The Risk Assessment Matrix cannot cover all the possibilities relating to the serving of warrants. Although the score on the Risk Assessment Matrix may not require consultation with the SWAT Commander or designee, there may be cases where such consultation might be appropriate.

A copy of the Risk Assessment Matrix shall be included in the plan for serving all search warrants. A copy of the Risk Assessment Matrix is attached at the end of this order.





FRESNO POLICE DEPARTMENT



[REDACTED]

[REDACTED]	Yes	No	Explain
[REDACTED]	<input type="checkbox"/>	<input type="checkbox"/>	Click here to enter text.
[REDACTED]	<input type="checkbox"/>	<input type="checkbox"/>	Click here to enter text.
[REDACTED]	<input type="checkbox"/>	<input type="checkbox"/>	Click here to enter text.
[REDACTED]	<input type="checkbox"/>	<input type="checkbox"/>	Click here to enter text.
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[REDACTED]	<input type="checkbox"/>	<input type="checkbox"/>	[REDACTED]
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[REDACTED]	<input type="checkbox"/>	<input type="checkbox"/>	[REDACTED]
[REDACTED]	<input type="checkbox"/>	<input type="checkbox"/>	[REDACTED]
[REDACTED]	<input type="checkbox"/>	<input type="checkbox"/>	[REDACTED]
[REDACTED] Peace Officers?	<input type="checkbox"/>	<input type="checkbox"/>	Click here to enter text.
[REDACTED]	<input type="checkbox"/>	<input type="checkbox"/>	Click here to enter text.

[REDACTED]

[REDACTED]

Prepared by: Click here to enter text.  
Reviewed by: Click here to enter text.

Date: Click here to enter text.  
Date: Click here to enter text.

## Fresno Police Department Policy Manual

# Temporary Custody of Juveniles

### 324 Temporary Custody of Juveniles

#### 324.1 POLICY

The Fresno 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 Department facilities. Juveniles should be held in temporary custody only for as long as reasonably necessary for investigative purposes, processing, transfer, or release. When a juvenile is placed in temporary custody of the Fresno Police Department, officers shall identify the purpose for taking temporary custody of the juvenile and determine the appropriate manner in which the juvenile is to be detained.

Officers and Cadets shall exercise sufficient control over the juvenile in their custody to minimize the potential for escape, injury, property damage, and/or evidence destruction.

#### 324.1.1 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 Fresno Police Department (42 United States Code §5633).

#### 324.2 DEFINITIONS

**Juvenile non-offender** - An abused, neglected, dependent or alien juvenile who may be legally held for their 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 their protection or for purposes of reuniting the juvenile with a parent, guardian, or other responsible person. Juveniles 11 years of age or younger are considered juvenile non-offenders even if they have committed an offense that would subject an adult to arrest.

**Juvenile offender** - A juvenile 12 to 17 years of age who is alleged to have committed an offense that would subject an adult to arrest (a non-status offense) (Welfare & Institutions Code §602). It also includes an offense under Penal Code §29610 for underage possession of a handgun or concealable firearm (28 Code of Federal Regulations §31.303).

**Non-secure detention** - 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 detention 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 (WIC §207.1(d); 15 California Code of Regulations §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 juveniles in temporary custody.

**Secure detention** - When a juvenile offender is held in a locked room, a set of rooms or a cell. Secure detention also includes being physically secured to a stationary object (15 CCR §1146).

Examples of secure detention include:

- (a) A juvenile left alone in an unlocked room within the secure perimeter of the adult temporary holding area, i.e. prisoner processing center within CSIB.
- (b) A juvenile handcuffed to a rail.
- (c) A juvenile placed in a room that contains doors with delayed egress devices that have a delay of more than 30 seconds.
- (d) A juvenile being processed in a secure booking area when an unsecure booking area is available.

- (e) A juvenile left alone in a secure booking area after being photographed and fingerprinted.
- (f) A juvenile placed in a cell within the adult temporary holding area, whether or not the cell door is locked.
- (g) A juvenile placed in a room that is capable of being locked or contains a fixed object designed for cuffing or restricting movement.

**Sight and sound separation** - Located or arranged to prevent physical, visual or auditory contact with adult prisoners.

**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 WIC §601 and any juvenile suspected of an offense that would not subject an adult to arrest (e.g., fine-only offense).

When any question exists as to whether a suspect is a juvenile or adult, members shall attempt to resolve the issue before any enforcement action (i.e., arrest or citation) is taken. When members are unable to positively confirm the age of a suspect, and the suspect's appearance does not suggest age under 18, the suspect shall be handled as an adult.

### **324.3 AUTHORITY TO DETAIN**

Legal authority for taking custody of juvenile offenders is found in WIC §625.

#### **324.3.1 ADVISEMENT**

In any case where a juvenile is taken into temporary custody, the juvenile *shall* be promptly advised of their Miranda rights to ensure the admissibility of any spontaneous statements, whether or not questioning is intended (WIC §625).

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 (WIC §627).

Whenever a juvenile is taken into temporary custody, they shall be given the Miranda Rights advisement regardless of whether questioning is intended (WIC §625).

Anytime a juvenile offender is placed in secure detention, they shall be informed of the purpose of the secure detention, the length of time the secure detention is expected to last and of the maximum six-hour limitation (WIC §207.1(d)).

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

### **324.4 TYPE OF DETENTION**

#### **324.4.1 NON-SECURE DETENTION**

Non-secure detention means juveniles shall be placed in an unlocked room or open area. Juveniles may be handcuffed, but not to a stationary or secure object.

Juveniles not meeting the criteria to be placed in a locked detention room, or any juvenile under the age of 14-years taken into custody for a criminal violation, regardless of the seriousness of the offense, may be temporarily detained in the police facility however the custody must be non-secure.

Juveniles shall receive constant personal visual supervision by law enforcement personnel. Monitoring a juvenile using audio, video or other electronic device does not replace constant personal visual supervision.

#### 324.4.2 SECURE DETENTION

A juvenile may be held in secure detention in a holding cell, if the juvenile is 14-years of age or older and, if in the reasonable belief of the peace officer, the juvenile presents a serious security risk of harm to self or others, as long as all other conditions of secure detention set forth below are met.

Any juvenile in temporary custody who is less than 14-years of age, or who does not, in the reasonable belief of the peace officer, present a serious security risk of harm to self or others, shall not be placed in secure detention, but may be kept in non-secure custody in the facility as long as all other conditions of non-secure detention are met (WIC §602, Title15 CCR §1545).

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

#### 324.4.3 SECURE DETENTION REQUIREMENTS

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

- (a) Juveniles held in secure detention outside of a locked enclosure shall not be secured to a stationary object for more than 60 minutes unless no other locked enclosure is available. If a juvenile is secured, the following conditions must be met:
  - 1) A Department member must be present at all times to ensure the juvenile's safety while secured to a stationary object;
  - 2) Juveniles who are secured to a stationary object are moved to a detention room as soon as one becomes available; and
  - 3) Juveniles secured to a stationary object for longer than 60 minutes, and every 30 minutes thereafter, shall be approved by the Sergeant or the designated supervisor and the reason for continued secure detention shall be documented.
- (b) In the event a juvenile is held inside a locked enclosure, the juvenile shall receive adequate supervision which, at a minimum, includes:
  - 1) Constant auditory access to an officer by the juvenile; and
  - 2) Unscheduled personal visual supervision of the juvenile by an officer, no less than every 15 minutes. These checks shall be documented.
- (c) Males and females shall not be placed in the same locked room unless accompanied by an officer.

#### 324.4.4 MONITORING OF JUVENILES

During the entire detention an in-person visual inspection shall be done to ensure the welfare of the juvenile and shall be conducted at least once every 30 minutes, until the juvenile is released. This inspection shall not be replaced by video monitoring.

This inspection shall be conducted by the arresting officer, detective, or sworn designee, and the visual inspection shall be logged on the Inspection Log in the SVB office.

More frequent visual inspections should be made as circumstances dictate as in the case of an injured or ill juvenile being detained, or if specific circumstances exist such as a disciplinary problem or suicide risk.

#### 324.4.5 PANIC / DURESS ALARMS

There are panic/duress buttons that are mounted in both the Prisoner Processing Section and SVB Temporary Holding Cell areas should a member need assistance. These are audible voice alarms and when activated, notification will be made on Channel One.

#### 324.4.6 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 themselves or any unusual behavior which may indicate the juvenile may harm themselves while in either secure or non-secure custody (15 CCR §1142).

The detaining or transporting officer shall notify a supervisor if they believe the juvenile may be a suicide risk. The officer will arrange for transportation to a mental health facility for evaluation or to JJC and arrange for the booking of the juvenile, providing the juvenile meets the intake criteria. The juvenile shall be under constant personal supervision until the transfer is completed.

#### 324.4.7 EMERGENCY MEDICAL CARE OF JUVENILES IN CUSTODY

When emergency medical attention is required for a juvenile who is in custody, EMS will be called. A supervisor shall be notified of the need for medical attention for the juvenile. Department members should administer first aid as applicable (15 CCR §1142). The juvenile will then be transported by EMS to a medical facility.

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

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

### 324.5 CUSTODY OF JUVENILES

Officers should take custody of a juvenile and temporarily hold the juvenile at a Fresno Police Department facility when there is no other lawful and practicable alternative to temporary custody. Refer to Policy §330-Child Abuse Reporting for additional information regarding detaining a juvenile that is suspected of being a victim.

No juvenile should be held in temporary custody at a Fresno Police Department facility without authorization of a supervisor. Juveniles taken into custody shall be held in non-secure custody unless otherwise authorized by this policy.

Any juvenile taken into custody shall be released to the care of the juvenile's parent or other responsible adult or transferred to a juvenile custody facility or to other authority as soon as practicable and in no event shall a juvenile be held beyond six hours from the time of their entry into the Fresno Police Department (42 USC §5633; WIC §207.1(d)).

- (a) **Juvenile Non-Offenders** - Non-offenders taken into protective custody in compliance with the Child Abuse Policy should generally not be held at a Fresno Police Department facility. Juveniles detained pursuant to WIC §300 are not required to be documented on detention logs

or subject to the six hours detention restriction. Custodial arrangements should be made for non-offenders as soon as reasonably possible. Juvenile non-offenders shall not be held in secure detention. (34 USC §11133; WIC §206).

Juveniles 11 years of age or younger who have committed an offense that would subject an adult to arrest may be held in non-secure custody for the offenses listed in WIC §602(b) (murder and the sexual assault offenses) and should be referred to a probation officer for a placement determination.

- (b) **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 detention. (34 USC §11133).
- (c) **Juvenile Offenders** - Juvenile offenders should be held in non-secure detention while at a Fresno Police Department facility 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 (WIC §625).

A juvenile offender who is 14 years of age or older and suspected of using a firearm in violation of WIC §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 WIC §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:

- 1) Released upon warning or citation;
- 2) Released to a parent or other responsible adult after processing at the Department;
- 3) Referred to a probation officer for a decision regarding whether to transport the juvenile offender to a juvenile facility; or
- 4) Transported to their home or to the place where the juvenile offender was taken into custody (WIC §207.2).

In determining which disposition is appropriate, the investigating officer or supervisor shall prefer the alternative that least restricts the juvenile's freedom of movement, provided that alternative is compatible with the best interests of the juvenile and the community (WIC §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 (PC §26).

When an officer is presented with a citizen arrest of a juvenile, the officer may arrest and bypass the citizen arrest procedure per WIC §625.

### **324.6 TEMPORARY CUSTODY**

No juvenile may be held in temporary custody at a Fresno Police Department facility without authorization of a supervisor. An individual taken into custody for WIC §§300 or 601 shall be processed as soon as practical. Juveniles detained pursuant to WIC §300 are not required to be documented on detention logs or subject to the six hours detention restriction.

Juveniles detained may not be held at a Fresno Police Department facility for more than six hours from the time of arrival at the facility. If the six-hour time limit has expired, the juvenile should be transported to JJC or released.

When a juvenile is taken into custody for any offense pursuant to WIC §602 and the juvenile is to be detained in a facility of the Fresno Police Department, the following steps shall be taken by the arresting officer, or the detective assigned to the case:

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

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

#### **324.6.1 TEMPORARY CUSTODY REQUIREMENTS**

Juveniles held in temporary custody shall have the following made available to them (15 CCR §1143);

- (a) Access to toilets and washing facilities;
- (b) One snack upon request during term of temporary custody if the juvenile has not eaten within the past four hours or is otherwise in need of nourishment. The snack shall be provided by the arresting officer or as directed by a supervisor;
- (c) Access to drinking water;
- (d) Privacy during visits with family, guardian, or lawyer;
- (e) Immediately after being taken to a place of temporary confinement, and except where physically impossible, no later than one hour after being taken into custody, advise and provide the juvenile an opportunity to make at least three telephone calls within one hour of being taken into temporary custody. The telephone calls must be made to a parent, guardian, responsible relative, employer, or an attorney (WIC §627 and PC §851.5); and
- (f) Blankets and clothing necessary to ensure the comfort of the juvenile (clothing shall be provided by the Department if the juvenile's clothing is taken as evidence or is otherwise unsuitable or inadequate for the continued wear while in custody).

#### **324.6.2 JUVENILE'S PERSONAL PROPERTY**

The officer placing a juvenile into a detention room must make a thorough search of the juvenile's property. The property shall be inventoried in the juvenile's presence and sealed into the property bag. The property will be maintained by the responsible member until the juvenile is released from the custody of the Department.

#### **324.6.3 USE OF ALTERNATIVE RESTRAINT DEVICES**

Juveniles in temporary custody shall not be subjected to alternative restraints. Handcuffs are not alternative restraints.

WIC §5150: Restraints shall only be used so long as it reasonably appears necessary for the juvenile's protection or the protection of others.

Restraints shall not be used as a punishment, or as a substitute for treatment.

#### **324.7 JUVENILE DETENTION LOGS**

Any time a juvenile is held in custody at Headquarters, any District Stations or other Department facility, the custody shall be promptly and properly documented in the juvenile detention log, including:

- (a) Identifying information about the juvenile;
- (b) Date and time of arrival and release from the Fresno Police Department (15 CCR §1150);
- (c) Supervisor notification and approval to temporarily hold the juvenile;
- (d) Any charges for which the juvenile is being held and classification of the juvenile as a juvenile offender, status offender or non-offender;
- (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 (WIC §207.1(d); 15 CCR §1145); and
- (i) WIC §207.1 Advisement Information for any secure detention.

### **324.8 NO-CONTACT REQUIREMENTS**

Sight and sound separation shall be maintained between all juveniles and adults while in custody at the Department. There should also be sight and sound separation between non-offenders and juvenile and status offenders. There shall be no contact between juveniles held in temporary custody and adult prisoners who are detained except as provided below 34 USC §11133; WIC §207.1(d); WIC §208; 15 §1144).

Contact between juveniles in temporary custody, both secure and non-secure, and adult prisoners shall be restricted as follows:

- (a) There will be no communication between the juvenile and adult prisoners allowed.

### **324.9 CUSTODIAL INTERROGATION**

No interview or interrogation of a juvenile should occur unless the juvenile has the apparent capacity to consent and does consent to an interview or interrogation.

Prior to conducting a custodial interrogation, including the waiver of Miranda rights, an officer shall permit a juvenile 17 years of age or younger to consult with legal counsel in person, by telephone, or by video conference. The consultation may not be waived by the juvenile. The requirement to consult with legal counsel does not apply when (WIC § 625.6):

- (a) Information is necessary to protect life or property from an imminent threat.
- (b) The questions are limited to what is reasonably necessary to obtain the information relating to the threat.

The member conducting the interrogation should explain to the juvenile and parent/guardian what they may expect during the processing and interrogation, including:

- (a) The procedures of the juvenile justice system (e.g., juveniles release pending hearing, mail notification of hearing date/time/location, etc.); and
- (b) The procedures of the Fresno Police Department. (e.g., juvenile processing at HQ, booking vs. cite & release, etc.)

No more than two members should participate in the interrogation of a juvenile.

Exception: Questioning reasonably deemed necessary to protect life or property from imminent threat.

During detention/custody, juveniles may be held only long enough for members to investigate the crime, facilitate release of the juvenile to a parent, guardian, responsible relative or adult designated by the parent, or arrange for them to be transported to JJC.

#### **324.9.1 MANDATORY RECORDINGS**

Any interrogation of an individual under 18 years of age who is in custody and suspected of committing murder shall be audio and video recorded when the interview takes place at a department facility, jail, detention facility or other fixed place of detention. The recording shall include the entire interview and a Miranda advisement preceding the interrogation (PC §859.5).

This recording is not mandatory when (PC §859.5):

- (a) Recording is not feasible because of exigent circumstances that are later documented in a report.
- (b) The individual refuses to have the interrogation recorded, including a refusal any time during the interrogation, and the refusal is documented in a report. If feasible, the refusal shall be electronically recorded.
- (c) The custodial interrogation occurred in another state by law enforcement officers of that state



- unless the interrogation was conducted with the intent to avoid the requirements of PC §859.5.
- (d) The interrogation occurs when no member conducting the interrogation has a reason to believe that the individual may have committed murder. Continued custodial interrogation concerning that offense shall be electronically recorded if the interrogating member develops a reason to believe the individual committed murder.
  - (e) The interrogation would disclose the identity of a confidential informant or would jeopardize the safety of an officer, the individual being interrogated or another individual. Such circumstances shall be documented in a report.
  - (f) A recording device fails despite reasonable maintenance and the timely repair or replacement is not feasible.
  - (g) The questions are part of a routine processing or booking and are not an interrogation.
  - (h) The suspect is in custody for murder and the interrogation is unrelated to a murder. However, if any information concerning a murder is mentioned during the interrogation, the remainder of the interrogation shall be recorded.

These recordings shall be retained until a conviction is final and all direct and habeas corpus appeals are exhausted, a court no longer has any jurisdiction over the individual or the prosecution for that offense is barred (PC §859.5; WIC §626.8).

### **324.10 PROCESSING**

Juveniles under the age of 10 or those in custody for WIC §601 shall not be processed under any circumstances.

The processing of juveniles booked at JJC will be handled by JJC personnel.

CSIB will only process a juvenile if:

- (a) The arresting officer is unable to verify the juvenile's identity; or
- (b) The juvenile is going to be cited and released and the arresting officer wishes to create a record with our Department.

Any juvenile taken to CSIS for processing shall be taken through the public entrance and held in the lobby area until processed. The juvenile shall not be left unattended at any time. All adult prisoners shall be secured in the holding cells and the door closed between the cells and the prisoner processing area. There shall not be any sight or sound contact between the prisoners and the juvenile.

### **324.11 DISPOSITIONS – REPRIMAND & RELEASE / CITATIONS, BOOKINGS**

After an officer has taken a juvenile into temporary custody for a violation of law, the following dispositions are authorized:

- (a) The arresting officer may counsel or admonish the juvenile and recommend no further action be taken (reprimand and release);
- (b) The arresting officer may cite and release; or
- (c) The juvenile may be transferred to JJC when the violation falls within the provisions of WIC §602.

#### **324.11.1 REPRIMAND & RELEASE**

Any juvenile not transferred to JJC shall be released to one of the following:

- (a) Parent or legal guardian;
- (b) An adult member of their immediate family;
- (c) An adult person specified by the parent/guardian;
- (d) An adult person willing to accept responsibility, when the juvenile's parents are unavailable as approved by the member's supervisor; or
- (e) Child Protective Services.

A Juvenile Arrest Report (JAR) shall be completed with applicable charges listed and the involvement code for the juvenile listed as Reprimanded & Released. The narrative of the JAR shall refer to the narrative of the report in Axon Records.

### 324.11.2 CITE & RELEASE

When a juvenile is to be cited for any traffic offense (infraction or misdemeanor) or any infraction non-traffic offense, members shall utilize the standard Traffic/Misdemeanor Citation Form.

When a juvenile is to be cited for any misdemeanor non-traffic offense, the Juvenile Arrest Report (JAR) will serve as the citation.

In deciding whether or not to cite a juvenile (as opposed to arresting and booking), investigating officers shall consider the following criteria.

Misdemeanants shall be cited unless the juvenile:

- (a) Has violated a court order;
- (b) Presents an immediate, serious threat to self or others;
- (c) Has no parent/guardian reasonably available to take custody and assume responsibility for the juvenile's appearance;
- (d) Has committed one of the violations listed in VC §40302; or
- (e) Has a warrant for their arrest.

Prior to issuing a citation to a juvenile, the arresting officer shall confirm the juvenile's identity and determine whether the juvenile has any outstanding wants and/or warrants. Additionally, JJC shall be requested to conduct a warrant hand search of arrested juveniles.

Juveniles who live outside of Fresno County may be cited if they meet the established citation criteria.

### 324.11.3 BOOKING

The juvenile shall be arrested and booked when the officer has reason to believe that the juvenile has committed a felony.

When booking juveniles under 12 years of age, members shall:

- (a) Take reasonable measures to verify the age of the juvenile;
- (b) Establish "clear proof" the juvenile suspect was aware of the wrongfulness of their actions at the time of the offense (PC §26) and committed a qualifying crime set forth within WIC §602(b). Qualifying crimes set forth within WIC §602(b) include:
  - 1) Murder
  - 2) Rape by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.
  - 3) Sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.
  - 4) Oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.
  - 5) Sexual penetration by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.
- (c) Notify a field sergeant, who shall respond to meet with the arresting officer prior to booking.

When a juvenile is to be transported to JJC, the following shall accompany the juvenile:

- (a) An ePCD shall be completed in Fresno County ePCD system for any open misdemeanor or felony charges.
- (b) A Juvenile Detention Disposition Report (JUS 8716). The top section of the Juvenile Detention Disposition Report (Part A for Law Enforcement) shall be completed by the arresting officer. With the exception of the Arresting Agency copy (blue in color), the completed DOJ form shall be left at JJC. The blue copy shall be submitted to Records.
- (c) Any personal property taken from the juvenile at the time of detention.

A JAR shall be completed in Axon Records for each juvenile. The narrative of the JAR shall refer to the narrative of the report in Axon Records.

#### 324.11.4 SUPERVISOR'S RESPONSIBILITIES

Prior to juveniles under 12 years of age being booked into JJC, supervisors shall:

- (a) Meet with the arresting officer to determine if booking is appropriate;
- (b) Obtain the circumstances surrounding the arrest and confirm the decision to book;
- (c) Notify the district or bureau commander of the circumstances surrounding the booking; and
- (d) Ensure the complete and accurate documentation of the incident.

Note: When unusual circumstances exist, the Supervisor shall contact the Department legal advisor to verify the propriety of the booking.

#### 324.12 DISCIPLINE OF JUVENILES

Police personnel are prohibited from administering discipline to any juvenile.

Exception: Juvenile Offender Work Program

#### 324.13 INTOXICATED AND SUBSTANCE ABUSING MINORS

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

A medical clearance shall be obtained prior to detention of a juvenile at the Department when the juvenile displays outward signs of intoxication or is known or suspected to have ingested any substance that could result in a medical emergency (Title 15, CCR §1151).

In addition to displaying outward signs of intoxication, the following circumstances require a medical evaluation:

- (a) Known history of ingestion or sequestration of a balloon containing drugs in a body cavity;
- (b) Juvenile is known or suspected to have ingested any substance that could result in a medical emergency;
- (c) A juvenile who is intoxicated to the level of being unable to care for themselves; and
- (d) An intoxicated juvenile whose symptoms of intoxication are not showing signs of improvement.

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

A juvenile detained and brought to the Fresno Police Department who displays symptoms of intoxication as a result of alcohol or drugs shall be handled as follows:

- (a) Observation of juvenile's breathing to determine that breathing is regular. Breathing should not be erratic or indicate that the juvenile is having difficulty breathing.
- (b) Observation of the juvenile to ensure that there has not been any vomiting while sleeping and ensuring that intoxicated juveniles remain on their sides rather than their backs to prevent the aspiration of stomach contents.
- (c) An arousal attempt to ensure that the juvenile will respond to verbal or pressure stimulation (shaking to awaken). This is the most important monitoring procedure.
- (d) Personal observation shall be conducted on a frequent basis while the juvenile is in the custody of the Fresno Police Department, and no less than once every 15 minutes until such time as the symptoms are no longer present. For juveniles held in secure detention inside a locked enclosure, officers will ensure constant audio monitoring is maintained in addition to conducting the in-person visual checks. All other forms of detention require the officer to maintain constant visual supervision of the juvenile.
  - 1) The 15-minute checks of the juvenile shall be documented on the Juvenile Detention Log of the facility in which the juvenile is being detained.
- (e) Any juvenile who displays symptoms suggestive of a comatose state (increasing difficulty or inability to rouse, irregular breathing patterns, or convulsions), shall be considered an emergency. EMS shall be called, and the juvenile taken to a medical treatment facility.
- (f) Juveniles undergoing acute withdrawal reactions shall immediately be transported by EMS to a medical facility for examination by a physician.

- (g) A medical clearance is required before the juvenile is transported to the Juvenile Justice Campus (JJC) if it is known that the juvenile ingested any intoxicating substances or appears to be under the severe influence of alcohol.

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

#### **324.14 USE OF ALTERNATIVE RESTRAINT DEVICES**

Juveniles in temporary custody shall not be subjected to alternative restraints. Handcuffs are not alternative restraints. WIC §5150: Restraints shall only be used so long as it reasonably appears necessary for the juvenile's protection or the protection of others.

Restraints shall not be used as a punishment, or as a substitute for treatment.

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

In the event of a juvenile's death while being detained at this Department, the District Attorney's Office and the Sheriff-Coroner's Office will conduct the investigation of the circumstances surrounding the death. The Investigations Division Commander or designee will conduct an administrative review of the incident.

In any case in which a juvenile dies while detained at FPD facilities, the following shall apply:

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

#### **324.16 JUVENILE CONTACTS AT SCHOOL FACILITIES**

Officers should make every reasonable effort to notify school officials prior to contacting a student on campus while school is in session.

- (a) Reasonable efforts should be taken to coordinate with school officials to minimize disruption of school functions and maintain a low-profile police presence when contacting a student.
- (b) When circumstances warrant the temporary detention or formal interview of a juvenile student on campus, the officer should:
  - 1) When practical and when it would not unreasonably interfere with the investigation, take reasonable steps to notify a parent, guardian, or responsible adult, including those phone numbers listed on any contact card on file with the school or provided by the student. All efforts to contact parents and/or reasons contact was not attempted should be documented.
  - 2) Upon the request of the juvenile, a school official may be present during the interview in lieu of a parent.

Any juvenile student who is a suspected victim of child abuse shall be afforded the option of being interviewed in private or selecting any qualified available adult member of school staff to be present. The purpose of the staff member's presence is to provide comfort and support and such staff member

shall not participate in the interview. The selection of a staff member should be such that it does not burden the school with costs or hardship (PC §11174.3).

### **324.17 RELEASE OF INFORMATION CONCERNING JUVENILES**

Court decisions and legislation have combined to carefully specify situations in which information may be given out or exchanged when a case involves a juvenile. Officers of this department shall not divulge any information regarding juveniles in situations where they are uncertain of the legal authority to do so.

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

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.

The release of information, including police reports, shall be handled by the Records Section pursuant to the guidelines outlined in WIC §827 and consistent with other policies and procedures.

WIC §828 authorizes the release of certain information to other agencies. It shall be the responsibility of the Records Manager and the appropriate Investigations Division Supervisors to ensure that personnel of those divisions act within legal guidelines.

### **324.18 BOARD OF STATE AND COMMUNITY CORRECTIONS CERTIFICATION**

The Investigations Division Commander shall coordinate the procedures related to the custody of juveniles held at the Fresno Police Department and ensure any required certification is maintained (WIC §210.2).

### **325.1 POLICY**

When exigent circumstances indicate an immediate threat to the life of a person other than a wanted or suicidal subject, officers are expected to take necessary action to preserve life, including forced entry. When no immediate threat to life exists, officers should request supervisor response and establish containment and control over the scene.

#### **325.1.1 PURPOSE AND SCOPE**

Due to increased risk, options other than forced entry should be explored whenever practical. Unless there is a need for immediate action to preserve life, officers should attempt to slow the pace of the call, request additional resources, and ensure scene containment. This policy provides general guidelines for Fresno Police Department personnel to consider when deciding whether or not into force entry to a location.

### **325.2 CONSIDERATIONS**

Factors to consider when determining whether or not to force entry include, but are not limited to:

- (a) Seriousness of the suspected offense;
- (b) Need or exigency to force entry immediately versus waiting for additional resources;
- (c) Warning signs present (History at location, firearms present, etc.);
- (d) Control of on-scene involved parties;
- (e) Available force options;
- (f) Availability of other resources such as Crisis Negotiators, mental health advocates, etc.;
- (g) Whether to breach and hold vs. breach and enter immediately;
- (h) Contingency plans if forced entry doesn't go as planned;
- (i) Attempts to communicate with subject(s) inside location; and/or
- (j) Any information indicating the subject is armed and barricaded.

### **325.3 FORCED ENTRY**

When exigent circumstances indicate an immediate threat to the life of a person other than a wanted or suicidal subject, officers are expected to take necessary action to preserve life, including forced entry. When no immediate threat to life exists, officers should request supervisor response and establish containment and control over the scene.

#### **325.3.1 FORCED ENTRY TO ARREST WITHOUT A WARRANT**

Officers shall not attempt a forced entry into a private building to arrest a violator without a warrant unless:

- (a) Exigent circumstances exist as an exception to statutes or case law (i.e., Ramey);
- (b) Failure to enter and make an arrest would cause undue hazard to the officer; or
- (c) The status quo cannot be maintained and the scene cannot be secured and held until a warrant is obtained.

#### **325.3.2 FORCED ENTRY TO ARREST WITH AN ARREST WARRANT**

Officers attempting the arrest of a person with a warrant who is inside a residence or other building will not force entry into the building to affect the arrest unless:

- (a) All reasonable measures to achieve voluntary submission to arrest have been exhausted;
- (b) Failure to pursue the arrest at that moment would create an immediate danger to life or immediate danger of great bodily injury. Absent an immediate threat to life or immediate threat of great bodily injury, officers should consider temporary postponement while the situation is improved (e.g., calling in special units, negotiators, evacuating neighbors, etc.); and

- (c) There are sufficient officers present to control the arrest situation and surrounding areas.

Any related search warrants and pre-planned tactical operations will be conducted in accordance with Policy §323.

### 325.3.3 FORCED ENTRY TO PROVIDE EMERGENCY ASSISTANCE

When information is received regarding sick, injured, or deceased persons inside a residence, the decision to proceed with forced entry should be made only after other alternatives have been exhausted. Entry should be immediate when it appears reasonably necessary to protect life. Extreme caution should be exercised to minimize the potential for a violent reaction by an unaware inhabitant.

### 325.4 CONSIDERATIONS

Factors to consider when determining whether or not to force entry include, but are not limited to:

- (a) **Seriousness of the suspected offense** – What criminal act has actually been established?
- (b) **Need or exigency to force entry immediately versus waiting for additional resources** – Has the information establishing an exigency been verified? Are the actions, or planned actions, of officers creating the exigency? Are there sufficient officers on-scene to address the situation and any contingencies that may arise?
- (c) **Warning signs** – Is there any prior history involving the location or involved subject(s), which would give rise to specific officer safety concerns (e.g. firearms history)?
- (d) **Control of on-scene involved parties** – Are involved parties (RP's, witnesses, etc.) sufficiently contained to prevent interference with police actions?
- (e) **Available force options** – What is the most appropriate force option (lethal/less lethal/K-9) for the situation? When a less lethal force option is deployed, is a lethal cover officer in place and ready to react immediately if necessary?
- (f) **Additional resources** – Is there a K-9, Crisis Negotiator, or mental health professional (MH-1) available? Has dispatch been directed to check all channels?
- (g) **Breach and hold vs. breach and enter immediately** – If breaching the door has been deemed necessary, what is the need to immediately enter the location? Can the suspect(s) be verbally directed to officers versus officers going into the location? Is cover available and could officers safely retreat in the event of an emergency once they enter a location? Do the benefits of taking the chosen action outweigh the risks involved to officers or citizens?
- (h) **Contingency plans** – What alternatives are available if forced entry does not go as planned? Should EMS be called for standby? Could there be a hostage situation, gas/fire risks, etc.?
- (i) **Available communications** – What attempts have been made to call into the location via ComCen, use of a patrol car PA system, or via voice contact through a closed (or even breached) door?
- (j) **Armed Barricaded Subject** – Has information been established indicating the subject is armed and barricaded? If so, refer to Policy §408 for situations that may indicate the need for SWAT.

When a plan is made to force entry, it is imperative the plan is clearly communicated to involved officers, and that each officer brief back their specific role during the forced entry (i.e. less lethal operator, lethal cover, arrest team, etc.).

### 325.5 RELATED POLICY

Related topics are covered under the following sections of the Policy Manual:

- (a) Use of Force – Policy §300
- (b) Force Options – Policy §308
- (c) Search and Seizure – Policy §322
- (d) Search Warrants/Pre-Planned Tactical Operations – Policy §323

### **326.1 POLICY**

The Fresno Police Department shall investigate all reported incidents of alleged elder and dependent adult abuse and ensure proper reporting and notification as required by law.

#### **326.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide members with guidelines for the investigation and reporting of suspected abuse of certain adults who may be more vulnerable than others. This policy also addresses mandatory notification as required by law, (Penal Code §368.6 ).

### **326.2 DEFINITIONS**

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

**Dependent Adult** -Any person residing in this state, regardless of whether the individual lives independently, between the ages of 18 and 64 years, who has physical or mental limitations that restrict their ability to carry out normal activities or to protect their rights including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. Dependent Adult includes any person between the ages of 18 and 64 years who is admitted as an inpatient to a 24-hour health facility, as defined in Health & Safety Code §§1250, 1250.2, and 1250.3.

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

**Financial Abuse** - A situation in which any person who has the care or custody of, or who stands in a position of trust to, an elder or a dependent adult, takes, secretes, or appropriates their money or property by undue influence or intent to defraud (WIC §15610.30).

**Abuse of an Elder or a Dependent Adult** - Physical abuse including but not limited to any assault or sex crime, (WIC §15610.63) neglect, financial abuse, abandonment, isolation or other treatment with resulting physical harm, pain, mental suffering, or the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering.

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

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

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



**Senior adult vulnerability victimization** - Means any of the following (Penal Code § 368.6):

- a. Elder and dependent adult abuse.
- b. Unlawful interference with a mandated report.
- c. Homicide of an elder, dependent adult, or other adult or child with a disability.
- d. Sex crimes against elders, dependent adults, or other adults and children with disabilities.
- e. Child abuse of children with disabilities.
- f. Violation of relevant protective orders.
- g. Hate crimes against persons with actual or perceived disabilities, including but not limited to disabilities caused by advanced age, or those associated with them.
- h. Domestic violence against elders, dependent adults, and adults and children with disabilities, including disabilities caused by advanced age.

### **326.3 MANDATORY REPORTING REQUIREMENTS**

Members of the Fresno Police Department shall notify the local office of the California Department of Social Services (CDSS) Adult Protective Services (APS) agency when they reasonably suspect, have observed or have knowledge of an incident that reasonably appears to be abuse of an elder or dependent adult, or are told by an elder or dependent adult that they have experienced abuse [WIC §15630(b)]. Notification shall be made by telephone as soon as practicable and a written report shall be provided within two working days as provided in [WIC §15630(b)(c)].

#### **326.3.1 NOTIFICATION PROCEDURE**

Notification should include the following information, if known [WIC §15630(e)]:

- (a) The name of the person making the report.
- (b) The name and age of the elder or dependent adult.
- (c) The present location of the elder or dependent adult.
- (d) The names and addresses of family members or any other adult responsible for the care of the elder or dependent adult.
- (e) The nature and extent of the condition of the elder or dependent adult.
- (f) The date of incident; and
- (g) Any other information, including information that led the person to suspect elder or dependent adult abuse.

### **326.4 ELDER / DEPENDENT ADULT ABUSE REPORTING**

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

- (a) Current location of the victim;
- (b) Victim's condition/nature and extent of injuries, neglect or loss; and
- (c) Names of agencies and personnel requested and on scene.
- (d) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected elder / dependent adult abuse victim is contacted.
- (e) Any relevant statements the victim may have made and to whom they made the statements.
- (f) If a person is taken into protective custody, the reasons, the name and title of the person making the decision and why other alternatives were not appropriate.
- (g) Whether the victim was transported for medical treatment or a medical examination.
- (h) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other potential victims or witnesses who may reside in the residence.
- (i) Identification of any prior related reports or allegations of abuse, including other jurisdictions, as reasonably known.
- (j) Previous addresses of the victim and suspect.
- (k) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.
- (l) Results of investigations shall be provided to those agencies (APS, long-term ombudsman) that referred or reported the adult abuse [WIC §15640(f)].
- (m) Whether a death involved the End of Life Option Act:

- 1) Whether or not assistance was provided to the person beyond that allowed by law (HS §443.14)
- 2) Whether an individual knowingly altered or forged a request for an aid-in-dying drug or concealed or destroyed a withdrawal or recession of a request for an aid-in-dying drug (HS §443.17)
- 3) Whether coercion or undue influence was exerted on the person to request or ingest an aid-in-dying drug (HS §443.17)

Any unexplained death of an adult who was in the care of a guardian or caretaker should be considered as potential adult abuse and investigated similarly.

Reporting of cases of elder/dependent adult abuse is confidential and will only be released as per Policy §810.

### **326.5 ELDER / DEPENDENT ADULT ABUSE CONSIDERATIONS**

Officers responding to incidents of actual or suspected elder/dependent adult abuse shall consider the following sections when handling these calls:

- (a) Officers may be called upon to affect a forced entry as the first responder to the scene of a suspected elder / dependent adult abuse. (Policy §§360 & 325);
- (b) 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. Frequently it is wrongfully assumed that elderly / dependent adult persons are incapable of accurately reporting the incident. Do not automatically discount the statement of an elderly / dependent adult person;
- (c) Any evidence, such as injuries that may change in appearance, should be photographed immediately;
- (d) Officers should assess the available information to determine the type(s) of abuse that may have taken place or the potential for abuse in the future that may be eliminated by our intervention; and
- (e) Make on-scene arrests when appropriate. Immediate arrest of an abuser (especially when the abuser is a family member or caretaker) may leave the elderly / dependent adult victim without necessary support and could result in institutionalization. The effect of an arrest on the victim should be considered and weighed against the assessed risk and the competent victim's desires. The present and future safety of the victim is of utmost importance.

### **326.6 DRUG-ENDANGERED VICTIMS**

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and long-term medical and safety needs of an elder / dependent adult abuse victim who has been exposed to the manufacturing, trafficking or use of narcotics.

#### **326.6.1 OFFICER RESPONSIBILITIES**

Officers responding to a drug lab or other narcotics crime scene where an elder / dependent adult abuse victim is present or where there is evidence that an elder / dependent adult abuse victim lives should:

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

### **326.7 INTERVIEWS**

#### **326.7.1 PRELIMINARY INTERVIEWS**

Absent extenuating circumstances or impracticality, officers should record the preliminary interview with a suspected adult abuse victim. Officers should avoid multiple interviews with the victim.

#### **326.7.2 DETAINING VICTIMS FOR INTERVIEWS**

An officer should not detain an adult involuntarily who is suspected of being a victim of abuse solely for the purpose of an interview or physical exam without their consent or the consent of a guardian unless one of the following applies:

- (a) Exigent circumstances exist, such as:
  - 1) A reasonable belief that medical issues of the adult need to be addressed immediately.
  - 2) A reasonable belief that the adult is or will be in danger of harm if the interview or physical exam is not immediately completed.
  - 3) The alleged offender is a family member or guardian and there is reason to believe the adult may be in continued danger.
- (b) A court order or warrant has been issued.

**Interpreter with a person with deafness or hearing loss** An officer who is interviewing a victim or witness who reports or demonstrates deafness or hearing loss should secure the services of a qualified interpreter (as defined by Evidence Code § 754) prior to the start of the interview (Penal Code § 368.6).

### **326.8 MEDICAL EXAMINATIONS**

When an adult abuse investigation requires a medical examination, the investigating officer should obtain consent for such examination from the victim, guardian, agency or entity having legal custody of the adult. The officer should also arrange for the adult's transportation to the appropriate medical facility.

In cases where the alleged offender is a family member, guardian, agency or entity having legal custody and is refusing to give consent for the medical examination, officers should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for officers to take the adult for a medical examination, the supervisor should consider other government agencies or services that may obtain a court order for such an examination.

### **326.9 SUPPORT PERSONNEL**

The following person(s) should be considered if it appears an in-depth investigation is appropriate:

- (a) Supervisor;
- (b) Detectives;
- (c) Personnel for evidence collection;
- (d) Adult Protective Services Agency personnel (APS); and
- (e) Ombudsman shall be called if the abuse is in a long-term care facility.

### **326.10 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 [FC § 6250(d)].

### **326.11 RECORDS BUREAU RESPONSIBILITY**

The Records Bureau is responsible for the following:

- (a) Providing a copy of the elder/dependent adult abuse report to APS, ombudsman or other agency as applicable within two working days or as required by law [WIC §§15630 & 15640(c)]. This requirement is applicable even if the initial call was received from APS; and
- (b) Retaining the original elder/dependent adult abuse report with the initial case file.

## Fresno Police Department Policy Manual Discrimination, Harassment, and Retaliation

### 328.1 POLICY

The Fresno Police Department is committed to creating and maintaining a work environment that is free of all forms of discrimination, harassment, and retaliation. All complaints will be fairly, timely, and thoroughly investigated. The Department will take appropriate, corrective, and disciplinary action, up to and including termination, for any behavior that violates this policy or the rights and privileges it is designed to protect.

#### 328.1.1 PURPOSE AND SCOPE

The purpose of this policy is to prevent members from being subjected to discrimination, harassment, and/or retaliation, and to ensure a full and equal employment opportunity and maintain and foster a work environment free from discrimination and harassment based on protected classifications for all members, in conformance with Title VII of the Civil Rights Act of 1964, the guidelines issued by the Equal Employment Opportunity Commission, the California Fair Employment and Housing Act, and the guidelines issued by the administrative agencies for those will be adhered to. A process of filing a complaint against any members of this department is found in Policy § 1020.

### 328.2 DEFINITIONS

**Discrimination** - Any verbal, physical or visual conduct, acts, or omissions which subject a member to disparate treatment including, but not limited to; terminating a member, subjecting a member to different performance standards or reviews, disciplining a member, depriving a member of job benefits or compensation, or excluding any person from employment or promotional opportunities, because of race, color, ancestry, religious creed, national origin, sex, sexual orientation, gender, gender identity, gender expression, physical disability (including HIV and AIDS), mental disability, medical condition, genetic information, age, marital status, military and veteran status, or any other classification protected by law.

**Harassment** – Harassment may be verbal, physical, or visual conduct which is unwelcomed and directed or related to a member’s protected classification. Harassment that unreasonably alters a member’s working conditions to make it more difficult for that member to do their job could constitute a hostile work environment based on the totality of circumstances, even if based on a single incident.

Members who engage in harassment of anyone protected under this policy may be personally liable for the harassment, regardless of whether the Department knew or should have known of the conduct and/or failed to take appropriate corrective action. See City of Fresno [Administrative Order 2-16](#).

Examples of conduct that may constitute harassment, include but are not limited to verbal harassment such as harassing phone calls, derogatory comments, slurs or jokes directed to a member or group of members on account of protected classification, visual harassment, through writings, e-mails, pictures, cartoons or posters which ridicule or demean a member or group of members’ protected classifications, and physical harassment, such as unwelcomed or offensive touching, stalking, or impeding or blocking movement on the basis of protected classifications, defined below:

**Sexual Harassment** - Sexual harassment includes the verbal, visual, or physical conduct described above under **Harassment**, but is further defined to include, but is not limited to; unwelcomed sexual advances, requests for sexual favors and other acts of a sexual nature where:

- (a) Submission to such conduct is made either explicitly or implicitly a term or condition of a member’s employment;
- (b) Submission to or rejection of such conduct by a member is used as the basis for employment decisions affecting the member; and/or

- (c) Conduct that has the purpose or effect of interfering with a member's work conditions such that the conduct makes it more difficult for the member to do their job, or creating an intimidating, hostile, or offensive work environment.
- (d) In addition, gender-based discrimination, which may include acts of verbal, nonverbal, or physical aggression, intimidation or hostility based on a person's gender, gender identity, or gender expression, but not involving conduct of a sexual nature, may be a form of sexual harassment of the member.

The conduct does not need to occur between persons of differing rank or power. Sexual harassment may occur between co-workers or equally ranked members. In addition, sexual harassment may involve a female harassing a male, a male harassing a female, or a person harassing another person of the same, or any other, gender. The conduct need not be motivated by sexual desire to constitute sexual harassment.

In determining a hostile work environment, the type of workplace or particular job does not matter even if it had more frequent sexually related commentary or conduct in the past, unless it is integral to the performance of the member's job duties.

Examples of verbal, physical, or visual conduct that may constitute sexual harassment include, but are not limited to direct propositions of a sexual nature, sexual innuendoes, subtle pressure for sexual activity such as repeated, unwelcome requests for dates, inappropriate comments, staring, or touching, direct or implied threats that submission to sexual advances will be a condition of employment, promotions, advancement, or continued employment, conduct that is discomforting, humiliating or both, and includes sexual comments, jokes, questions, anecdotes, unnecessary or unwanted touching, patting, massaging, hugging, or brushing against another person's body, remarks of a sexual nature, insulting sounds or gestures, unwelcome and inappropriate writings, calls or other communications including social media posts or messages, stalking, impeding or blocking movement, and sexual assault.

Discrimination/harassment does not include the following:

- (a) Bona fide acts or omission of acts based solely upon bona fide occupational qualifications under Equal Employment Opportunity Commission and California Fair Employment and Housing Commission Guidelines; and/or
- (b) Bona fide requests or demands by a supervisor that the member improve their work quality or output, that the member report to the job site on time, that the member comply with City or departmental rules or regulations, or any other appropriate work-related communication between supervisor and member.

**Retaliation** – An adverse action taken against a member for making a complaint of discrimination or harassment, or for cooperating in the investigation of such allegations. Members who engage in retaliation of anyone protected under this policy may be personally liable for the retaliation, regardless of whether the Department knew or should have known of the conduct and/or failed to take appropriate corrective action.

#### 328.2.1 PROTECTED CLASSES DEFINED

**Age** - Any individual who is forty (40) years of age or older.

**Disability** - Includes, but is not limited to, deafness, blindness, partially or completely missing limbs, mobility impairments requiring the use of a wheelchair, cerebral palsy, and chronic or episodic conditions such as HIV/AIDS, hepatitis, epilepsy, seizure disorder, diabetes, multiple sclerosis, and heart and circulatory disease.

**Gender** - A person's sex, gender identity and gender expression.

**Gender Expression** - A person's gender-related appearance or behavior, whether or not stereotypically associated with the persons' sex at birth.

**Gender Identity** - A person's identification as male, female, a gender different from the person's sex at birth, or transgender.

**Genetic Characteristic** - Any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or their offspring, or that is determined to be associated with a statistically increased risk of development of a disease or disorder, and that is presently not associated with any symptoms of any disease or disorder.

**Genetic Information** - A person's genetic tests and the genetic tests of an individual's family members; information about the manifestation of a disease or disorder in an individual's family members (i.e. family medical history); An individual's request for, or receipt of, genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual; or the genetic information of a fetus carried by an individual or by a pregnant woman who is a family member of the individual and the genetic information of any embryo legally held by the individual or family member using an assisted reproductive technology.

**Marital Status** - An individual's state of marriage, non-marriage, divorce or dissolution, separation, widowhood, annulment, or other marital state.

**Medical Condition** -Any health impairment related to or associated with any genetic characteristics or a diagnosis of cancer, a record, or history of cancer.

**Mental Disability** - Includes, but is not limited to, emotional or mental illness, intellectual or cognitive disability, organic brain syndrome, or specific learning disabilities, autism spectrum disorders, schizophrenia, and chronic or episodic conditions such as clinical depression, bipolar disorder, post-traumatic stress disorder, and obsessive compulsive disorder.

**National origin** - Includes, but is not limited to, the individual's or ancestors' actual or perceived:

- (a) Physical, cultural, or linguistic characteristics associated with a national origin group;
- (b) Marriage to or association with persons of a national origin group;
- (c) Tribal affiliation;
- (d) Membership in or association with an organization identified with or seeking to promote the interests of a national origin group;
- (e) Attendance or participation in schools, churches, temples, mosques, or other religious institutions generally used by persons of a national origin group; and
- (f) Name that is associated with a national origin group.

**Physical disability** -Includes, but is not limited to, all of the following:

- (a) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:
  - 1) Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; and
  - 2) Limits a major life activity.

**Race/Color** - Involves treating someone (an applicant or member) unfavorably because they are of a certain race or because of personal characteristics associated with race (such as hair texture, skin color, or certain facial features). Color discrimination involves treating someone unfavorably because of skin color complexion. Race/color discrimination also can involve treating someone unfavorably because the person is married to (or associated with) a person of a certain race or color.

**Religion/ Religious Creed** - Includes any traditionally recognized religion as well as beliefs, observances, or practices, which an individual sincerely holds and which occupy in their life a place of

importance parallel to that of traditionally recognized religions. It encompasses all aspects of religious belief, observance, and practice, including religious dress and grooming practices.

**Sex** - A person's biological or anatomical identity as male or female; which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth, and breastfeeding.

**Transgender** - A person whose gender identity differs from the person's sex at birth. A transgender person may or may not have a gender expression different from social expectations of the sex assigned at birth and may or may not identify as transsexual.

### **328.3 ROLES AND RESPONSIBILITIES**

This policy applies to all Department personnel. All members shall adhere to these guidelines in a manner that reflects Department policy, AO 2-16, professional law enforcement standards (POST), and the best interest of the Department and its mission.

#### **328.3.1 MEMBER'S RESPONSIBILITIES**

All members shall promptly report any observed or known violations of this policy to a supervisor. Members may seek supervisory assistance as described below (Step 2). Members not comfortable with reporting violations of this policy to their immediate supervisor may bypass the chain of command and report it to the next higher level of supervision. Members may also go directly to the Internal Affairs Bureau or the Personnel Services Department as per AO 2-16 with a complaint.

Members have the additional option of requesting an investigation of alleged discrimination, harassment, or retaliation (Collectively referred to as "discrimination") either from the City's Equal Employment Opportunity Officer (The Director of Personnel), or the appropriate state or federal agency. However, members are encouraged to exhaust Department and City provided remedies in order to give the Department and City the opportunity to rectify a situation, when a problem does in fact exist, before seeking redress from other sources. The provisions in this order apply when a victim or witness chooses to file a complaint with the Department and/or City through the Personnel Services Department. Both victim and witness to an alleged complaint of this policy have equal rights and options to formalize their complaint. Below are some options they may choose.

#### **328.3.2 QUESTIONS OR CLARIFICATIONS**

Members with questions regarding what constitutes discrimination, sexual harassment, or retaliation are encouraged to contact a supervisor, a manager, the Chief of Police, Director of Personnel Services, or the California Department of Fair Employment and Housing (DFEH) for further information, direction, or clarification (Government Code §12950).

#### **328.3.3 SUPERVISOR'S RESPONSIBILITIES**

Each supervisor, commander, and manager (collectively referred to as "supervisors") shall take reasonable steps to:

- (a) Ensure that the work environment is free from all types of unlawful discrimination;
- (b) Take prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination;
- (c) Notify the district commander or the unit commander, in writing, of the circumstances surrounding any reported allegations of discrimination no later than the next business day;
- (d) Take immediate and appropriate corrective action when they observe or learn of an incident of discrimination;
- (e) Adhere to a standard of conduct that is respectful, courteous, and nondiscriminatory. Any supervisor, commander, and manager who knew about a discrimination or harassment allegation and condoned or ratified it by failing to take action, can be held personally liable for damages and be subject to disciplinary action; and
- (f) Assess or address the potential for any continuing hostile work environment when an internal discrimination allegation is made.

#### 328.3.4 SUPERVISOR'S ROLE

Because of differences in individual values, supervisors may find it difficult to recognize that their behavior or the behavior of others is in violation of this policy.

Supervisors and managers shall be aware of the following considerations:

- (a) Behavior of supervisors should represent the values of our Department and professional law enforcement standards;
- (b) False or mistaken accusations of discrimination have negative effects on the careers of innocent members;
- (c) Supervisors must act responsibly in the handling of such situations; and
- (d) Supervisors must make a determination on any allegations based upon all available facts.

### **328.4 HANDLING INTERNAL ALLEGATIONS OF DISCRIMINATION, HARASSMENT OR RETALIATION**

#### 328.4.1 STEP 1 - MEMBER TO MEMBER RESOLUTION (OPTIONAL)

In an attempt to encourage communication and resolve the matter, members who believe they are experiencing discrimination, harassment or retaliation should inform the individual that their behavior is unwelcome, offensive, or inappropriate. The problem may simply be a misunderstanding or lack of communication, which may not be a violation of this policy. If a member feels uncomfortable, supervisory or management assistance or mediation should be considered as outlined below in Step 2.

When the complaining party does not wish an attempt at supervisory assistance or the member feels the problem is not a misunderstanding or lack of communication, the member must proceed to Step 3

#### 328.4.2 STEP 2 - SUPERVISORY ASSISTANCE (OPTIONAL)

Supervisors, who receive or become aware of complaints, should attempt to resolve any misunderstanding or lack of communication between the involved parties. The assistance should be provided by a supervisor one rank higher than the alleged offender.

If it appears the complaint is the result of a misunderstanding, the supervisor shall prepare a memorandum documenting the nature of the complaint and the outcome of their efforts.

- (a) All parties shall review and sign the memorandum with an acknowledgment they reviewed the memorandum, and the memorandum is an accurate reflection of the incident and resolution of the misunderstanding or lack of communication.
- (b) This memorandum shall be forwarded via Blue Team through the chain of command to the Chief of Police or designee. An Inquiry or Complaint Form shall also be completed, and the disposition should be listed as a resolved inquiry.
- (c) This memorandum shall be filed in the Internal Affairs Bureau after review and concurrence by the Chief of Police or designee.

When discrimination, harassment or retaliation is not a misunderstanding or lack of communication, mediation will not be an option for a resolution between the involved parties. The complaint must proceed to Step 3 for investigation and disposition.

#### 328.4.3 STEP 3 - FORMAL DISCRIMINATION OR HARASSMENT COMPLAINT (MANDATORY)

When the complaining party chooses not to utilize Step 1 or 2 above, the complaining member shall report it as provided in [AO 2-16](#) or to a supervisor in the Police Department. When a supervisor learns of a complaint of discrimination under this policy that is not a misunderstanding or lack of communication, the supervisor shall:

- (a) Prepare a memorandum documenting the facts surrounding the complaint;
- (b) Have the complainant review and sign the memorandum with an acknowledgment they;
  - 1) Have reviewed the memorandum; and
  - 2) The memorandum is an accurate reflection of their complaint.
- (c) Forward the memorandum via Blue Team through the chain of command to the Chief of Police or designee. The Blue Team entry shall be handled as a Receipt of Complaint.



While a report of discrimination is being investigated, the division commander shall make reasonable efforts to temporarily separate the complainant and the accused if the complainant requests it. Depending on the nature of the complaint and if the involved parties cannot be separated then administrative leave may be appropriate.

Note: The complaining member may report directly to the Personnel Services Department as another means to investigate the complaint.

#### **328.4.4 INVESTIGATION OF UNRESOLVED COMPLAINTS**

The Personnel Services Department normally investigates complaints of discrimination under AO 2-16, but the Internal Affairs Bureau, or an outside investigator if appropriate, may also conduct complaints of discrimination under this policy. Investigations of complaints of discrimination conducted by the Personnel Services Department or others outside of the Internal Affairs Bureau are done with the authority of the Chief of Police or designee.

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

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

Upon completion, the report of the investigation shall be transmitted to the Director of the Personnel Bureau, who shall transmit the report and their recommendations to the Chief or Police or designee. If after the review, it appears any procedural or policy violations exist, the matter shall be referred to the Internal Affairs Bureau for assignment to determine any such violations.

When the Chief of Police is the subject of the complaint, the investigation will be conducted by the Personnel Services Director, or an outside consultant hired by the City Attorney's Office.

In all cases, every effort will be made to resolve a complaint as rapidly as possible while recognizing the privacy rights and interests of all persons involved.

Any retaliation against a member for making a discrimination complaint, reporting discrimination that they witnessed, or assisting in a discrimination investigation is strictly prohibited. Any member who engages in retaliation against another member will be subject to disciplinary action, up to and including termination.

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

#### **328.5 NOTIFICATION OF DISPOSITION**

Complainant and accused will be notified in writing of the disposition.

#### **328.6 DOCUMENTATION OF COMPLAINTS**

All complaints or allegations shall be documented and tracked on forms and in a manner designated by the Chief of Police. All reports shall be approved by the Chief of Police and maintained for a minimum of five years.

#### **328.7 AUTHORITY FOR RESOLVING COMPLAINTS**

The Chief of Police or designee reserves the right to determine the appropriate corrective/disciplinary action necessary in any case, up to and including termination in accordance with City and Department policies.

### **328.8 RIGHT TO APPEAL**

Members receiving any corrective action as a result of the findings of an investigation shall have the right to appeal any resolution of a discrimination or harassment complaint to the Chief of Police or designee.

### **328.9 TRAINING**

All new members shall be provided with a copy of this policy and AO 2-16 as part of their orientation. The policy shall be reviewed with each new member. The member shall certify by signing the prescribed form that they have been advised of this policy, is aware of and understands its contents and agrees to abide by its provisions during their term with the Department.

All members shall receive triennial training on the requirements of this policy and shall certify by signing the prescribed form that they have reviewed the policy, understood its contents, and agree that they will continue to abide by its provisions.

#### **328.9.1 STATE REQUIRED TRAINING**

Members will receive the required state training and education regarding sexual harassment, prevention of abusive conduct, and harassment based on gender identity, gender expression, and sexual orientation as follows (GC §12950.1; 2 California Code of Regulations §11024):

- (a) Supervisory members shall receive two hours of classroom or other effective interactive training and education within six months of assuming a supervisory position.
- (b) All other members shall receive one hour of classroom or other effective interactive training and education within six months of their employment or sooner for seasonal or temporary members as described in GC §12950.1.

All members shall receive refresher training every two years thereafter including one hour of training to non-supervisory members and two hours of training to supervisors.

### **329.1 POLICY**

Any allegation of a criminal assault being committed will be investigated to the fullest extent by members of this Department with appropriate, timely, and accurate evidence collection if possible.

#### **329.1.1 PURPOSE AND SCOPE**

To ensure that no assault is unreported and ensure that efforts are made to collect and archive all evidence to aid in the prosecution of the perpetrator.

### **329.2 REQUESTING PHOTOGRAPHS**

The investigating member should request a Crime Scene Bureau (CSB) technician to photograph a victim's injury when the injuries are of a serious nature or the circumstances indicate that the assault is an ongoing domestic violence problem.

- (a) When the CSB is unable to respond, officers may transport the victim to HQ for photographs of injuries (Officers should confirm that a CSB tech of the same sex as the victim is available when the photograph involves an intimate body area).
- (b) Photographs of a victim's injuries should be taken at the time of the initial investigation when possible.
- (c) When circumstances do not allow for photographs during the initial investigation, the victim may be directed to respond to the Crime Scene Bureau between the hours of 8:00 AM and 4:00 PM on normal business days.
- (d) The original report of the assault shall contain an explanation as to why needed photographs were not taken.

Members referring victims to the CSB for photographs shall provide victims with the following information in writing and advise them to take the information with them when they respond to HQ:

- (a) Case Number;
- (b) Type of Crime;
- (c) Location of occurrence;
- (d) Date of occurrence; and
- (e) Name of reporting member.

When the victim's injuries are not serious (e.g., small bruises, redness and/or swelling, etc.) a detailed description of injuries and/or complaints of pain in the report are sufficient absent special circumstances.

### **329.3 PHOTOGRAPHS OF INTIMATE BODY AREAS**

CSB members shall only photograph those injuries that are readily visible without the victim having to disrobe in the CSB.

When it is necessary to take photographs of injury to an intimate body area the victim shall not be referred to the CSB. Instead, the primary investigating member shall:

- (a) Make arrangements to have photographs taken at the Community Regional Medical Center (CRMC) Assault Investigation Room, a private office, or the victim's home;
- (b) Utilize a female CSB tech to take photographs of female victims or a male CSB tech to take photographs of male victims; and
- (c) Make arrangements for a female member to stand by while a female victim is being photographed.

### **329.4 WEAPON ATTACKS AGAINST BUILDINGS AND VEHICLES**

Violations of Penal Code §§246 and 247 shall be investigated as assaults with the appropriate care taken by the primary investigating member to collect and preserve necessary evidence. The Crime Scene Bureau shall be requested to take photographs and collect evidence at PC §§246 and 247 scenes.

### **329.5 AID TO VICTIMS OF VIOLENT CRIMES**

Members who investigate assaults or any other violent crimes shall provide victims or their dependents with the Department Victim/Witness Form which outlines the availability of a broad range of services available from the Victim/Witness Service Center.

Investigating members will note in the body of their report of a violent crime the fact that the form was provided and to whom it was given.

Policy  
**330**

Fresno Police Department Policy Manual  
**Child Abuse Reporting**

**330 Child Abuse Reporting**

**330.1 POLICY**

The Fresno Police Department treats reports of crime against children involving suspected abuse as high priority criminal activity that is to be fully investigated regardless of the relationship between the victim and the suspect(s).

**330.1.1 PURPOSE AND SCOPE**

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

**330.2 DEFINITIONS**

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

**Child Abuse** – A physical injury which is inflicted by other than accidental means on a child by another person. Child abuse also means the sexual abuse, or any act or omission proscribed by Penal Code § 273a (willful cruelty or unjustifiable punishment of a child) or PC §273d (unlawful corporal punishment or injury). Child abuse also means the neglect of a child or abuse in out-of-home care. Child abuse does not include a mutual affray between children. Child abuse does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of their employment as a peace officer. (PC §11165.6)

**Neglect** - The negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.

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

**330.3 CHILD ABUSE REPORTING**

Pursuant to PC §11165.9, this Department is defined as a "child protective agency". All members of this Department are responsible for the proper reporting of child abuse. Any member who encounters any child whom they reasonably suspect has been the victim of child abuse shall immediately take appropriate action and prepare a crime report pursuant to PC §11166.

**330.3.1 DEPARTMENT MEMBER RESPONSIBILITIES**

The member's primary responsibility shall be to ensure a child is in, or placed in, a safe environment. Subsequent criminal investigations and/or arrest are secondary issues.

Members dispatched to incidents of suspected abuse, neglect, or endangerment shall:

- (a) Investigate to determine if the child has suffered, or there is a substantial risk that the child will suffer [e.g., Welfare & Institutions Code §300 (a)-(d) and (j)], physical abuse, neglect or endangerment and/or whether a crime has been committed;
- (b) Attempt to obtain the name, telephone number, and information that gave rise to the reasonable suspicion of child abuse or neglect from the nonmandated reporter(s) and the source of the information that gave rise to the reasonable suspicion of child abuse or neglect. If the reporter refuses to provide the information, officers shall make efforts to determine the basis for that refusal and advise the reporter the identifying information will remain confidential. Officers should notate any such refusals in the narrative of the report;
- (c) Take reasonable steps to determine if there are any other children in the home who may be at risk of abuse;

- (d) Determine who the perpetrator(s) is/are, and whether the child will be removed and placed with CPS per WIC §300 and WIC §305; and
- (e) Shall notify their supervisor when investigating any child abuse cases.

Incidents involving serious injuries, or sensitive in nature, supervisors shall notify the Child Abuse Unit Supervisor to determine if investigators should respond. If unable to contact the Child Abuse Unit Supervisor, the Night Detective Unit Supervisor may be contacted to determine if investigators should respond.

### 330.3.2 NEWBORNS TESTING POSITIVE FOR DRUGS

Members shall not respond to medical facilities to place WIC §300 holds on drug-exposed infants. Members will continue to respond to other requests for WIC §300 hold evaluations on suspected child abuse, neglect, and/or endangerment incidents.

## 330.4 TEMPORARY PROTECTIVE CUSTODY

### 330.4.1 AUTHORITY TO TAKE INTO CUSTODY

Both our agency and CPS shall work collaboratively, sharing information and participating in a shared decision-making process.

- (a) Through this process, the officers may take into temporary protective custody any juvenile falling under the provisions of WIC §305.
- (b) In all cases where a juvenile is placed under WIC §305, the incident shall be investigated sufficiently to determine whether siblings of the victim juvenile are also at risk and subject to protective custody.

Members taking juveniles into protective custody under authority of WIC §305 shall immediately notify CPS directly by telephone or through ComCen to initiate placement and follow-up measures.

### 330.4.2 PLACING MINOR WITH RELATIVES / FRIENDS

When a juvenile is left without supervision as the result of the arrest of one or both parents, a placement is not required when:

- (a) The charges against the parents do not include any violation against the juvenile including sexual assault, physical abuse, neglect, or endangerment. Charges related to drug usage or drug possession (where the juvenile may have had access to the drugs) may constitute endangerment and should be evaluated accordingly; and
- (b) A parent with legal custody requests that the juvenile be placed with a friend or relative who agrees to assume responsibility; and
- (c) The officer evaluates the friend or relative and their home environment and determines it is reasonably fit and does not constitute an obvious risk to the juvenile; and
- (d) The juvenile is not in need of immediate medical attention.

When custody is assumed by a relative or friend under these circumstances, full identifying information on the person taking custody shall be included in the officer's report of the incident. CPS shall not be notified in these circumstances.

### 330.4.3 PLACEMENT PROCEDURES

When the decision to place a juvenile has been made by an officer, the determination of where the juvenile is to be placed rests solely with CPS.

When it is determined that a juvenile will be removed from the home, the officer should assist the CPS worker in locating clothing, identification papers, Medi-Cal cards, and other necessary items.

### 330.4.4 NOTIFICATION OF PARENTS

Officers placing a juvenile in protective custody shall ensure that a parent, guardian, or responsible relative is contacted and advised to contact CPS for information on the juvenile.

### 330.4.5 CPS ASSISTANCE

CPS provides assistance to law enforcement in situations where juveniles need protection. Social workers are available on a 24-hour basis to provide:

- (a) Assistance in evaluating the juvenile's home situation and the need for the juvenile's removal. In the absence of a court order, the final decision to remove the juvenile shall be made by the officer. When there is disagreement between the officer and the CPS worker concerning the need for the juvenile's removal, the officer's supervisor shall be called to determine if removal is warranted under WIC §300. When the supervisor determines that removal is warranted, the officer shall remove the juvenile. If CPS is not satisfied with the supervisor's decision, the supervisor should call a field commander who will make the final decision. When CPS is not satisfied with the Field Commander's decision, CPS shall make their concerns known through their chain of command;
- (b) Placement of the juvenile and investigation of placement alternatives. This may involve the location of relatives or the provision of homemaker services; and
- (c) Transportation to medical or foster care facilities as needed when a juvenile is placed into their custody.

When an officer suspects physical or sexual abuse of a juvenile, a CPS worker shall be notified so that a medical evaluation of the juvenile may be initiated. Whenever possible, the officer shall contact CPS directly either in person or by telephone (FPD Dedicated Line, 453-6474, or the main line, 255-8320). The officer shall provide:

- (a) The name(s) and birth date(s) of the parent(s) and of the juvenile(s) who is/are to be placed,
- (b) The reason for the placement (e.g., abuse, neglect, endangerment, etc.),
- (c) Whether any relative(s) are standing by for placement purposes, and
- (d) The relative's name(s) and birth date(s) so that this information can be relayed to CPS at the time of the request.

### 330.5 REPORTING REQUIREMENTS

#### 330.5.1 REPORT TITLE

Reports on placements of juveniles under WIC §§300/305 shall be titled according to the incident which justified the placement, not simply "WIC §300."

When a juvenile is placed as the victim of a crime, the report shall be titled with the appropriate criminal statute.

When a juvenile is placed under circumstances of "substantial risk of serious harm" etc., [WIC §300 (a)-(d), and (j)] which fall short of a criminal violation, the report shall be titled, "Possible Child Endangerment."

When a juvenile is placed as a result of the arrest of a parent for charges unrelated to conduct against the juvenile and the placement is being made because there is no one to assume custody of the juvenile, the report shall be titled according to the charges on which the parent is arrested (e.g., warrants, petit theft, etc.).

In all placement cases special routing to CPS shall be indicated on the original report.

#### 330.5.2 ADVISE / REPORT / ROUTE

Members shall:

- (a) **Advise** CPS of any incidents regarding suspected or actual abuse;
- (b) Submit a GI Incident or crime **report**, listing all names of any children residing in the home; and
- (c) **Route** that report to CPS through the manage distribution request section located in Axon.
- (d) Ensure child abuse cases are appropriately classified.

Examples are:

- (a) Officers respond to a report of possible abuse. Upon arrival, officers are unable to make contact – no one is home. The call is cleared, "UTL." Officers are to advise CPS, submit a synoptical report, and route the report to CPS.

- (b) Officers respond to a report of possible abuse. Upon arrival, officers contact the children and parents. After further investigation (additional statements, reporting party contacted, etc.), the findings are inconclusive and there is insufficient evidence to determine whether child abuse or neglect has occurred. Officers are to advise CPS, submit a possible crime report, and route the report to CPS.
- (c) Officers respond to a report of possible abuse. Upon arrival, officers contact the children and the parents. Based upon the evidence, it appears more likely than not that child abuse or neglect occurred. Officers are to advise CPS, submit a crime report, and route the report to CPS.

### 330.5.3 UNFOUNDED INCIDENTS

Officers shall use caution when clearing a call as "unfounded." "Unfounded" is a call determined by the officer(s) who conducted the investigation to be false, to be inherently improbable, to involve an accidental injury, or not to constitute child abuse or neglect. Prior to clearing a call as "unfounded," officers shall 1) review call history, 2) review previous suspect contacts (Axon or MARS name search), and 3) contact CPS to review previous abuse reports received from other agencies. If the officer is satisfied the call is false, only a synoptical report is required. No CPS notification or routing is necessary.

### 330.6 MANDATORY NOTIFICATION GUIDELINES

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

#### 330.6.1 MANDATORY NOTIFICATION

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

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

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

### 330.7 EMERGENCY PROTECTIVE ORDERS

Members shall request an EPO if any of the following conditions exist:

- (a) The victim requests an EPO;
- (b) The investigating officer has grounds to believe that there is an immediate danger of continuing violence against the victim;
- (c) The investigating officer or victim believes the potential for further violence or threats exists;
- (d) When a child is in immediate and present danger of abuse by a family or household member; or
- (e) When a child is in immediate and present danger of being abducted and taken from the jurisdiction by a parent or relative.

#### 330.7.1 PROCEDURES FOR ISSUANCE OF EPO'S

A judicial officer shall be contacted regardless of the time of day. The determination of the designated judicial officer to issue or not to issue an EPO will be final.

### 330.8 TEMPORARY CUSTODY OF JUVENILES

Pursuant to WIC § 300 et seq., a child may be taken into protective custody if they are the victim of suspected child abuse.

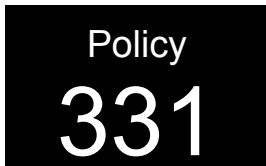


### 330.8.1 TRANSPORTATION OF JUVENILES UNDER EIGHT YEARS

When members need to transport juveniles in their patrol car who are under eight years, and there is no child passenger restraint system available, members shall secure the juvenile by seat belt prior to transport [CVC §27363 (b)].

### 330.9 RELEASE OF REPORTS

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



## Fresno Police Department Policy Manual

# Threatening / Annoying Phone Calls

### 331.1 POLICY

Members assigned to investigate or who receive a report of a possible phone offense shall determine the seriousness of the threat as defined in Penal Code §653 (m), and contact the reporting party either in person or via telephone as appropriate.

#### 331.1.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure all reports of telephone threats are taken seriously and investigated effectively utilizing available resources.

### 331.2 RESPONSE TO CALLS

When a phone call involves a serious threat (i.e., death, bodily harm, rape, or assault) to the immediate safety of the victim, a member shall be assigned to handle the call in person.

When the victim knows the perpetrator, and the phone call is not a serious threat, a member may be assigned to handle the call in person or a report may be taken telephonically.

When the call is not a serious threat and the perpetrator is not known, the victim shall be provided with a Synoptical case number.

#### 331.2.1 MEMBER RESPONSIBILITY IN SERIOUS THREAT CASES

The member assigned to investigate an unlawful phone call case shall determine if the calls are of such a serious or life-threatening nature that immediate establishment of a phone trap (to try to identify the source of the call) is warranted. If so, the responding member shall contact their supervisor.

#### 331.2.2 SUPERVISOR RESPONSIBILITY

The supervisor will contact the security office of AT&T to request a trap. When an emergency trap is set up, the supervisor making the arrangements shall notify the Misdemeanor Crimes Detective of the district, by memo, voicemail, or email, detailing the circumstances. The victim shall be advised that the results of a phone trap may take weeks to obtain. As a result, the victim will be contacted by the follow-up investigator when trap results are received.

When the victim has called AT&T prior to calling the Department, AT&T will ask for a case number. A report shall be prepared consistent with the guidelines in this policy and Policy §344.

### **332.1 POLICY**

Members shall accept any report, including any telephone report, of a missing person, including runaways, without delay and shall give priority to the handling of these reports over the handling of reports relating to crimes involving property [Penal Code §14211].

Reports shall be taken on missing persons regardless of jurisdiction.

#### **332.1.1 PURPOSE AND SCOPE**

This policy establishes the criteria for acceptance, reporting, documenting and investigating missing persons. PC §§14200 through 14215 and §§14250 and 14251, Welfare & Institutions Code §1300, as well as 42 United States Code §5779(a), specify certain requirements relating to missing persons.

### **332.2 DEFINITIONS (PC §14215)**

**Missing Person** - Any person whose whereabouts are unknown to the reporting party including, but not limited to, a child taken, detained, concealed, enticed away or retained by a parent in violation of PC §277 et seq.

Missing person also includes any child who is missing voluntarily (runaway juvenile), involuntarily or under circumstances not conforming to their ordinary habits or behavior and who may be in need of assistance. (PC §14215)

**Exception:** Adults who have no known mental deficiencies, and who are in no apparent danger, but who freely and voluntarily choose to end contact with friends, relatives, associates, or caretakers, shall not be considered nor handled as missing persons.

(Members may initiate an attempt to locate broadcast, as a public service.)

**At Risk** - Includes, but is not limited to, evidence or indications of any of the following:

- (a) The person missing is the victim of a crime or foul play;
- (b) The person missing is in need of medical attention;
- (c) The person missing has no pattern of running away or disappearing;
- (d) The person missing may be the victim of a parental abduction/kidnapping; and/or
- (e) The person missing is mentally impaired, cognitively impaired or developmentally disabled.

**Child** - While California considers a child to be a person under eighteen years of age, for purposes of this section federal law considers any person under the age of twenty one years to be a child.

### **332.3 REPORTING REQUIREMENTS**

Members shall accept any report, including any telephone report, of a missing person, including runaways, without delay and shall give priority to the handling of these reports over the handling of reports relating to crimes involving property [PC §14211]. Reports shall be taken on missing persons regardless of jurisdiction.

Prior to taking a missing person report, members shall ensure that the RP has checked the FCJ, JJC, local hospitals, etc., or shall assist the RP in so doing. When it has been determined that a person is missing, and the pre-reporting checks were unsuccessful in locating the person, a report shall be taken without delay. There are no exceptions for walkaways from mental facilities or other care taking facilities. Entries for any at-risk or missing persons under the age of 21 years shall be made into CLETS within two hours from the time the call is received from the RP.

Patrol members should handle the initial missing person report. Department members shall promptly assist any person who is attempting to make a report of a missing person or runaway. The Missing Persons Unit will begin an investigation after an initial search by patrol personnel.

When taking a report of a missing person, members shall inquire about the person's mental health status, and shall consider implementing the procedure located in Policy §332.6 when the person seems to be in danger due to their mental health disability.

#### **332.3.1 COMPLETION OF INVESTIGATION/VOIDING CASE NUMBERS (CN)**

Members shall complete their investigation at the time of the initial call and obtain a CN before clearing. Members shall not "void" CN's once issued.

When investigating a missing person case and a CN is obtained by the member, and the subject is located prior to clearing the call, the member shall telephone teletype to have the missing person entered into MUPS and then immediately canceled from MUPS.

#### **332.3.2 OUT OF JURISDICTION MISSING PERSONS**

When a call is received of a person who is missing from a location outside of the Department's jurisdiction, members shall take the report without delay. Within 24 hours, Records Section shall notify and forward a copy of the report to the police or sheriff's department or departments having jurisdiction of the residence address of the missing person or runaway and of the place where the person was last seen.

The Fresno Police Department Missing Person Report Form shall be used on out of jurisdiction missing person's cases. Members shall add the agency's name to the narrative and shall submit the report to Teletype via the 'Teletype' button in Axon.

When a person reported missing under this subsection is located, a GI shall be prepared containing the circumstances of the location, details of teletype cancellations, and notification of other affected agencies.

#### **332.3.3 RETURNED MISSING / RUNAWAY PERSON FORM**

The RP shall be given a "Returned Missing/Runaway Person Form" in all missing person cases except runaways from group homes. The member shall advise the RP that they must either complete the form and mail it to the Department or call the listed phone number when the missing/runaway person has returned or is no longer missing. The member shall also advise the RP to complete and follow the directions on the form when the missing person is missing for 15 days or longer.

#### **332.4 SUSPICIOUS/DANGEROUS CIRCUMSTANCES**

When the person reported missing is under 21 years of age, is mentally disabled where they are a danger to themselves or others, or is missing under suspicious circumstances or under circumstances indicating the possibility of foul play or suicide, the reporting member shall immediately notify their supervisor for consideration of extended searches or assistance from other bureaus and/or agencies. Members should review Policy §334, AMBER Alerts, for additional information regarding investigative response and alerting the media.

Members shall also contact teletype without delay and arrange for the missing person information to be entered into MUPS. The teletype operator shall be advised if the person is "at risk" (As listed in Section 332.2), has been abducted, or is possibly being sexually exploited. This MUPS entry shall be canceled as soon as the missing person is located.

#### **332.4.1 CHILD STEALING / CONCEALMENT / PARENTAL ABDUCTION / KIDNAPPING**

Members investigating reports of Child Stealing / Concealment and Parental Abductions / Kidnapping pursuant to PC §§277 through 278.5, shall:

- (a) Notify their supervisor, requesting their response to the call;
- (b) Document the incident on a CR as a crime or possible crime, as appropriate;

- (c) List as the victim the parent or guardian from whom the juvenile(s) was taken or concealed;
- (d) List the person who is believed to have taken the juvenile(s) as the suspect;
- (e) List the juvenile(s) who have been taken or concealed as Missing Person in the Victim/Witness Segment of the CR;
- (f) Attempt to verify any custody orders involved and document all pertinent details in their report;
- (g) Complete an FPD Missing Persons Report for each child in addition to the CR;
- (h) Complete and FPD Missing Persons Report for the abducting/concealing parent/guardian;
- (i) Have all missing children and the abducting/concealing parent entered in MUPS through the teletype operator (as "Abducted Juveniles" and "Suspect Parent"), as soon as possible but no later than four hours after receiving the original report;
- (j) Call the ComCen and have a broadcast sheet made up, including both juvenile and suspect information; and
- (k) Notify all appropriate law enforcement agencies of the broadcast information, by sending a BOL message through Teletype, in any case where available information suggests the suspect and/or juvenile(s) may be enroute to another jurisdiction.

#### 332.4.2 SUPERVISOR RESPONSIBILITIES

Field supervisors will respond to all incidents involving reported abductions. They should notify the Missing Person Unit supervisor of any missing person, regardless of age, when the circumstances surrounding the missing person disappearance are unusual and, if based on available information, it is determined that the missing person is in a life threatening situation. The on-duty field commander shall also be notified.

Prior to notifying the Missing Person Unit supervisor, all possible leads should be exhausted including but not limited to, checking prior runaway reports, searching the immediate area, conducting a door-to-door search, checking with all known friends, relatives and classmates.

The Missing Person Unit supervisor shall contact the Family Justice Bureau Commander should circumstances require immediate action and the mobilization of all available investigative resources.

#### 332.4.3 STAFF NOTIFICATIONS

The on-duty ComCen supervisor shall notify the Investigations Division Commander and the affected Patrol Division Commander of any confirmed abduction incidents. The Investigations Commander will notify the appropriate commander or supervisor in the Family Justice Bureau to coordinate the scene response and/or investigative follow-up.

#### 332.4.4 PHOTOGRAPHS

Members taking the report shall make every effort to obtain a recent photograph of all "at risk" missing persons, print the case number and the missing person's name clearly on the back of the photograph, and it will be submitted to the Records Section for forwarding to the Missing Persons Unit. The appropriate box on the Missing Person Report in Axon shall be checked to indicate whether a photo was available, attached, unknown/undetermined, or was not available.

When the report is handled telephonically, the RP shall be instructed to bring or mail in a photograph as soon as possible to the Missing Persons Unit.

Photos will only be returned at the request of the RP by calling the Missing Persons Unit.

#### 332.4.5 DENTAL RECORDS

The follow up investigator may mail the authorization form to obtain dental records on missing persons after 45 days with exception of "at risk" which is 24 hours.

#### 332.4.6 BROADCASTS AND TELETYPE ENTRIES

When information indicates that the missing person may be in or enroute to another jurisdiction, the reporting member shall also contact teletype without delay and request that informational BOL teletypes

be sent to all agencies likely to encounter the missing person. Teletypes must be addressed to specific agencies, and will be sent to only those agencies. Members taking the report shall submit the report to Teletype via the 'Teletype' button in Axon to obtain a file control number (FCN) from the teletype operator who will note it in the report.

When the missing person is 21 years of age or younger, or is a person believed to be at risk, and this Department is the reporting agency, teletype shall immediately broadcast a BOL to all local law enforcement agencies.

#### **332.4.7 PUBLICITY**

When the missing person is considered 'At-Risk', the Field Commander shall decide if the circumstances surrounding the missing person's disappearance require direct notification of the local media by the Department. In all other incidents, RP's requesting publicity to help locate a missing person shall be advised to contact the local media themselves.

RP's requesting no publicity for privacy reasons shall be told that reports of missing adults are public records, and no guarantee can be made that the media will not report on their contents.

In either case, the RP's request should be noted at the beginning of the report narrative under a heading of "ATTENTION NEWS MEDIA."

#### **332.4.8 INVESTIGATIVE AIDS**

Members investigating incidents of abducted/missing children should utilize the investigative checklists found at the end of this policy.

#### **332.5 SCHOOL NOTIFICATION**

Education Code §49068.6 requires law enforcement to notify the school in which the missing child is enrolled, within ten (10) days. The school shall "flag" a missing child's record and immediately notify law enforcement of an inquiry or request for the missing child's records.

When the Department is responsible for follow-up investigation on a missing juvenile case (including child concealment and child abduction), the Missing Persons Unit (MPU) investigator shall notify the school which the missing juvenile attends, in writing, of the disappearance (EC §49068.6). This notification shall be completed within ten (10) days of the disappearance, and shall include a photograph of the child when available.

#### **332.6 WALKAWAYS FROM MENTAL HEALTH FACILITIES**

Certain members of the Fresno County Mental Health Department and certain private mental health practitioners on contract to the County, may pre-designate a patient as being subject to detention under WIC §5150 based on the patient's history, regardless of the patient's outward behavior when located.

Members taking a report of a person missing from a mental health facility shall ask the RP if they are empowered to make this pre-designation for WIC §5150 commitment for the missing person. When this designation is to be applied, it shall be noted in the "If Located" box of the Missing Person Report with an explanation in the narrative. The requested disposition shall also be noted in all broadcast sheets, teletypes and computer entries. When a missing person is not subject to a pre-designated WIC §5150 commitment, but was placed at the mental health facility under conservatorship, members shall determine where the RP would like the person taken when located. This information shall be included in the report, broadcast sheets, teletypes and computer entries.

#### **332.7 LOCATED MISSING ADULTS**

Members shall evaluate medical and mental health status (i.e., WIC §5150) of the found person, ask the found person if they object to the RP on the original report being informed about their whereabouts and status, and shall then release the found person absent extenuating circumstances (Policy §332.6). Members shall attempt to contact the RP and advise them that the missing person was located and

was advised that they had been reported missing. The RP shall be given no further information about the missing person's whereabouts and status unless the found person consented to the release of the information.

### **332.7.1 FOUND ADULTS WHO ARE LOST OR UNABLE TO CARE FOR THEMSELVES**

Members encountering an adult who is lost or otherwise unable to care for themselves shall first check for a missing person report, evaluate the found person's medical / mental health status, and take the appropriate steps relating to detention or release.

When no report is on file, members shall attempt to locate the found person's residence or other place of care, and return the found person to that place.

When the found person's place of residence or care cannot be located, members shall contact Adult Protective Services (APS) through the ComCen. APS will take responsibility for the found person and arrange housing and care pending location of the found person's residence or place of care.

### **332.7.2 FOUND PERSON WITH MENTAL HEALTH DISABILITY**

Members locating a missing person shall first evaluate the found person for WIC §5150 commitment based upon behavior exhibited at the time of contact. When the found person is subject to pre-designated WIC §5150 commitment, members shall proceed with the commitment using the mental health practitioner's authority.

When the person does not qualify for either of these commitment procedures, members shall check the report for other dispositional options. When the person is under conservatorship, members shall return the found person to the location originally requested by the RP.

When the found person does not qualify for WIC §5150 commitment and is not under conservatorship, the located missing person shall be handled the same as any other located missing person.

## **332.8 LOCATED MISSING AND RUNAWAY JUVENILES**

### **332.8.1 DISPOSITION OF JUVENILE**

Juveniles who have been reported missing or runaway, regardless of the location of occurrence, shall be taken to either the Sanctuary or any other reasonable and appropriate location which may be requested in the disposition of the report (when an FPD missing/runaway).

When a juvenile reported as missing or runaway from outside the City wishes to return home, members may explore using Greyhound Bus Lines "Home Free Program" where free bus transportation is provided to the juvenile's home town if it is on one of their routes. This program is operated by the National Runaway Switchboard. The 24 hours phone to NRS is (800) RUNAWAY / (800) 786-2929. The use of the program is to be initiated by the Missing / Runaway Juvenile, and requires the Missing / Runaway Juvenile to agree to the use of the program. The program accepts children between twelve (12) and twenty-one (21) years of age. Children under age fifteen (15) are required to have an accompanying adult. NSR will provide round trip transportation for the parent, guardian, or legal custodian from their hometown to meet, and accompany the child back home. Before using this option, the member shall first make contact with the juvenile's parent/guardian to ensure that they want the juvenile returned home and to arrange for the pickup of the juvenile at the destination. When these conditions are acceptable to the parent/guardian, the juvenile shall be transported to the Greyhound Terminal and the member shall complete Greyhound's required form. Members using this option shall document the incident on a GIR entitled "Located Missing Person/Outside Agency". The report shall include the bus number, route number, time of departure from the bus station and the estimated time of arrival at the intended destination as well as the circumstances leading to the parent/guardian's approval of this option. The report shall be directed by Special Routing to the agency of origin of the missing person report.

Members shall contact teletype and cancel the juvenile's entry from the MUPS. When the juvenile is reported missing or runaway from an agency other than the FPD, the member shall either ensure that

either a teletype message is sent or phone call made to the originating agency advising them of the current status of the juvenile.

### 332.8.2 DOCUMENTATION

A Missing Person Close-Out Report shall be completed to document the discovery and disposition of juveniles originally reported as missing from within the City.

Located missing juveniles from other jurisdictions shall be documented as described in Section 332.3.2.

### 332.8.3 HOMELESS OR TRANSIENT JUVENILES

Juveniles who do not have a fixed nighttime residence, are not under parental or guardian control, and have an address within Fresno County may be taken to the Sanctuary. Those who do not have an address within Fresno County may be taken to the Rescue Mission's Homeless Youth Shelter.

### 332.8.4 ADDITIONAL INFORMATION / CANCELLATIONS

Investigating members shall advise the RP to immediately report any information received about the missing person including when the missing person is located. Any member of the Department receiving additional information about a reported missing person shall either prepare a FR documenting the information received, or shall ensure that the person giving the information is immediately referred to another member of the Department for reporting purposes. Modification or cancellation of broadcast sheets will not suffice as a disposition.

Members shall contact the teletype operator and cancel the MUPS entry when the missing person is located. This shall be noted on the Close-Out report.

### 332.8.5 EXCEPTIONAL CLOSE OUT OF RUNAWAY JUVENILE REPORT

When a missing person report exists relating to a runaway juvenile who has reached the age of 18 and there is credible evidence indicating that the runaway has been seen/is alive and well after reaching the age of 18, the report shall be closed out and appropriate teletype/broadcast cancellations shall be made by the Missing Persons Unit. Evidence that the missing person has been seen/is alive and well can include arrests, FI's, traffic citations, pawn activity, and other contacts or activities wherein the missing person's identity was reliably established.

**Exception:** When the subject of the report was described as "at risk" the report and teletype/broadcast entries shall not be canceled.

## 332.9 LOCATION OF OUTSIDE AGENCY MISSING PERSONS

Persons reported missing by another agency who are located by a Department member shall be reported on a GI entitled "Located Missing Person/Outside Agency." The report should include appropriate information, including the other agency's name and case number, and Special Routing should reflect the originating agency name. The disposition of the found person will be consistent with the requirements of this order. The reporting agency should be notified by phone or by teletype, and teletype cancellations shall be made as soon as possible after locating the person. A copy of the report shall be forwarded to the originating agency by Records.

### 332.9.1 LOCATED OUT-OF-STATE RUNAWAY JUVENILES

Members who locate an out-of-state runaway juvenile, other than an absconder, escapee or parolee at large under the age of 18 years, shall detain the juvenile and contact CPS for placement. CPS will take care/custody of the juvenile and facilitate the juvenile's return to their home state after completion of the appropriate court process pursuant to the Interstate Compact on Juveniles, WIC §1300. Absconders, escapees and parolees at large under the age of 18 years may be released to Fresno County Juvenile Probation rather than CPS, at the discretion of Juvenile Probation. No out-of-state runaway juvenile shall be taken to the Sanctuary or released in any manner inconsistent with this policy.



### **332.8 TRANSPORTATION**

Transportation of found persons in Department vehicles shall be limited to juveniles and others who are at risk if left unattended. Prior to transporting a found person, supervisor approval must be obtained. When the found person is to be handled as a WIC §5150 commitment, only an ambulance shall be used for transportation.

## **ABDUCTED/MISSING CHILDREN CHECKLIST FOR FIRST RESPONDERS**

- 1\_\_\_ Interview parent(s)/legal guardian/person who made initial report.
- 2\_\_\_ Verify that the child is in fact missing.
- 3\_\_\_ Verify child's custody status.
- 4\_\_\_ Identify the circumstances of the disappearance.
- 5\_\_\_ Determine when, where, and by whom the missing child was last seen.
- 6\_\_\_ Interview the individuals who last had contact with the child.
- 7\_\_\_ Identify the child's zone of safety (areas of familiarity) for their age and developmental stage.
- 8\_\_\_ **Conduct an immediate, thorough search of the missing child's home, even if the child was reported missing from a different location.**
- 9\_\_\_ Based on the available information, make an **initial** determination of the **type of incident whether nonfamily abduction; family abduction; endangered runaway; or lost, injured, or otherwise missing.**
- 10\_\_\_ Obtain a **detailed** description of the missing child, abductor, and any vehicles used.
- 11\_\_\_ **Secure photographs/videotapes of missing child/abductor.**
- 12\_\_\_ Evaluate whether the circumstances of the child's disappearance meet AMBER Alert criteria and/or immediate community-notification protocol. Discuss plan activation with supervisor.
- 13\_\_\_ Relay detailed descriptive information to communications unit for broadcast updates
- 14\_\_\_ Determine need for additional personnel including investigative and supervisor staff
- 15\_\_\_ Brief and bring up to date all additional responding personnel.
- 16\_\_\_ Ensure that everyone at the scene is identified and interviewed separately. Make sure that their interview and identifying information is properly recorded. To aid in this process, if possible, take pictures or record video images of everyone present.
- 17\_\_\_ Note name, address, home/business telephone numbers of each person.
- 18\_\_\_ Determine each person's relationship to the missing child.
- 19\_\_\_ Note information that each person may have about the child's disappearance.
- 20\_\_\_ Determine when/where each person last saw the child.
- 21\_\_\_ Ask each one, "What do you think happened to the child?"
- 22\_\_\_ Obtain names/addresses/telephone numbers of child's friends/associates and other relatives and friends of the family.
- 23\_\_\_ Continue to keep communications unit apprised of all appropriate developing information for broadcast updates.
- 24\_\_\_ Conduct search to include all surrounding areas including vehicles and other places of concealment.
- 25\_\_\_ Treat areas of interest as potential crime scenes.
- 26\_\_\_ **Seal/protect scene and area of the child's home** (including child's personal articles such as hairbrush, diary, photographs, and items with the child's fingerprints/footprints/teeth impressions) so that evidence is not destroyed during or after the initial search and to help ensure that items which could help in the search for and/or to identify the child are preserved. Determine if any of the child's personal items are missing. If possible, photograph/videotape these areas.
- 27\_\_\_ Evaluate contents and appearance of the child's room/residence.
- 28\_\_\_ Inquire if the child has access to the Internet and evaluate its role in the disappearance.
- 29\_\_\_ Ascertain if the child has a cellular telephone or other electronic communication device.

- 30\_\_\_ Ensure that information regarding missing child is entered into the **National Crime Information Center's** (NCIC) Missing Person File and that any information on a suspected abductor is entered into the NCIC Wanted Person File. (Carefully review NCIC categories before entering the case, and be sure to utilize the Child Abduction flag whenever possible.
- 31\_\_\_ Interview other family members, friends, associates of the child, and friends of the family to determine
  - a. \_\_\_ When each last saw the child.
  - b. \_\_\_ What they think happened to the child.
- 32\_\_\_ Secure the child's latest medical and dental records.
- 33\_\_\_ Prepare reports/make all required notifications.

## CHECKLIST FOR FIELD SUPERVISORS

1. \_\_\_ Obtain briefing and written reports from the first responding officer and other personnel at scene.
2. \_\_\_ Evaluate what type of missing child: non-family abduction; family abduction; runaway; or lost, injured, or otherwise missing.

3. \_\_\_ **Does it meet, "Amber Alert," criteria?**

- ✓ **Victim under 18 yrs (or with known mental or physical disability) AND**
- ✓ **Confirmed abduction, AND**
- ✓ **Victim in imminent danger of serious injury or death, AND**
- ✓ **Information is available which, if disseminated to the public, could assist in the safe recovery of the victim.**

If it does meet criteria, notify Field Commander who will contact C.H.P. and request Amber Alert thru ENTAC @ (916)843-4199. **(If it does not meet criteria, may still contact ENTAC, for limited broadcast on missing child)**

4. \_\_\_ Should door to door contact be attempted with Neighborhood questionnaire? (see Neighborhood questionnaire)
5. \_\_\_ **Extended search needed? Surveillance of major intersections? Isolate areas?**
6. \_\_\_ **Photos or victim/suspect, vehicles available (video policing?)**
7. \_\_\_ Determine if additional personnel are needed to assist in search or investigation.
8. \_\_\_ **Establish Field Command Post, away from child's home.**
9. \_\_\_ **Notification of Field Lieutenant, District Commander , PIO, etc.) and media**
10. \_\_\_ Determine if outside help is necessary from
  - [ ] \_\_\_ Specialized Units
    - [ ] \_\_\_ K-9/Bloodhounds
    - [ ] \_\_\_ Skywatch
    - [ ] \_\_\_ Night Detectives
    - [ ] \_\_\_ Eagle One
    - [ ] \_\_\_ Volunteers
    - [ ] \_\_\_ FSO
    - [ ] \_\_\_ CHP
    - [ ] \_\_\_ FBI, Other agencies
11. \_\_\_ MAPS
12. \_\_\_ Ensure that all agency policies and procedures are in compliance.
13. \_\_\_ Utilize media (including radio, television, and newspapers) to assist in the search for the missing child and maintain media relations, per established protocols, throughout the duration of the case.
14. \_\_\_ **Confirm child entered into NCIC, if abducted enter as abducted**

## NEIGHBORHOOD INVESTIGATION STANDARD QUESTIONNAIRE

1. Address:
2. Type of Structure
3. Vehicle descriptions and license plates present at location
4. Is the victim's home visible from this location?
5. Is the abduction site visible from this location?
6. Full name of person contacted:                      DOB/                      Phone/
7. Do you know the \_\_\_\_\_family and specifically the victim,\_\_\_\_\_?
8. Were you home on the day of the incident?
9. Names of all occupants and visitors at this home at the time of incident?
10. What did you observe on that day?
11. What did you hear?
12. What activity did you see or hear at or near the victim's home?
13. Tell me everything you know about the victim and their family.
14. What is the usual daily activity in this area (day and night)?
15. What have you noticed in the past two months that is suspicious or unusual?
16. What delivery people come to this area?
17. Describe the normal vehicle/pedestrian traffic in the area around the time of the incident.
18. What vehicles were observed in the area around the time of the incident?
19. Are any of the vehicles not normally in the area?
20. What person(s) were observed in the neighborhood at time of the incident?
21. Which of these people are not usually in the neighborhood?
22. Who is usually arriving/leaving the area around the time of the incident?
23. Have any neighbors recently left the area?
24. Are you aware of anyone who may have information about this incident?
25. Do you have any other information that you feel is important?
26. Is there anything else you would like to tell us?

When appropriate, obtain consent to search the residence, vehicles, storage areas.

### **333.1 POLICY**

Officers who encounter a person who appears to be under the influence of drugs should detain the person and investigate.

#### **333.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to protect the public and individuals from the dangers associated with being under the influence of drugs.

### **333.2 EVIDENCE COLLECTION**

A Department phlebotomist will be available for blood draws on all in-custody arrests between 1800-0400 hours seven days a week.

- (a) The phlebotomist will be logged on to the traffic channel and will also be available by pager through ComCen.
- (b) Officers shall utilize the department phlebotomist unless injury to the suspect requires the suspect to be transported to a hospital for medical treatment. The officer shall then utilize hospital staff to draw a blood sample and will follow the protocol established by that hospital.

Urine samples should be taken at a Crime Scene Bureau holding cell. An officer of the same sex as the suspect shall witness the provision of the urine sample.

The procedure for handling and booking samples shall be consistent with Policy §373.

Evidence samples in Health & Safety Code §11550 cases are not sent to DOJ so DOJ supplies shall not be used.

- (a) The sample(s) shall be placed in the Blood and Urine Drop Box in the Property Room of HQ not in the narcotics evidence locker.
- (b) When a blood or urine sample is deposited at HQ, the sample shall be accompanied by a PER deposited in the drop box with the sample but not in the sample envelope.
- (c) PECS shall match the reports with the samples and secure all samples for pick up by lab courier.

When possible, the investigating officer should contact the parole officer of parolees arrested for HS §11550 to request authorization for placement of a parole hold on the suspect at the time of booking.

### **333.3 REFUSAL TO TAKE CHEMICAL TEST**

When the suspect refuses to be tested, and no search warrant is obtained, the suspect shall still be charged with being under the influence if sufficient independent evidence exists to support the charge.

The suspect's actions and refusal to be tested shall then be noted in the crime report. In the absence of a blood or urine sample, special care shall be taken to document all visual and other evidence.

#### **333.3.1 BLOOD SAMPLE WITHOUT CONSENT**

A blood sample may be obtained from a person when any of the following conditions exist:

- (a) A search warrant has been obtained (Penal Code §1524); or
- (b) The officer can articulate that exigent circumstances exist that justify a warrantless search.

#### **333.3.2 FORCED BLOOD SAMPLE**

If a person indicates by word or action that they 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) Ensure that the withdrawal is taken in a medically approved manner.
- (d) Ensure the forced withdrawal is recorded on audio and/or video when practicable.
- (e) 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.  
■ [REDACTED]
  - 3) In felony cases, force which reasonably appears necessary to overcome the resistance to the blood being withdrawn may be permitted.
- (f) Ensure the use of force and methods used to accomplish the blood sample draw are documented in the related report.

When a supervisor is unavailable, officers are expected to use sound judgment and perform as a responding supervisor, as set forth above.

### **333.4 REPORTING REQUIREMENTS**

The officer detaining or arresting the suspect shall complete a crime report.

The examining officer, when different from the detaining officer, shall complete a crime report, or supplemental report when appropriate, which shall include all details of the examination and interview.

**334 Public Alerts****334.1 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.

**334.1.1 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 AMBER ALERT**

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. An AMBER Alert should only be implemented when all four of the following criteria have been met:

- (a) A confirmed abduction by a stranger has occurred; or the victim of a parental abduction faces the threat of injury or death;
- (b) The victim is under the age of 18, or has a proven mental or physical disability;
- (c) There is reason to believe the victim is in imminent danger of serious bodily injury or death; and
- (d) There is information that, if disseminated to the general public, could assist in the safe recovery of the victim.

As an investigative tool, members should utilize the 'Abducted/Missing Children Checklist for First Responders' located in Policy §332.

**334.3 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.

**334.3.1 BLUE ALERTS SYSTEM NOTIFICATIONS**

The purpose of a Blue Alert is to quickly coordinate and provide information to the public and solicit help in the safe and swift apprehension of suspects meeting specific criteria. A Blue Alert should only be implemented when all four of the below criteria have been met (Government Code §8594.5):

- (a) A law enforcement officer has been killed, suffers serious bodily injury, or is assaulted with a deadly weapon, and the suspect has fled the scene of the offense;
- (b) A law enforcement agency investigating the offense 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; and
- (d) Public dissemination of available information may help avert further harm or accelerate apprehension of the suspect.

**334.4 SILVER ALERTS SYSTEM NOTIFICATIONS**

Silver Alerts® is an emergency notification system for people who are 65 years of age or older, developmentally disabled or cognitively impaired and have been reported missing. All of the following conditions must be met before activating a Silver Alert (GC §8594.10):

- (a) The missing person is 65 years of age or older, developmentally disabled or cognitively impaired;
- (b) The department has utilized all available local resources;
- (c) The investigating officer or supervisor has determined that the person is missing under unexplained or suspicious circumstances;



- (d) The investigating officer or supervisor believes that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of a potentially dangerous person, or that there are other factors indicating that the person may be in peril; and
- (e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

### **334.5 FEATHER ALERT**

The Feather Alert Program was introduced via Assembly Bill §1314. A Feather Alert is a resource available to the department to investigate suspicious or unexplainable disappearances of an indigenous person(s). The Feather Alert is similar to other statewide alert systems as it provides immediate information to the public to aid in the swift recovery of indigenous person(s). All of the following conditions must be met before activating a Feather Alert (GC §8594.13):

- (a) The missing person is an indigenous person;
- (b) The investigating member has used available local and tribal resources;
- (c) The investigating member has determined that the person has gone missing under unexplainable or suspicious circumstances;
- (d) The investigating member believes that the missing person is in danger;
- (e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

### **334.6 EBONY ALERT**

The Ebony Alert was introduced via Senate Bill §673. The Ebony Alert was established to aid in the location of missing Black youths, including young women and girls, who are reported missing under unexplained or suspicious circumstances, at risk, developmentally disabled, cognitively impaired, or who have been abducted. Law enforcement agencies may request an Ebony Alert to be activated if it is determined it will be an effective tool in the investigation of missing Black youth, including a young woman or girl. The law enforcement agency may consider the following factors to make that determination:

- (a) The missing person is between 12 to 25 years of age, inclusive;
- (b) The missing person suffers from a mental or physical disability;
- (c) The person is missing under circumstances that indicate any of the following:
  - 1. The missing person's physical safety may be endangered.
  - 2. The missing person may be subject to trafficking.
- (d) The law enforcement agency determines that the person has gone missing under unexplained or suspicious circumstances;
- (e) The law enforcement agency believes that the person is in danger because of age, health, mental or physical disability, or environment or weather conditions, that the person is in the company of potentially dangerous person, or that there are other factors indicating that the person may be in peril;
- (f) The investigating law enforcement agency has utilized available local resources; or
- (g) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

### **334.6 RESPONSE PROCEDURES**

There are two response levels for all of the above Alert procedures.

#### **334.6.1 FIRST LEVEL RESPONSE PROCEDURES (FIELD SUPERVISOR)**

- (a) Confirm that each of the criteria associated with the alert are met;
- (b) Notify the Field Commander;
- (c) Confirm that ComCen has provided broadcast information to FSO, Clovis PD, local CHP (and others as indicated); and
- (d) Provide on-scene personnel with a checklist when appropriate (i.e., Abducted/Missing Children Checklist for First Responders).

### 334.6.2 FIRSTLEVEL RESPONSE PROCEDURES (FIELD COMMANDER)

- (a) Obtain information and complete the Alert Info Sheet (see attached form);
- (b) Send the information via email to the following [REDACTED]

### 334.6.3 SECOND LEVEL RESPONSE PROCEDURED (FIELD SUPERVISOR OR COMMANDER)

- (a) Identify a location for media response; initiate MAPS through ComCen for an on-site press conference ASAP. Provide full information and photograph of the victim, request broadcast ASAP (go "live" if possible - DO NOT wait for the PIO);
- (b) [REDACTED]
  - 1) Initiate callouts of:
    - I. PIO;
    - II. Appropriate investigative Unit/Team responsible for follow-up investigation as needed (Contact the Unit/Team Sergeant for list of detectives to contact); and
    - III. Other resources as directed by Field Commander.
  - 2) Make notifications to:
    - I. Patrol District & Division Commanders;
    - II. Family Justice Bureau Commander or Criminal Investigations Bureau Commander as appropriate; and
    - III. Chief of Police.
- (c) Consider the need for information dissemination beyond the local area. [NOTE\* this can also be done in cases NOT meeting all of the Amber Alert criteria.] If so, contact CHP and request on-scene liaison assistance. [REDACTED]
  - 1) CMS system (Changeable Message Sign, freeway overheads);
  - 2) TRAK system (Technology to Recover Abducted Kids), an internet based multi-agency flyer distribution system); and
  - 3) EDIS (Emergency Digital Information Service, an Internet and CLETS based system) - goes to California law enforcement agencies, Nevada Highway Patrol, Oregon State Police and statewide media outlets.
- (d) Establish Command and Media Centers, as needed.

### 334.7 CODE RED ALERTS

The Code Red Emergency Notification System is intended to notify public safety personnel and/or citizens of the City of Fresno of an emergency situation that may require immediate attention and/or action. The Code Red Emergency Notification System may be used for significant incidents and events where the timely notification of an effected population or geographic area of the City of Fresno is essential or highly desirable.

Code Red may be activated at the discretion of the Chief of Police or their designee in emergency situations. Acceptable uses for emergency notification include, but are not limited to:

- (a) Missing Persons (Children, Elderly, Disabled, or at risk)
- (b) Escaped Fugitives
- (c) Hazmat
- (d) Evacuation Notifications
- (e) Evacuation Routes
- (f) Evacuation Shelters
- (g) Bomb Threats
- (h) Traffic Emergencies
- (i) Suspect Pursuits
- (j) Hostage Situations

The Duty Office is responsible for launching the notification using the Code Red System. These emergency notifications will come [REDACTED]. All notifications will contain the following

admonishment: "DO NOT call 911 for further information unless you need immediate aid from the police or fire department."

Code Red may be activated for non-emergency situations or informational purposes at the discretion of the Chief of Police or their designee. Acceptable uses for non-emergency/informational notification must be planned in advance.

Examples, but not limited to:

- (a) Crime spree notification
- (b) Street/Highway Closings
- (c) Sexual Predator Alert
- (d) Neighborhood Watch Information
- (e) Valley Crime Stoppers Information
  - 1) For Inter-Department Notification only
- (f) Training Announcements for designated teams and members
- (g) Testing roster contact data
- (h) Public safety drills/exercise

The Duty Office is responsible for launching the Code Red System for non-emergency or informational notifications. These notifications will come as [REDACTED] [REDACTED]

## Fresno Police Department

Child Abduction - "Amber Alert"

Blue Alert

Silver Alert

Feather Alert

Ebony Alert

(Check appropriate alert requested)

### Facsimile Transmission

#### Request for Emergency Alert System Broadcast:

Date: \_\_\_\_\_ Time \_\_\_\_\_

TO: CHP ENTAC; FSO Watch Commander; Jacqueline Neumann (FBI); FPD Duty Office; FPD Public Information Office

FROM: Fresno Police Department  
Field Commander (name/rank) \_\_\_\_\_

Phone Contact # \_\_\_\_\_

#### The Fresno Police Department is currently investigating a (check appropriate type):

- Child abduction;
- Felonious assault on a peace officer;
- Missing person who is 65 years of age or older, developmentally disabled or cognitively impaired;
- Indigenous person missing under unexplainable or suspicious circumstances.
- Missing Black youths, including young women and girls, who are reported missing under unexplained or suspicious circumstances, at risk, developmentally disabled, cognitively impaired, or who have been abducted.

and requests immediate activation of the Amber Alert/Blue Alert/Silver Alert/ Feather Alert. Please broadcast the following text:

### **335.1 POLICY**

Department members will investigate allegations of marijuana cultivation, illegal drug laboratories, and narcotic sales in the City of Fresno.

#### **335.1.1 PURPOSE AND SCOPE**

The intent of this policy to control illegal narcotics activity with regards to marijuana cultivation, drug laboratories, and narcotic sales and operations utilizing appropriate local, state, and federal resources.

### **335.2 MARIJUANA CULTIVATION CASES**

#### **335.2.1 MARIJUANA SEIZURE**

Members investigating and seizing a large amount of marijuana (in excess of 10 lbs.) shall notify a field supervisor. The supervisor, in turn, will notify the Property and Evidence Control Section (PECS) Supervisor for direction regarding packaging, any necessary personal protective equipment (e.g. gloves), and transport to either the American Avenue Landfill or a temporary storage facility (after hours) as appropriate.

If a suspect claims the right to possess the plants in accordance with the California Medical Marijuana Program, and they possess a Medical Marijuana Card, the supervisor will contact the SIB Commander for additional direction.

#### **335.2.2 VERIFYING OWNERSHIP**

In all cases, attempts shall be made to ascertain the ownership of cultivated marijuana plants as well as the identity of others who actively cared for the plants.

#### **335.2.3 APPROVAL FOR IMMEDIATE DISPOSAL**

Pursuant to Health & Safety Code §11479, any law enforcement agency that seizes more than 10 lbs. of marijuana (gross weight) may destroy the amount in excess of the 10 lbs. without a court order when the Chief of Police or designated subordinate has determined it is not reasonably possible to store the controlled substance at the Department. The destruction may occur when all of the following requirements have been met:

- (a) All marijuana shall be weighed and photographed;
  - 1) At a minimum, photographs shall show the marijuana at the suspect's residence/grow site AND being disposed of.
  - 2) If members need to weigh the 10 lbs. of evidentiary marijuana to be booked into evidence, the Major Narcotics Unit has a Rubbermaid trash container and scale available.
- (b) In addition to the 10 lbs. of marijuana to be booked into evidence, at least five random and representative samples shall be collected and booked; and
- (c) The Chief of Police or designated subordinate (i.e. Field Commander) has authorized immediate destruction.

Following destruction, an affidavit shall be filed within 30 days with the court presiding over the criminal case.

#### **335.2.4 COORDINATION OF DISPOSAL**

Once authorization for immediate destruction is received, the investigating member shall contact American Avenue Landfill located at 18950 W. American Ave, Kerman, CA (559-600-6138) to coordinate delivery and destruction. The hours of operation are M-F 0600-1700, Sat 0700-1600, and Sun 0800-1600. Members disposing of marijuana should advise American Landfill personnel to utilize FPD Disposal Account #A06036. Members will sign the receipt with their name, badge number, case number, and current assignment prior to returning it to the PECS Supervisor.

### 335.2.5 TRANSPORT TO THE AMERICAN AVENUE LANDFILL

Transportation and handling of marijuana to be destroyed shall be conducted by a minimum of two members. The transporting members shall proceed directly to the disposal site, avoiding all unnecessary stops. All necessary equipment (i.e. shovels, rakes, etc.) will be brought to the disposal site to facilitate the unloading. Upon arrival, American personnel will weigh the vehicle containing the marijuana and escort the load to the drop-off location. The transporting members may be required to unload the marijuana into the disposal trench. Following the disposal, the transport vehicle will be weighed when empty for comparison.

**Note:** When marijuana meeting the requirements for immediate destruction is seized after hours, the investigating member's supervisor will contact the PECS Supervisor to coordinate transportation of the marijuana to a designated temporary storage facility.

- (a) When the marijuana is seized by patrol personnel, the patrol supervisor will also notify the district investigations supervisor of the seizure. The district investigations supervisor will be responsible for contacting the PECS supervisor on the next business day to coordinate the destruction of the marijuana. District personnel will remain responsible for the transport/destruction of the marijuana at the landfill.
- (b) Non-patrol supervisors will notify their commander of the marijuana seized for destruction. They will also coordinate with the PECS supervisor to make arrangements for the transport/destruction of the marijuana the next business day. The unit initiating the marijuana seizure will remain responsible for its transport and destruction at the landfill.

### 335.2.6 REPORTING

A crime report shall be prepared and will be forwarded to the Special Investigations Bureau (SIB) for filing of charges with the DA's Office. The report should contain a complete description of the plants (including quantity) and how they were cared for.

## 335.3 LABORATORIES DISCOVERED BY OFFICERS

When an officer locates an actual or suspected lab, the officer shall:

- (a) Immediately leave the site of the lab and establish surveillance from a safe distance; and
- (b) Notify a field supervisor who, in turn, shall contact a district commander, assistant district commander, or field commander and a SIB supervisor. A SIB supervisor shall respond to the location of the suspected lab and take charge of the investigation.

### 335.3.1 INFORMATION TO BE OBTAINED

The following information shall be obtained by the responding officer and/or Emergency Services Dispatcher (ESD) and supplied to the field supervisor:

- (a) Location of suspected lab;
- (b) Description of lab;
- (c) Substance being manufactured;
- (d) Description of suspects;
- (e) Name of R/P and how they became aware of the lab; and
- (f) Name of reporting officer and their location

## 335.4 NARCOTIC INVESTIGATIONS/OPERATIONS – EVENT DECONFLICTION / WSIN

Members shall contact a Narcotics Section supervisor before proceeding with a drug related investigation likely to lead to a search warrant or "knock and talk". Any drug enforcement effort shall be coordinated with SIB.

Prior to any narcotic operation, it will be announced and documented in the briefing material that the operation has been cleared through the Event Deconfliction system, such as WSIN. The name of the contact person at WSIN shall be noted in the briefing material.

In the event of an ongoing investigation, WSIN will be contacted prior to each operation within that investigation. Officers shall advise WSIN when an operation or investigation is concluded. Refer to Policy §610

#### 335.4.1 SUPERVISOR RESPONSIBILITY

The affected district commander shall ensure sufficient officers in their district are trained in the use of the WSIN system. The SIB shall provide the necessary training to Department personnel.

### **336.1 POLICY**

Every member investigating a crime will ensure the victim and/or witness has been provided with information about the existence of local victim services and a copy of the Victim's Bill of Rights, also known as Marsy's Rights.

#### **336.1.1 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 DEFINITIONS**

**Victim** - In accordance with California Constitution, Section 28, Article 1, "Victim" shall mean a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act. The term 'victim' also includes the person's spouse, parents, children, siblings, or guardian, and includes a lawful representative of a crime victim who is deceased, a minor, or physically or psychologically incapacitated.

The term 'victim' does not include a person in custody for an offense, the accused, or a person whom the court finds would not act in the best interests of a minor victim.

**Witness** - In accordance with PC §679.01, "Witness" shall mean any person who has been or is expected to testify for the prosecution, or who, by reason of having relevant information, is subject to or likely to be called as a witness for the prosecution, whether or not any action or proceeding has yet been commenced.

**Crime** - PC §679.01 defines a crime as an act committed in this state which, if committed by a competent adult, would constitute a misdemeanor or felony.

### **336.3 ADVISEMENT RESPONSIBILITY**

Members reporting or investigating a crime will ensure the victim has been provided with information about the existence of the local victim centers and a copy of the Victim's Bill of Rights, also known as Marsy's Rights, as mandated by PC § 679.026(c)(1).

This advisement shall include presenting the victim with a Victim Information form, which shall include the case number for the specific crime report. This form shall be provided to victims in addition to other required forms, such as the Domestic Violence Victim Information form and the Sexual Assault Victim Information form.

#### **336.3.1 CRIME VICTIMS**

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 them to the proper written department material or available victim resources.

#### **336.3.2 VICTIMS OF HUMAN TRAFFICKING**

Officers investigating or receiving a report involving a victim of human trafficking shall inform the victim, or the victim's parent or guardian if the victim is a minor, that upon the request of the victim the names and images of the victim and their immediate family members may be withheld from becoming a matter of public record until the conclusion of the investigation or prosecution (PC §293).



A victim of human trafficking or abuse has the right to have a human trafficking advocate and one support person of the victim's choosing present at an interview by a law enforcement authority. The victim shall be advised either in writing or orally of their right to have an advocate and one support person of their choosing present at the interview, as specified within PC §236.21. If the victim an advocate the officer should contact Breaking the Chains at (559)492-1566 to request an advocate.

Exception: The support person can be excluded from the interview, but not the human trafficking advocate, if it is believed that the support person's presence would be detrimental to the process.

### 336.3.3 WITNESSES

Officers should never guarantee a witness' safety from future harm or that their 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.

## **336.4 MEMBERS RESPONSIBILITIES**

### 336.4.1 REPORTING OFFICER RESPONSIBILITY

It shall be the primary responsibility of the reporting member to make the required advisement while presenting the victim with a Victim Information form.

The officer shall not attempt advisement when the circumstances are such that the advisement would add to the grief and suffering of victim or dependent. Such advisement shall be made at a time and place where the victim is able to understand and appreciate its meaning.

The officer shall document the completion of the advisement or the reason the advisement was not completed in the report.

### 336.4.2 DETECTIVE RESPONSIBILITY

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

### 336.4.3 SUPERVISOR RESPONSIBILITY

It is the responsibility of any supervisor approving a report to ensure that information is included to document the proper advisement being made or the fact that such advisement could not be accomplished.

The detective supervisor is then responsible to ensure that the proper advisement is accomplished and properly documented as the follow-up investigation is conducted.

## **336.5 RECORDS SECTION RESPONSIBILITY**

The Records Manager shall be the liaison officer to the Victim-Witness Assistance Program office. It shall be their responsibility to forward copies of police reports requested by personnel at the local victim centers to verify the criminal activity upon which the application for assistance is based. Policy §810 regarding release of reports shall be followed in all cases.

Policy  
**337**

Fresno Police Department Policy Manual  
**Animal Problems**

**337 Animal Problems**

**337.1 POLICY**

When called upon, members will assist to the extent necessary to maintain peace and the public safety on animal related incidents.

**337.1.1 PURPOSE AND SCOPE**

While the Department does not act in the role of animal control or provide that service to the public, it is often called upon as a "first responder" to such calls. As such, every effort must be made to ensure the public is not placed in harm's way, is provided necessary medical aid if needed, is afforded the proper referrals, and documentation to maintain the public peace.

**337.2 ANIMAL BITES**

Members will not be dispatched to animal bite calls. RPs shall be advised to call the Fresno County Health Department Rabies Program during business hours. The RP should also be advised to consult with their physician.

**Exceptions:** Members will be dispatched to animal bites when one or more of the following special circumstances exist:

- (a) A crime is involved;
- (b) The animal poses a threat to the public (i.e., vicious dog) ; or
- (c) There are major injuries or death.

Members will respond to maintain safety of citizens and/or property of others. (i.e., other dogs).

**337.3 CARE FOR INJURED PERSONS**

Members investigating animal bite calls shall provide medical assistance for injured persons.

**337.4 OWNER'S RESPONSIBILITIES**

When the owner of a dog that has bitten a person is located, the owner shall be informed that they are required by Fresno Municipal Code §9219 to quarantine the animal and report the incident to the Fresno County Health Department.

**337.4.1 IMPOUNDING ANIMALS WHICH HAVE BITTEN**

Animals that have attacked, bitten, and/or injured any person or other animal may be impounded when the owner is unavailable, unwilling, or unable to quarantine the animal. Fresno Humane Animal Services shall be requested to respond to impound the animal pursuant to FMC § 9223.

**337.5 REPORTING**

When members investigate a bite involving special circumstances, they shall document the incident with a Casualty Report. The Casualty Report should include, but not be limited to:

- (a) Any previous history of the animal attacking, biting, and/or causing injury to a person or animal;
- (b) The nature and extent of injuries inflicted;
- (c) The presence/absence of any provocation for the bite/attack;
- (d) Description of any property damaged/destroyed by the animal;
- (e) Any evidence of the animal being trained to fight/attack;
- (f) Whether the animal exhibits aggressive behavior;
- (g) Action taken by the member;
- (h) Advice given to the victim; and
- (i) Any warnings given to the animal's owner.

### **337.6 DECEASED ANIMALS**

Small, dead animals should be reported to the ComCen and removed from the roadway so that they may be picked up during business hours. ComCen is responsible for notifying Fresno Humane Animal Services of the animal's location.

Large, dead animals (e.g., horses, cows) shall not to be referred to Fresno Humane Animal Services. ComCen shall contact Baker's Commodities to recover the animal.

### **337.7 INJURED ANIMALS**

Stray or abandoned injured animals that may be moved or taken to an available veterinarian should not be euthanized. Abandoned injured animals (with the exception of dogs and cats) may only be euthanized after a reasonable search to locate the owner has been made. Members who find injured dogs and cats without their owners shall contact the Fresno Humane Animal Services or other facility contracted with the City of Fresno to take possession of the animal. The animal shall then be taken to an appropriate veterinarian for determination of whether they should be treated or humanely euthanized (PC §597.1).

### **337.8 SHOOTING INJURED ANIMALS**

An officer may shoot an injured animal with supervisor approval when the following conditions have been met:

- (a) Dispatch has contacted Fresno Humane Animal Services to ascertain a response time;
- (b) In the case of a domestic animal reasonable attempts should be made to contact or locate the animal's owner;
- (c) The animal appears so severely injured that human compassion requires its removal from further suffering and other dispositions are impractical;
- (d) The shooting of the animal can be done safely and would not pose a risk to the life or property of the officer or other citizens; and
- (e) If there are members of the public nearby, they should be advised to leave the area for their safety.

The type of firearm used to shoot an injured animal will be at the discretion of the officer or supervisor on scene based on relevant factors (i.e., surface animal is on, size of the animal, backstop to absorb bullets, ability to properly target the animal, etc.). After the animal is euthanized a general incident report shall be completed. Supervisors shall complete an Admin Review Memo through their chain of command outlining the circumstances and justification for the discharge of a firearm at an injured animal.

### **337.9 VICIOUS DOGS**

When members are dispatched to a call of a vicious dog at large and they cannot locate the dog, the RP shall be referred to Fresno Humane Animal Services for assistance.

When members locate a vicious dog at large Fresno Humane Animal Services should be requested to impound the dog pursuant to FMC § 9-217.

### **337.10 DANGEROUS ANIMALS**

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

In circumstances in which officers have sufficient advanced notice that a potentially dangerous domestic animal (e.g., dog) may be encountered, such as in the serving of a search warrant, officers should develop reasonable contingency plans for dealing with the animal without the use of deadly force (e.g., Fire extinguisher, Electronic Control Device ECD, OC Spray, animal control officer). Nothing in this policy shall prohibit any officer from resorting to deadly force to control a dangerous animal if circumstances reasonably dictate that a contingency plan has failed or becomes impractical. Supervisors shall complete an Admin Review Memo through their chain of command outlining the circumstances and justification for the discharge of a firearm at a dangerous animal.

### **337.11 BARKING DOGS**

Members will not be dispatched to handle barking dog complaints. The reporting party (RP) should be advised that mediation with their neighbors can often result in a satisfactory solution for all parties involved. Free mediation services are offered at no cost to Fresno residents by:

BBB Mediation Services

4201 W. Shaw #107

Fresno, CA 93722

(559)256-6300 or (800)675-8118, ext. 300 (Citizen may leave a message for a call back)

e-mail: [info@bbbmediation.org](mailto:info@bbbmediation.org)

website: <http://www.bbbmediation.org/>

Officers will continue to respond to verbal and physical disturbances between neighbors, as dictated by current dispatching policies, regardless of the original cause of the disturbance.

### **337.12 FRESNO HUMANE ANIMAL SERVICES ASSISTANCE**

Fresno Humane Animal Services will respond to calls Monday through Sunday during regular business hours. Fresno Humane Animal Services response after regular business hours (1600 to 1000), is limited to the following essential emergencies:

- (a) Any law enforcement agency requesting immediate emergency assistance or a call at the direction of the Health Officer or his/her designee;
- (b) Animal bite, where the animal continues to pose an immediate threat and cannot be contained in a safe manner to prevent another attack;
- (c) Any animal either aggressive or that is perceived to be an immediate threat to those individuals reporting the event;
- (d) Any live domestic animal (including livestock) which is presenting an immediate hazard to humans, such as in traffic lanes of a major throughfare or highway;
- (e) Any animal that is sick, injured, or in immediate danger where the owner is *not* present and cannot be located; and
- (f) Any domestic animal that is in immediate risk due to animal cruelty or neglect.

When possible, members will stand by animals until the arrival of the Fresno Humane Animal Services field unit. Members will render reasonable assistance to Fresno Humane Animal Services personnel.

**338.1 POLICY**

It is the policy of the Fresno Police Department to safeguard the rights of all individuals irrespective of their disability, gender, nationality, race or ethnicity, religion, sexual orientation, and/or association with a person or group with one or more of these actual or perceived characteristics. Any acts or threats of violence, property damage, harassment, intimidation, or other crimes motivated by hate or bias should be viewed very seriously and given high priority.

The Fresno Police Department will employ reasonably available resources and vigorous law enforcement action to identify and arrest hate crime perpetrators. Also, recognizing the particular fears and distress typically suffered by victims, the potential for reprisal and escalation of violence, and the far-reaching negative consequences of these crimes on the community, this department should take all reasonable steps to attend to the security and related concerns of the immediate victims and their families as feasible.

All officers are required to be familiar with the policy and use reasonable diligence to carry out the policy unless directed by the Chief of Police or other command-level officer to whom the Chief of Police formally delegates this responsibility.

When any member receives information of a suspected hate crime or other activity that reasonably appears to involve a potential hate crime, the incident shall be documented consistent with Policy §344.

**338.1.1 PURPOSE AND SCOPE**

This policy is designed to assist in identifying and handling crimes motivated by hate or other bias toward individuals and groups with legally defined protected characteristics, to define appropriate steps for assisting victims, and to provide a guide to conducting related investigations. It outlines the general policy framework for prevention, response, accessing assistance, victim assistance and follow-up, and reporting as related to law enforcement's role in handling hate crimes. It also serves as a declaration that hate crimes are taken seriously and demonstrates how the Fresno Police Department may best use its resources to investigate and solve an offense, in addition to building community trust and increasing police legitimacy (Penal Code §13519.6).

**338.2 DEFINITIONS**

In accordance with PC §422.55; PC §422.56; PC §422.6; and PC §422.87, for purposes of all other state law, unless an explicit provision of law or the context clearly requires a different meaning, the following shall apply:

**Bias Motivation** - Bias Motivation is a pre-existing negative attitude toward actual or perceived characteristics referenced in PC §422.55. Depending on the circumstances of each case, bias motivation may include but is not limited to hatred, animosity, resentment, revulsion, contempt, unreasonable fear, paranoia, callousness, thrill-seeking, desire for social dominance, desire for social bonding with those of one's "own kind," or a perception of the vulnerability of the victim due to the victim being perceived as being weak, worthless, or fair game because of a protected characteristic, including but not limited to disability or gender.

**Disability** - Disability includes mental disability and physical disability as defined in Government Code §12926, regardless of whether those disabilities are temporary, permanent, congenital, or acquired by heredity, accident, injury, advanced age, or illness.

**Disability Bias** - In recognizing suspected disability-bias hate crimes, officers should consider whether there is any indication that the perpetrator was motivated by hostility or other bias, occasioned by

factors such as but not limited to dislike of persons who arouse fear or guilt, a perception that persons with disabilities are inferior and therefore “deserving victims,” a fear of persons whose visible traits are perceived as being disturbing to others, or resentment of those who need, demand, or receive alternative educational, physical, or social accommodations.

In recognizing suspected disability-bias hate crimes, officers should consider whether there is any indication that the perpetrator perceived the victim to be vulnerable and, if so, if this perception is grounded, in whole or in part, in anti-disability bias. This includes but is not limited to situations where a perpetrator targets a person with a particular perceived disability while avoiding other vulnerable-appearing persons, such as inebriated persons or persons with perceived disabilities different from those of the victim. Such circumstances could be evidence that the perpetrator’s motivations included bias against persons with the perceived disability of the victim and that the crime must be reported as a suspected hate crime and not a mere crime of opportunity.

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

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

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

**Hate Crime** - “Hate crime” includes but is not limited to a violation of PC §422.6, and means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

- (a) Disability
- (b) Gender
- (c) Nationality
- (d) Race or ethnicity
- (e) Religion
- (f) Sexual orientation
- (g) Association with a person or group with one or more of these actual or perceived characteristics:
  - 1) “Association with a person or group with these actual or perceived characteristics” includes advocacy for, identification with, or being on the ground owned or rented by, or adjacent to, any of the following: a community center, educational facility, family, individual, office, meeting hall, place of worship, private institution, public agency, library, or other entity, group, or person that has, or is identified with people who have, one or more of those characteristics listed in the definition of “hate crime” under paragraphs 1 to 6, inclusive, of PC §422.55(a).

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

**Hate Incident** - A hate incident is an action or behavior motivated by hate or bias but legally protected by the First Amendment right to freedom of expression. Examples of hate incidents include:

- (a) Name-calling
- (b) Insults and epithets
- (c) Distributing hate material in public places
- (d) Displaying hate material on your own property

**Hate Speech** - The First Amendment to the U.S. Constitution protects most speech, even when it is disagreeable, offensive, or hurtful. The following types of speech are generally not protected:

- (a) Fighting words
- (b) True threats
- (c) Perjury
- (d) Blackmail
- (e) Incitement to lawless action
- (f) Conspiracy
- (g) Solicitation to commit any crime

**In Whole or In Part** - "In whole or in part because of" means that the bias motivation must be a cause in fact of the offense whether or not other causes also exist. When multiple concurrent motives exist, the prohibited bias must be a substantial factor in bringing about the particular result. There is no requirement that the bias be a main factor, or that a crime would not have been committed but for the actual or perceived characteristic.

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

**Race or Ethnicity** - Race or ethnicity includes ancestry, color, and ethnic background.

**Religion** - Religion includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.

**Sexual Orientation** - Sexual orientation means heterosexuality, homosexuality, or bisexuality.

**Victim** - Victim includes but is not limited to:

- (a) Community center
- (b) Educational facility
- (c) Entity
- (d) Family
- (e) Group
- (f) Individual
- (g) Office
- (h) Meeting hall
- (i) Person
- (j) Place of worship
- (k) Private institution
- (l) Public agency
- (m) Library
- (n) Other victim or intended victim of the offense

### **338.3 REPORTING AND INVESTIGATIVE RESPONSIBILITIES**

When a member receives information of a suspected hate crime or bias crime, they shall:

- (a) Stabilize the victims and request medical attention when necessary;
- (b) Contact the victim(s), witness, or reporting party to investigate the matter further as circumstances may dictate;
- (c) Notify a supervisor as soon as practical;
- (d) Take all reasonable steps to preserve any evidence that establishes a hate crime has occurred. [Once all immediate aspects have been tended to (e.g. treatment of victims, apprehension of suspect, etc.)];
- (e) Interview the victim(s), witness(es), and others to determine what circumstances, if any, indicate that a hate crime has occurred. 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 [PC §422.93(b)]; refer to Policy §428;
- (f) Consider additional assistance from detectives and other resources as needed;

- (g) Make reasonable efforts to assist the victim(s) by providing available information on local assistance programs and organizations. Provide the victim(s) of any suspected hate crime with a brochure on hate crimes (PC §422.92): and
- (h) The assigned officer(s) and supervisor should take reasonable steps to ensure that any such situation does not escalate further (e.g., Possible Temporary Restraining Order through the District Attorney or City Attorney, PC §136.2 or Civil Code §52.1 as indicated).

All reports written must clearly be marked as "Hate Crime" and sent to the supervisor.

At the scene of a suspected hate or bias crime, officers should take preliminary actions reasonably deemed necessary, including but not limited to the following:

- (a) Use agency checklist (per PC §422.87) to assist in the investigation of any hate crime (see Appendix).
- (b) Properly protect, preserve, and process the crime scene, and remove all physical evidence of the incident as soon as possible after the offense is documented. If evidence of an inflammatory nature cannot be physically removed, the property owner should be contacted to facilitate removal or covering as soon as reasonably possible. Department personnel should follow up with the property owner to determine if this was accomplished in a timely manner.
- (c) Collect and photograph physical evidence or indicators of hate crimes such as:
  - 1) Hate literature;
  - 2) Spray paint cans;
  - 3) Threatening letters; and/or
  - 4) Symbols used by hate groups.
- (d) Identify criminal evidence on the victim.
- (e) Request the assistance of translators or interpreters when needed to establish effective communication with witnesses, victims, or others as appropriate.
- (f) Conduct a preliminary investigation and record pertinent information including but not limited to:
  - 1) Identity of suspected perpetrators.
  - 2) Identity of witnesses, including those no longer at the scene.
  - 3) Offer the victim confidentiality per GC § 6254.
  - 4) Prior occurrences in this area or with this victim.
  - 5) Statements made by suspects; exact wording is critical.
  - 6) The victim's protected characteristics and determine if bias was a motivation "in whole or in part" in the commission of the crime.
- (g) Utilize proper techniques for interviewing people with disabilities and be aware of and provide appropriate accommodations (e.g., ADA standards, Braille, visuals, translators for the deaf or hard of hearing).
- (h) Document any suspected multi-mission extremist crimes.

#### **338.4 FIELD SUPERVISOR RESPONSIBILITIES**

Upon notification of a hate crime, bias crime, or incident, the field supervisor shall confer with the initial responding officer and take reasonable steps to ensure that necessary preliminary actions have been taken. The supervisor shall request any appropriate personnel necessary to accomplish the following:

- (a) Respond immediately to the scene where personal injury or major property damage has been sustained. In all other events, the supervisor will make a determination whether an immediate response is necessary;
- (b) Provide immediate assistance to the crime victim by:
  - 1) Visit the victims and assure them that the investigation will be actively pursued and that the police are doing everything possible to eliminate the fear factor and apprehend the suspect(s);
  - 2) Expressing the department's interest in protecting victims' anonymity (confidentiality forms, GC §6254) to the extent reasonably possible. Allow the victims to convey their immediate concerns and feelings; and
  - 3) Identifying individuals or agencies that may provide victim assistance and support. Local victim assistance resources may include family members or close acquaintances, clergy,



or a department chaplain, as well as community service agencies that provide shelter, food, clothing, child care, or other related services (per PC §422.92).

- (c) Ensure that the scene is properly processed and evidence is collected;
- (d) Notify the ComCen and the on duty district or field commander of the situation;
- (e) When possible, arrange for an immediate increase of patrols throughout the affected area;
- (f) Attempt to have all visible reminders of the event removed after evidence processing is completed. When they cannot be removed (e.g., paint on walls), the member should attempt to impress upon building or property owners the need for complete restoration as soon as possible;
- (g) Respond to and properly initiate an investigation of any reports of hate crimes committed under the color of authority;
- (h) Verify adherence to PC §422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law. Supervisors should also be aware of the immigration remedies available to victims of crime (e.g., U-Visa, T-Visa, S-Visa). (See Policy §428);
- (i) Verify reporting of any suspected multi-mission extremist crimes to the agency Hate Crimes Coordinator.
- (j) Ensure that the report of the event is complete; and
- (k) Notify their chain of command of the incident in a department E-mail.

### **338.5 HATE CRIME INVESTIGATOR RESPONSIBILITIES**

The Hate Crime Investigator will be assigned from the District with responsibility for the incident and will be supervised by the District Investigations Unit sergeant. The Hate Crime Investigator shall:

- (a) Review all hate crimes and incidents to determine if the event is a crime or a non-criminal incident, and if it was motivated by race, color, religion, ancestry, national origin, disability, gender, or sexual orientation;
- (b) Properly investigate any report of a hate crime committed under the color of authority per PC § 422.6 and PC § 13519.6;
- (c) Conduct follow-up investigations as needed and submit those cases to the District Attorney's Office for criminal filings;
- (d) Serve as a liaison officer with the Human Relations Commission and other groups affected by hate crimes; and
- (e) Provide the district commander with information on the progress of the investigation.

### **338.6 DISTRICT COMMANDER RESPONSIBILITIES - HATE CRIME INVESTIGATIONS**

The District Commander with follow-up responsibility for the incident shall:

- (a) Ensure that the investigation is actively pursued to a successful conclusion or until all leads have been exhausted;
- (b) Ensure that the investigation is considered a priority matter by the assigned follow-up investigator; and
- (c) Ensure that investigative personnel make immediate follow-up contact with the victim(s) to assure them that the investigation will be actively pursued.

### **338.7 PLANNING AND PREVENTION**

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

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

### **338.8 DISTRICT COMMANDER RESPONSIBILITIES - PLANNING AND PREVENTION**

Due to the size, complexity, and diversity of the City of Fresno, it will be the responsibility of each District Commander to ensure their policing district familiarizes themselves with the various groups in their districts. The District Commander shall designate a member to serve as the Hate Crimes Coordinator for the district.

Following the reporting of a hate crime or incident, district and/or field commanders shall:

- (a) Make personal contact with the victims, when the severity of the case dictates, to assure the victim that the event is being investigated and that the victim's safety is the Department's concern;
- (b) Ensure that appropriate proactive tactics are implemented in the affected area as long as necessary following the incident;
- (c) Maintain contact with affected community leaders concerning the progress of the investigation and the Department's response;
- (d) Ensure that victims and other concerned parties are informed of any case clearance; and
- (e) Provide appropriate assistance, including activating the California Department of Justice hate crime rapid response protocol if necessary. For additional information refer to the California Department of Justice website.

#### **338.8.1 HATE CRIMES COORDINATOR**

The responsibilities of the Hate Crimes Coordinator should include but not be limited to (PC §422.87):

- (a) Meeting with residents in target communities to allay fears; emphasizing the department's concern over hate crimes and related incidents; reducing the potential for counter-violence; and providing safety, security, and crime-prevention information. Cultural diversity education and immersion programs (if available) could facilitate this process.
- (b) Finding, evaluating, and monitoring public social media sources to identify possible suspects in reported hate crimes; to identify suspects or suspect groups in future hate crimes or hate incidents affecting individuals, groups, or communities that may be victimized; and to predict future hate-based events.
- (c) Providing direct and referral assistance to the victim and the victim's family.
- (d) Conducting public meetings on hate crime threats and violence in general.
- (e) Establishing relationships with formal community-based organizations and leaders.
- (f) Expanding, where appropriate, preventive programs such as hate, bias, and crime-reduction seminars for students.
- (g) Reviewing the Attorney General's latest opinion on hate crime statistics and targets in order to prepare and plan for future crimes, specifically for Arab/Middle Eastern and Muslim communities (PC §13519.6(b)(8)).
- (h) Providing orientation of and with communities of specific targeted victims such as immigrants, Muslims, Arabs, LGBTQ, black or African-American, Jewish, Sikh, and persons with disabilities.
- (i) Verifying a process is in place to provide this policy and related orders to officers in the field; and taking reasonable steps to rectify the situation if such a process is not in place.
- (j) Taking reasonable steps to ensure hate crime data is provided to the Records Bureau for mandated reporting to the Department of Justice; and
- (k) Reporting any suspected multi-mission extremist crimes to the agency Terrorism Liaison Officer, the assigned designee, or other appropriate resource; and verifying that such data is transmitted to the Joint Regional Information Exchange System in accordance with the protocols of the Records Bureau Policy.

### **338.9 RELEASE OF INFORMATION**

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

The benefit of public disclosure of hate crime incidents includes:

- (a) Dissemination of correct information.
- (b) Assurance to affected communities or groups that the matter is being properly and promptly investigated.

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

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

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

- (a) Inform community organizations in a timely manner when a community group has been the target of a hate crime.
- (b) Inform the community of the impact of these crimes on the victim, the victim's family, and the community, and of the assistance and compensation available to victims.
- (c) Inform the community regarding hate crime law and the legal rights of, and remedies available to, victims of hate crimes.
- (d) Provide the community with ongoing information regarding hate crimes and/or hate incidents.

### **338.10 RECORDS**

The Records Supervisor shall ensure the transmission of data to the Joint Regional Information Exchange System on any suspected multi-mission extremist crimes.

### **338.11 ANNUAL POLICY REVIEW**

An annual review of this policy shall be conducted. This review shall include but not limited to:

- (a) Maintaining the department's supply of up-to-date hate crimes brochures (PC §422.92; PC § 422.87).
- (b) Annually assessing this policy, including:
  - 1) Keeping abreast of the Commission on Peace Officer Standards and Training (POST) model policy framework for hate crimes for revisions or additions, including definitions, responsibilities, training resources, and planning and prevention methods.
  - 2) Analysis of the department's data collection as well as the available outside data (e.g., annual California Attorney General's report on hate crime) in preparation for and response to future hate crimes.

### **338.12 TRAINING**

All members of this department will receive POST-approved training on hate crime recognition and investigation as provided by PC §13519.6. Training should include (PC §422.87):

- (a) Recognition of bias motivators such as ranges of attitudes and perceptions toward a specific characteristic or group, including disability bias and gender bias.
- (b) Accurate reporting by officers, including information on the general underreporting of hate crimes.
- (c) Distribution of hate crime brochures.

### **338.13 STATISTICAL DATA**

The Department shall maintain statistical data on suspected hate crimes and tracking as indicated and report such data to the Attorney General upon request pursuant to PC §13023.

### **338.14 STATUTES AND LEGAL REQUIREMENTS**

Refer to the attachment provided within this Policy for Statues, Legal Requirements, Hate Crime Checklist and Hate Crime Brochure. Members should refer to the Penal Code for the full text of the statute.

## Fresno Police Department Policy Manual Anti-Reproductive (Abortion) Crimes Reporting

### 339.1 POLICY

The Fresno Police Department shall adhere to all provisions of the Reproductive Rights Law Enforcement Act (Penal Code §13775 et seq.)

#### 332.1.1 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 (PC § 13775 et seq.).

### 339.2 VIOLATIONS OF PC §423.2

The following are violations of the above law unless committed by a parent or guardian acting toward their 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 nonviolent 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.

### 339.3 REPORTING REQUIREMENTS

A report will be written and routed to Investigative Services Division (ISD).

#### 339.3.1 MEMBER REQUIREMENTS

When any member receives information of a suspected anti-reproductive (abortion) crime or other activity that reasonably appears to involved with this crime, the incident shall be documented consistent with Policy §344.

#### 339.3.2 SUPERVISOR RESPONSIBILITIES

An E-mail will also be written by the officer's supervisor and routed through their chain of command.

### **340.1 POLICY**

The Department will only administer the minimal amount of punitive discipline to any employee to ensure compliance for violations of any policy established by this Department. Discipline shall be based on the employee's disciplinary history, severity of the violation, and any other factors, in accordance with this policy, the employees respective MOU, and established laws.

#### **340.1.1 PURPOSE AND SCOPE**

To provide employees 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 employees of this Department (including part-time and reserve employees).

Employees violating their oath and/or trust by committing an offense punishable under the laws or statutes of the United States, the State of California, or the ordinances of the City, or who violate any provision of the Policy Manual, or who are incompetent to perform their duties are subject to corrective or disciplinary action.

A violation of any portion of this policy may only serve as the basis for internal disciplinary and/or administrative action. 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.

### **340.2 DEFINITIONS**

**Sworn Personnel** – Refers to recruits, officers, and sergeants represented by the FPOA.

**Non-Sworn Personnel** - Refers to all personnel other than recruits, officers, and sergeants represented by the FPOA.

### **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 §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. The target goal for IA investigations assigned to non-Internal Affairs Bureau personnel is completion within 30 days of assignment, not to exceed 60 days without an extension. Requests for extensions shall be made in writing to the investigating supervisor's bureau/district commander. The IA secretary shall be notified of the extension and its length. (Policy § 1020.11.1). Extensions may be granted for investigations of a complex or difficult nature. Generally, those IA Investigations assigned to the Internal Affairs Bureau are complex and of a difficult nature. The target goal for IA investigations assigned to the Internal Affairs Bureau is completion within 90 days of assignment, however completion times will be subject to the discretion of the Internal Affairs Bureau Commander.

## **340.4 CORRECTIVE AND DISCIPLINARY ACTIONS**

The primary purpose of the corrective or disciplinary action is to invoke positive behavioral change.

### **340.4.1 CORRECTIVE ACTION**

Corrective action is designed to inform an employee of unacceptable performance or behavior, and afford the employee a choice to modify the performance or behavior in the future or face progressive disciplinary action. Any supervisor may take the following corrective measures with subordinates to include:

- (a) Oral counseling;
- (b) Letter of counseling;
- (c) Oral reprimand; and
- (d) Documented oral reprimand.

### **340.4.2 COUNSELING**

Oral Counseling and Letters of Counseling are appropriate when the problem is a lack of understanding of the policies, regulations, procedures, and requirements of the job rather than intentional or unintentional disregard thereof. Letters of Counseling are written documentation that the nature of the problem has been discussed with the employee.

The letter shall:

- (a) Include a date for review with the employee;
- (b) Be placed only in the employee's divisional file for a period of not less than 12 months;
- (c) Be removed from the file when the problem has not continued; and
- (d) Not refer to any future corrective or disciplinary action(s) anticipated or threatened.

### **340.4.3 ORAL REPRIMANDS**

Oral reprimands and documented oral reprimands are for minor offenses arising from the intentional or unintentional disregard for policies, regulations, procedures or requirements of the job.

- (a) Oral Reprimand - When a supervisor or staff member makes the decision to issue an oral reprimand, they shall:

- 1) First address the employee as soon as practical; and
- 2) Cite the reasons for the oral reprimand.

An oral reprimand may also include a warning that if the problem continues, a request for disciplinary action may result.

- (b) Documented Oral Reprimand - When a supervisor or staff employee intends to issue a memorandum documenting an oral reprimand they must:

- 1) Have this level of corrective action approved by the employee's district or bureau commander prior to issuing the document; and
- 2) The request to document the oral reprimand shall be done in memo form and addressed to the employee's district or bureau commander.

Once the documented oral reprimand has been approved by the employee's district or bureau commander:

- (a) It shall be returned to the employee's immediate supervisor for service.
- (b) This memo shall be retained only in the employee's divisional file for a period of not less than 12 months; and
- (c) When the problem has not continued, the reprimand shall be removed from the file.

Except as otherwise provided in this order, corrective or disciplinary actions are subject to the provisions of the FMC and the rules of the Civil Service Board (CSB). Nothing herein constitutes a waiver of rights of employees otherwise granted by law.

## **340.5 REVIEW OF CORRECTIVE ACTIONS**

For Letters of Counseling and Documented Oral Reprimands, an employee may request a review to the next level of supervision. After being allowed to sign the document, the employee has five calendar days to submit a request in writing to the next highest rank for a review of the action. The reviewing

manager or staff officer shall determine if the facts and evidence warrant the documented action, or a modification of the imposed action.

The reviewing manager or staff officer's decision is final, although the receiving employee may still file a written response within 30 days.

#### **340.6 DOCUMENTING TRAINING AND COUNSELING**

Written comments with regard to training or counseling given to an employee by a supervisor are not considered written reprimands, nor are they disciplinary actions. Such comments are merely written documentation that training or counseling has been given.

However, when such comments are in any way adverse to the employee, they shall be signed before they are entered into the employee's file. Written performance evaluations also fall under this provision, as do any other documents pertaining to training or counseling that may have an adverse impact.

#### **340.7 ACKNOWLEDGEMENT OF ADVERSE ENTRIES**

When any written adverse comment is to be placed in any personnel file, the employee who is the subject of the comment shall review the document and be requested to sign it along with the supervisor serving the document. The subject employee's signature shall only acknowledge review and awareness of the document and does not imply agreement.

Employees may refuse to sign a document containing adverse comments. In such cases, the serving supervisor shall make a notation on the signature line, documenting the refusal to sign, and shall sign or initial the notation. Sworn employees covered under GC §3305 shall also sign/initial the notation made by the supervisor.

Employees have 30 days to file a written response to any file entry, which shall be attached to and accompany the entry.

#### **340.8 SUPERVISORS OBSERVATION LOG (aka 'Blue sheet')**

In the Supervisors Observation Log supervisors shall enter all counseling, reprimands, and commendations that are not documented using a more formal protocol. The employee who is the subject of the observation shall initial the entry along with the supervisor.

#### **340.9 ALLOWED DISCIPLINARY ACTIONS OF SWORN PERSONNEL**

Discipline is designed to modify unacceptable performance or behavior, and is used when corrective action has failed, or would be inappropriate for the issue at hand. Discipline may include any of the following:

- (a) Letter of Reprimand;
- (b) Fine (up to \$100 in lieu of suspension);
- (c) Suspension (up to 30 calendar days without pay);
- (d) Demotion; and/or
- (e) Termination.

Corrective action is to be used in lieu of disciplinary action, whenever appropriate. When, during the course of the corrective action, the Department concludes that disciplinary action is warranted, the corrective action process will end and any further contact with the employee will conform to the disciplinary process.

The decision to document corrective actions in a letter of counseling or memorandum (documented oral reprimand), shall be based upon the fact that an issue has previously been addressed or is of a level of seriousness that should be recorded for future reference. Continued reoccurrence of the same/similar issue shall be further investigated by a supervisor.

### 340.9.1 AUTHORITY TO DISCIPLINE

Except for emergency suspensions, all Departmental discipline must be taken or approved as contained in this section.

- (a) Letters of Reprimand, fines, and suspensions shall be proposed by a Division Commander or the Chief of Police.
- (b) Dismissals or demotions shall be proposed by the Chief of Police.
- (c) The Skelly process for fines and suspensions shall be conducted by the Administrative Division Commander.
- (d) The Skelly process for dismissals and demotions shall be conducted by the Chief of Police.

### 340.10 NOTIFICATION OF PENDING DISCIPLINARY ACTION

When an employee is to receive disciplinary action, the employee shall be notified at least ten calendar days prior to service of the order of discipline. The notification is for the purpose of allowing the employee an opportunity to respond orally or in writing to the Chief of Police or designee. The notice of pending disciplinary action shall:

- (a) State the reason(s);
- (b) Be accompanied by a copy of the charges and materials upon which the action is based; and
- (c) State the employee's right to respond, either orally or in writing, to the Chief of Police or designee, as the authority imposing the discipline.

The appointing authority may impose disciplinary action without compliance with the noticing provisions of this section when the appointing authority determines immediate disciplinary action is necessary against an employee having permanent status as a result of accusations involving:

- (a) Misappropriation of public funds or property;
- (b) Drug addiction;
- (c) Mistreatment of persons in the custody of the employee;
- (d) Physical assault upon another employee or an employee of the public;
- (e) Action which would constitute a felony; or
- (f) A misdemeanor involving moral turpitude.

### 340.11 APPEALS OF DISCIPLINARY ACTIONS

Any employee receiving disciplinary action may appeal such action through established means per their respective MOU's.

Any employee wishing to formally appeal a written reprimand must submit a written request to their Division Commander within 10 days of receipt of the written reprimand. The Division Commander will then assign the appeal to an uninvolved supervisor of at least one rank above the rank of the supervisor issuing the original written reprimand.

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

Additionally:

- (a) Discipline in the form of fines, suspensions, demotions and dismissals may be appealed to the Civil Service Board or to that Board through advisory arbitration. For fines and suspensions which have been imposed by the Administrative Services Division Commander, appeal to the Chief of Police is an option available in lieu of advisory arbitration or the Civil Service Board. When this option is elected there will be no further appeal to the Civil Service Board or advisory arbitrator. The employee electing this option shall execute a waiver, in accordance with the above, as drafted by the parties;
- (b) Both Civil Service and Advisory Arbitration hearings will be closed to the public unless otherwise requested by the employee; and
- (c) The filing of an appeal of discipline shall not delay the action imposed by the Chief of Police or designee.



### **340.12 ALLOWED DISCIPLINARY ACTIONS OF NON-SWORN PERSONNEL**

Subject to the provisions of the FMC, the rules of the Civil Service Board and when necessary, with the approval of the City Manager, the following discipline may be assessed against employees by the Chief of Police or designee:

- (a) Oral Reprimand
- (b) Written Reprimand
- (c) Suspension (up to 30 calendar days without pay)
- (d) Fine (up to \$100 in lieu of suspension)
- (e) Demotion
- (f) Termination

#### **340.12.1 AUTHORITY TO DISCIPLINE**

Final Departmental authority and responsibility rests with the Chief of Police or designee and in some cases is subject to the approval of the City Manager. Except for emergency suspensions and reprimands, all Departmental discipline must be taken or approved by the Chief of Police or designee.

#### **340.12.2 NOTIFICATION OF PENDING DISCIPLINARY ACTION**

When an employee is to be terminated, demoted, or suspended, receives a fine, or a letter of reprimand, the employee should be notified at least ten calendar days prior to the service of the order of discipline. The notification is for the purpose of allowing such employee an opportunity to respond orally or in writing to the Chief of Police, or designee.

#### **340.12.3 DOCUMENTING TRAINING AND COUNSELING**

Written comments with regard to training or counseling given to an employee by a supervisor are not considered written reprimands, nor are they disciplinary actions. Such comments are merely written documentation that training or counseling has been given.

### **340.13 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 Section I 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 GC §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 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 their 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; and
- (g) In the event that a probationary employee fails to meet their burden of proof in such a disciplinary appeal, the employee shall have no further right to appeal beyond the Chief of Police.

### **340.14 EXEMPT EMPLOYEES UNDER FAIR LABOR STANDARDS ACT**

Exempt employees may not be suspended for a period of less than one week, except for major safety violations. Fines are not a permissible form of discipline for exempt employees. Based on the salary resolution the following employees are exempt under the Fair Labor Standards Act:

- (a) Police Lieutenant;
- (b) Police Captain;
- (c) Deputy Police Chief;
- (d) Assistant Police Chief;
- (e) Crime Scene Bureau Manager;
- (f) Emergency Services Communications Supervisor;
- (g) Police Data Processing Supervisor;
- (h) Emergency Services Communications Manager;
- (i) Records Supervisor;
- (j) Data Base Administrator;
- (k) Executive Secretary;
- (l) Management Analyst;
- (m) Chief Police Pilot: and
- (n) Records Manager

### **340.15 NON-DISCIPLINARY ADMINISTRATIVE LEAVE**

Managers and supervisors have the authority to impose non-disciplinary administrative leave, until the next business day, against a subordinate employee when it appears the action is in the best interest of the Department. Administrative Order § 2-19.

Employees on non-disciplinary administrative leave will suffer no loss of pay. Non-disciplinary administrative leave may include the suspension of the employee's peace officer powers, and relieving them of their department-issued firearm(s), badge, keys and identification. The affected employee shall comply with the City of Fresno Administrative Order 2-19 as soon as practical. The issuing manager/supervisor shall give the following admonishment to the affected employee:

“Paid administrative leave is not discipline or corrective action or other adverse action, although discipline or corrective action may subsequently be imposed. If disciplinary or corrective action is found to be warranted, you will be notified as soon as possible. While on administrative leave, you will continue to receive your regular pay and benefits.”

Employees receiving non-disciplinary administrative leave shall be required to report to their District/Bureau commander at 0900 hours on the first business day following the non-disciplinary suspension. The District/Bureau commander shall provide the employee with instruction as to temporary assignment, whether the non-disciplinary administrative leave will continue, etc. Employees must be available by telephone during regular business hours (Monday-Friday, 8 a.m. to 5 p.m.) This may be modified if the employee works a different schedule.

The employee imposing or recommending the administrative leave shall also report to the District/Bureau commander's office early enough to brief the commander prior to the affected employee's arrival. The District/Bureau Commander shall also notify the Internal Affairs Staff Assistant with the details regarding the administrative leave.

In all cases where administrative leave is not immediately needed, however, is probable, the District/Bureau Commander shall first notify the Internal Affairs Commander, and their chain of command, and start the city notification process, prior to issuing any administrative leave or relieving affected employee of arrest powers, seizure of department items.

### **340.16 REVIEW OF ADMINISTRATIVE INVESTIGATIONS AND EMERGENCY SUSPENSION**

Upon completion of an administrative investigation, the file shall be simultaneously forwarded for review to the involved employee's lieutenant, captain and division commander, via an electronic distribution process. When an administrative investigation is handled by a supervisor outside of Internal Affairs Bureau (IAB), it shall be forwarded to IAB upon completion in order to facilitate the above review process.

After reviewing the file, the involved employee's lieutenant and captain will meet to discuss the findings of the investigation and any disciplinary recommendations. The captain will then meet with the division commander to make a joint recommendation as to the findings of the investigation and any disciplinary recommendations. This meeting should occur within 10 days of receipt of the file. When there is no captain in the employee's chain of command, the lieutenant will meet with the division commander to make the joint recommendation. The IAB will also provide a hard copy of the file to the employee's captain or bureau commander. Final disciplinary recommendations will be made by the Chief of Police or division commander, who will make the final recommendation(s) and sign the Review Sheet. The Internal Affairs file, with the signed Review Sheet, will be returned to IAB.

No employee shall alter, cause to be altered, or withdraw any completed administrative investigation memorandum or attachments.

When an emergency suspension is enacted, a written report must be submitted immediately to the Chief of Police or designee, through the chain of command (with copies to each commander), and shall contain the following information:

- (a) The name, rank, and present assignment of the person being recommended for discipline;
- (b) The date(s) and time(s) of the alleged misconduct and the location(s);
- (c) The section number(s) of the Policy Manual or other rule or law violated or the common name of the misconduct;
- (d) A complete statement of the facts of the misconduct; and
- (e) The written signature, badge number, and rank of the preparing employee and their position.

### **340.17 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.

### **340.18 PROHIBITED DEPARTMENT ACTIONS**

No employee shall be subjected to disciplinary action, or denied promotion, or be threatened with any such treatment because of the exercise of any rights provided in this Manual, or provided in the GC §3301, et seq.

### Corrective and Disciplinary Action Matrix

The following matrix provides information on the different types of corrective and disciplinary actions that may occur and the appeal rights of the employee for each type of action.

ACTION	CORRECTIVE ACTION / DISCIPLINE	MAY BE ISSUED/ IMPOSED BY	SKELLY NOTICE	APPEAL RIGHTS
ORAL COUNSELING	Corrective Action	Supervisor or higher level	NO	If documented or noted in any personnel file, written response within 30 days
ORAL REPRIMAND	Corrective Action	Supervisor or higher level	NO	
LETTER OF COUNSELING	Corrective Action	Supervisor or higher level	NO	Appeal within 5 days to next higher supervisor and/or written response within 30 days.
DOCUMENTED ORAL REPRIMAND	Corrective Action	Supervisor or higher level	NO	
LETTER OF INTENT TO ISSUE LETTER OF REPRIMAND	N/A	Bureau Commander	YES	see: Administrative Hearing Procedure (MOU) Respond to the Bureau Commander, final appeal to the Chief of Police, and/or written response within 30 days
LETTER OF REPRIMAND	Discipline	Bureau Commander	N/A	
NOTICE OF PROPOSED FINE	N/A	Administrative Services Division Commander	YES	Respond to the Administrative Services Division Commander. Appeal to Civil Service Board (CSB), Arbitration (advisory to the CSB) or Chief of Police, and/or written response within 30 days.
FINE	Discipline	Administrative Services Division Commander	N/A	
NOTICE OF PROPOSED SUSPENSION	N/A	Administrative Services Division Commander	YES	
SUSPENSION	Discipline	Administrative Services Division Commander	N/A	
NOTICE OF PROPOSED DEMOTION	N/A	Chief of Police	YES	Respond to the Chief. Appeal to CSB or Arbitration (advisory to the CSB), and/or written response within 30 days.
DEMOTION	Discipline	Chief of Police	N/A	
NOTICE OF PROPOSED TERMINATION	N/A	Chief of Police	YES	
TERMINATION	Discipline	Chief of Police	N/A	

**341 Performance Standards****341.1 POLICY**

Members should be conscientious, prompt, and attentive to their duties and shall perform those duties to the best of their abilities.

**341.1.1 PURPOSE AND SCOPE**

The continued employment of every member of this Department shall be based on conduct and cooperation that reasonably conforms to the guidelines set forth herein. Failure of any member to meet the guidelines set forth in this policy, whether on-duty or off-duty, may be cause for disciplinary action.

A member'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 member's ability to perform official duties or to the extent that it may be indicative of unfitness for their position. Performance concerns should be handled on a timely basis and at the lowest, most informal level possible. Performance concerns or violations of rules may result in corrective or disciplinary actions.

**341.1.2 INTEGRITY**

Members of this Department are entrusted by the public to perform their duties with the highest degree of integrity. We are held to this high standard in both our professional and personal lives. This trust empowers us to complete our mission. When this trust is eroded, we are no longer effective as police officers. Members shall demonstrate the highest degree of integrity at all times and avoid any act which bespeaks a lack of integrity or the mere appearance of a lack of integrity.

**341.1.3 CODE OF ETHICS**

All officers will abide by the Law Enforcement Code of Ethics as listed in this Manual. All civilian members will abide by the Civilian Member Code of Ethics as listed in this Manual. At a minimum, all members will receive ethics training biennially.

**341.2 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 the Department:

**341.2.1 ATTENDANCE**

- (a) Leaving job to which assigned during duty hours without reasonable excuse and proper permission and approval;
- (b) Unexcused or unauthorized absence on scheduled day(s) of work; or
- (c) Failure to report to work or to place of assignment at time specified and fully prepared to perform duties without reasonable excuse.

**341.2.2 CONDUCT**

- (a) Unauthorized or unlawful fighting, threatening, or attempting to inflict unlawful bodily injury on another;
- (b) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment without first notifying the Chief of Police of such action;
- (c) Using Departmental resources in association with any portion of their independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment, and non-subpoenaed records;
- (d) Engaging in potentially dangerous "horseplay" resulting in injury or property damage or the reasonable possibility thereof;

- (e) Unauthorized possession of, loss of, or damage to Department property or the property of others or endangering it through unreasonable carelessness or maliciousness;
- (f) Failure of any member to report activities on their own part or the part of any other member where such activities may result in criminal prosecution or discipline under Department policy. Members shall report incidents to their direct supervisor immediately or as soon as practical. The member's supervisor shall make the appropriate notifications through their chain of command. If the member's supervisor is unavailable, the member shall contact the Duty Office to notify the designated Field Commander. The Field Commander will make the appropriate notifications to the member's chain of command;
- (g) Failure to cooperate with an investigation of misconduct;
- (h) Failure of any member to report activities that have resulted in official contact by any other law enforcement agency;
- (i) Seeking restraining orders against individuals encountered in the line of duty without the expressed permission of the Chief of Police;
- (j) Discourteous, or disrespectful treatment of any member of the public or any member of this Department;
- (k) Unwelcome solicitation of a personal or sexual relationship while on duty or through the use of official capacity;
- (l) Engage in any sexual act by force or through coercion.
- (m) Engaging in on-duty sexual relations including, but not limited to sexual intercourse, excessive displays of public affection or other sexual contact; or
- (n) 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 Fresno Police Department on any personal or social networking (e.g., Facebook, Instagram, Tik Tok, etc.) or other website or web page, without the express written permission of the Chief of Police.
- (o) Manufacturing, reproducing, printing, or distributing any product (e.g., t-shirts, challenge coins, etc.) containing the likenesses or images of Department logos, emblems, uniforms, badges, patches, marked vehicles, equipment or other material that specifically identifies the Fresno Police Department without the express written permission of the Chief of Police.
- (p) Participation in a law enforcement gang as defined and outlined in PC 13670 (a). A violation of this policy is grounds for termination.

### 341.2.3 DISCRIMINATION, OPPRESSION OR FAVORITISM

Discriminating against, oppressing or providing favoritism to any person because of actual or perceived characteristics such as age, race, ethnicity, color, creed, religion, sex, sexual orientation, gender, gender identity or expression, national origin, ancestry, economic status, cultural group, veteran status, marital status, disability, medical condition, immigration status, housing status, occupation, language fluency, or any other classification or status protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power or immunity, knowing the conduct is unlawful.

### 341.2.4 INTOXICANTS

- (a) Reporting for work or being at work following the use of intoxicants where such use may impair the member'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, use of, or attempt to bring intoxicants to the work site, except as authorized in the performance of an official assignment. A member 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 member's ability to perform assigned duties; or
- (d) Unauthorized possession, use of, or attempting to bring controlled substance or other illegal drug to any work site.

### 341.2.5 PERFORMANCE

- (a) Failure to devote on-duty time to activities related to the performance of their assigned duties;
- (b) Unauthorized sleeping, shopping, or reading of non-work-related materials, during on-duty time or assignments;
- (c) Careless workmanship resulting in spoilage or waste of materials or work of an unacceptable nature as applicable to the nature of the work assigned;
- (d) Refusal, 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;
- (e) Concealing or attempting to conceal defective work, removing, or destroying it without permission;
- (f) Disobedience or insubordination to constituted authorities or deliberate refusal to carry out any proper order from any supervisor or employee;
- (g) The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit, or any other improper purpose;
- (h) 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;
- (i) 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;
- (j) The falsification of 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;
- (k) Wrongfully loaning, selling, giving away or appropriating any Department property for the personal use of the member or any unauthorized person(s);
- (l) The unauthorized use of any badge, uniform, identification card or other Department equipment or property for personal gain or any other improper purpose;
- (m) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties;
- (n) Any knowing or negligent violation of the provisions of the Department Manual, operating procedures, or other written directive of an authorized supervisor. Members shall familiarize themselves with and be responsible for compliance with each of the above and the Department shall make each available to the members;
- (o) Work related dishonesty, including attempted or actual theft of Department property, services, or the property of others;
- (p) Criminal, dishonest, infamous, or notoriously disgraceful conduct adversely affecting the employee/employer relationship (on or off-duty) ;
- (q) Failure to disclose material facts or the making of any false or misleading statement on any application, examination form or other official document, report, or form;
- (r) Failure to take reasonable action while on-duty and when required by law, statute, resolution or approved Department practices or policy;
- (s) Substantiated, active, continuing association with or membership in "gang," "organized crime" and/or "criminal syndicates" with knowledge thereof, except as specifically directed and authorized by the Department;
- (t) Offer or acceptance of a bribe or gratuity or extending/accepting preferential treatment;
- (u) Misappropriation or misuse of public funds;
- (v) Exceeding lawful peace officer powers by unreasonable, unlawful, or excessive conduct;
- (w) Unlawful gambling or unlawful betting on Department premises or at any work site;
- (x) 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 member has or reasonably should have knowledge of such criminal activities, except where specifically directed and authorized by the Department;

- (y) Solicitations, speeches, or distribution of campaign literature for or against any political candidate or position while on-duty or on Department property except as expressly authorized;
- (z) Engaging in political activities during assigned working hours except as expressly authorized;
- (aa) Violating any misdemeanor statute;
- (ab) Violating any felony statute;
- (ac) Any other on-duty or off-duty conduct which any member 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;
- (ad) Any failure or refusal of an employee to properly perform the function and duties of an assigned position;
- (ae) False or misleading statements to a supervisor;
- (af) Failure to provide proper referrals for needed services or assistance beyond the scope of police services;
- (ag) Failure to provide all proper Departmental identifying information upon request (i.e. name and badge number) ; or
- (ah) Becoming "personally" involved in any call or investigation where a friend, relative, or neighbor is involved.

#### 341.2.6 SAFETY

- (a) Failure to observe posted rules, signs, and written or oral safety instructions while on duty and/or within Department facilities or to use required protective clothing or equipment;
- (b) Knowingly failing to report any on-the-job or work-related accident or injury within 24 hours;
- (c) Substantiated member record of unsafe or improper driving habits or actions in the course of employment;
- (d) Failure to maintain good physical condition sufficient to adequately 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; or
- (f) Subjecting themselves to unnecessary risks or courses of action when a safer alternative is reasonably available.

#### 341.2.7 SECURITY

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

#### 341.3 SUPERVISOR RESPONSIBILITY

- (a) Failure of a supervisor to take appropriate action to ensure that members adhere to the policies and procedures of this Department and the actions of all members comply with all laws;
- (b) Failure of a supervisor to timely report known misconduct of a member to their immediate supervisor or to document such misconduct appropriately or as required by policy; or
- (c) The unequal or disparate exercise of authority on the part of a supervisor toward any member for malicious or other improper purpose.

#### 341.4 DISCRETION

Many incidents that involve members, on or off duty, do not involve law violations and are not covered by any written policy, regulation, or procedure. Members shall have full discretion in handling these types of incidents, within the confines of law, ethics, professionalism, propriety, and good judgement. Members shall be held accountable for using good judgment and taking reasonable and proper actions in handling these types of situations. The determination of whether good judgment was used will be based upon the totality of circumstances surrounding the decision or action.

#### 341.5 SUPERIOR-SUBORDINATE RELATIONSHIPS

Authority shall be exercised in a firm but fair manner. Superior members shall support subordinates in their actions when they can reasonably do so and shall avoid censuring subordinates in the presence of others. Superior members are strictly forbidden from censuring or discrediting those under their



command in a tyrannical or abusive manner. When on duty and in the presence of the public, superiors and subordinates shall refer to one another by their rank or title.

## Fresno Police Department Policy Manual Department Computer Use (Non-MDS)

### 342.1 POLICY

Members will adhere to the protocols established by the Information Services Bureau to maintain the integrity, usability, and general functions of Departmental computers, software and systems at all times.

#### 342.1.1 PURPOSE AND SCOPE

This policy describes the use of Department computers, software, and systems.

### 342.2 DEFINITIONS

**Computer System** – Shall mean all computers (on-site and portable), hardware, software, and resources owned, leased, rented, or licensed by the Fresno Police Department, which are provided for official use by agency members.

**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.

**Peripheral** – Shall mean a device connected to a computer, but not part of it, and is more or less dependent on the computer (e.g. USB drive, cell phone, external hard drive, etc.).

**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, on the system, including but not limited to spreadsheets, calendar entries, appointments, tasks, notes, letters, reports or messages.

### 342.3 SYSTEM INSPECTION OR REVIEW

A member's supervisor has the authority to monitor, inspect, or review the system, any and all files and related electronic systems or devices, and any contents thereof.

Monitoring as prescribed may include physical inspection of the computer, remote monitoring of the computer, and/or use of any other means available.

### 342.4 DEPARTMENT PROPERTY

All information, data, documents and other entries initiated on any of the Department's computers, 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 a member's supervisor.

### 342.5 UNAUTHORIZED DUPLICATION OF SOFTWARE

Members shall not copy or duplicate any copyrighted and/or licensed software except for a single copy for backup purposes.

No member shall knowingly make, acquire, or use unauthorized copies of computer software not licensed to the Department while on Department premises or on a Department computer system.

### 342.6 INTERNET USE

Incidental personal use of the Department computer system is acceptable unless it interferes with daily work and violates any stipulations within this Policy. Members shall not access or download content that is illegal or inappropriate for the workplace. Software programs must be approved by Department Information Technology personnel prior to being downloaded.

Nothing in this order shall prohibit any member, in official capacity, from acquiring information from the Internet during the course and scope of an investigation or while conducting Department related research.

### **342.7 PROTECTION OF AGENCY SYSTEMS AND FILES**

All members 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.

#### **342.7.1 PASSWORDS**

Network, Data911, LexisNexis, or other log-on passwords issued by the Department shall not be disclosed or shared with anyone. Members who acquire the network, Data911, LexisNexis, or other log-on password of another are prohibited from using or sharing that password and shall promptly inform the authorized holder of the password so that it may be changed. A supervisor must approve any situation which requires the sharing of a password and/or network files and shall notify the Network System Specialist or Information Services Manager that the password has been shared.

#### **342.7.2 USE OF OTHERS' COMPUTERS**

Computers that are assigned to individual members are only for the use of the person assigned. In the case of shared computers, only members with authorization of the unit supervisor may access, utilize, or modify the shared computer.

#### **342.7.3 ACCESS SECURITY**

In order to minimize access by unauthorized persons, members shall close all applications and log-off from their assigned computer at the end of their duty shift or when they are going to be away from their computer for extended periods of time. Additionally, members shall not leave confidential documents on their computer screens which could be read by unauthorized persons. Computers should be secured by locking the screen to prevent unauthorized access.

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

#### **342.7.4 NON-DEPARTMENT EXTERNAL DEVICES**

Members shall not plug-in, install, or attach any confiscated hardware, software, or peripheral to a Department computer that is connected to the network for the purpose of inspecting the items contents. Any items in need of forensic examination shall be processed in accordance to the protocols established in Policy 804 – Property and Evidence.

Members shall not plug-in, install, or attach any personally owned hardware, software, or peripheral to a Department computer that is connected to the network, including to charge the device.

### **342.8 MODIFICATION OF COMPUTER SETTINGS**

Modifications to computer settings, in general, are to be made only by members who are properly trained to do so.

### **342.9 REGULATORY EXCEPTION**

The Network System Specialist, Information Services Bureau Manager and their designees shall be exempt from the regulations of this order as is necessary to conduct duty related business.

#### **342.9.1 NOTICE OF EMPLOYEE SEPARATION AND USER ACCOUNTS**

Upon exit from the City of Fresno employment or volunteer services, assigned supervisors should forward that individual's name to the Information Services Bureau Manager.

### **343.1 POLICY**

All aspects of Electronic Tracking Device are to be considered confidential. Knowledge of the purpose and operations of Electronic Tracking Device is on a need-to-know basis only.

#### **343.1.1 PURPOSE AND SCOPE**

The Department currently utilizes two electronic tracking device systems comprised of the Electronic Tracking Systems (ETS) and the newer Electronic Satellite Pursuit (ESP) System. Both systems track money stolen from banks or other financial institutions utilizing different technologies. Additionally, ETS has an asset tracker to track stolen property. The purpose of this policy is to familiarize officers with the general operation and response to an ETS / ESP activation. Unless otherwise noted, response procedures shall pertain to both systems.

#### **343.1.2 CONFIDENTIAL NATURE**

Members SHALL NOT discuss or divulge any aspect of the ETS / ESP system operation with non-law enforcement personnel.

### **343.2 SYSTEMS OVERVIEW**

The ESP system, a product of the 3SI company, is a satellite-supported global positioning system (GPS) used to track money stolen from banks or other financial institutions. The ESP system provides web-based GPS information about the location of the tracking pack generally included in money stolen from banks. The information is updated every six seconds by up to eight satellites and also utilizes cell tower data and radio pulses when GPS is unavailable. Information displayed on the 3SI website includes direction of travel, speed, accuracy, time lag, contact information, and type of activation (teller or vault). There is no equipment installed in Department vehicles and all activations/updates are dispatched through the Communications Center.(ComCen).

The ETS system is similar in operation but utilizes a radio-frequency transponder unit and it is tracked using strategically placed radio towers, vehicle mounted tracking units, and handheld tracking devices.

### **343.3 EQUIPMENT ISSUANCE AND MAINTENANCE**

Only properly trained members are responsible for removing, replacing, or aligning tracking units in designated ETS vehicles. The supervisor shall ensure that ETS equipped units are designated on the policing area vehicle status board and that when tracking equipment is removed from one vehicle to another the vehicle status board reflects the change.

District commanders are responsible for maintaining an accurate and current inventory of ETS equipment assigned to their district.

#### **343.3.1 DEPLOYMENT OF ETS UNITS**

Patrol supervisors are responsible for ensuring that ETS units are deployed daily to designated sectors and that ETS equipped vehicles are properly designated in unit log on information.

Officers operating ETS equipped vehicles shall log on using a "T" designator along with their detail number to designate the unit as an ETS equipped vehicle.

#### **343.3.2 ETS COMPONENT MAINTENANCE**

Any ETS equipment (including vehicle) which appears to have malfunctioned should be reported to the City radio shop. Members shall not attempt to adjust the THRESHOLD or PHASE BALANCE screws on the receiver unit.

### 343.3.3 VEHICLE OUT OF SERVICE

When an ETS vehicle is out of service for any reason, the ETS display and receiver will be removed and installed in a secondary ETS vehicle by the officer issued the vehicle.

### 343.3.4 ESP HANDHELD TRACKING BEACON

One (1) ESP handheld tracking beacon will be kept in the Duty Office for field use in the event of an ESP tracking event. It can be used to isolate/pinpoint the final track point. It receives the radio signal pulsating every one second from the track pack.

## 343.4 OFFICER RESPONSIBILITY

Officers assigned to an ETS equipped vehicle shall inspect the tracking equipment at the beginning of their shift by:

- (a) Monitoring the self-test sequence on the mobile display;
- (b) Checking the phase alignment by aiming the front of the vehicle at the station signal monitor;
- (c) Checking the pocket tracker by observing the self-test in station signal monitor; and
- (d) Notifying the supervisor of any equipment needing repair.

## 343.5 RESPONSE TO ETS / ESP ACTIVATION

### 343.5.1 ETS / ESP MONITOR ALERT

When an Emergency Services Dispatcher (ESD) receives an ETS / ESP alert display on the monitor, they will wait 10 seconds, and then attempt to reset it. When the alert discontinues and does not re-alert, a possible false alarm has occurred and no further action is necessary.

When the alert continues after being reset, a probable robbery exists and an ETS alert (211T) or ESP alert (211E) shall be declared. An ESD shall then:

- (a) Be assigned to coordinate the radio traffic and monitor the ETS / ESP console on a designated radio channel;
- (b) Notify ETS equipped patrol units and the area supervisor by radio that a 211T is in progress including which area is hot and what radio channel will be used for the operation;
- (c) Deploy ETS equipped units to priority locations as needed;
- (d) Notify the air support of the 211T;
- (e) Work with the controlling supervisor and the primary unit in directing assisting units to appropriate locations to intercept a hot tag; and
- (f) Notify neighboring law enforcement jurisdictions, which may be affected by the track.

### 343.5.2 CONTROLLING SUPERVISOR RESPONSE

The controlling supervisor of an ETS / ESP event is determined through normal supervisory assignment criteria (i.e., location of track, availability, etc.). After assuming the role of a controlling supervisor, the supervisor will remain in that capacity until the completion of the track.

The controlling supervisor is responsible for:

- (a) Ensuring that only necessary units are utilized during the track. Only ETS equipped units should normally respond to an ETS alert but any unit may respond to an ESP alert. Non-ETS equipped units should remain in their sectors and respond only at the direction of the controlling supervisor;
- (b) Coordinating the response of all units including coverage of escape routes, keeping the ComCen notified of developments, etc.;
- (c) Directing the tactical plan when suspect(s) reach a destination; and
- (d) Preparing an E-mail on the incident dispatched to obtain descriptions and other pertinent details which shall be broadcast as soon as practical;

### 343.5.3 FIELD UNIT RESPONSE

Accidental alerts do occur. However, when 15-30 seconds have elapsed and a signal is still being received by an ETS equipped unit, it should be treated as a valid robbery in progress signal.

When an ETS alert is monitored first by an ETS equipped unit, that unit will be primary and shall advise the ComCen of the:

- (a) Alert;
- (b) Approximate location and direction of travel of the tag; and
- (c) Necessary coordination of responses by additional ETS equipped units.

The activation of a mobile unit will be treated as a priority "0", Officer Needs Assistance call by the ComCen.

Involved ETS equipped units shall comply with the following tracking protocols when possible:

- (a) When an ETS equipped unit is on a call at a time when a 211T is broadcast, the unit may break from their current call only upon approval of the ESD;
- (b) Generally when a business is equipped with ETS Tags and a signal from a "hot tag" is apparently coming from inside the business, it shall be handled in the same fashion as a silent hold up alarm;
- (c) Attempt to triangulate the location of the tag;
- (d) When the suspect reaches a destination, the responding units shall attempt to initiate contact in a coordinated manner. Whenever possible, the supervisor/officer in charge should develop a tactical plan to effect the entry and arrest;
- (e) Inform the ESD on all aspects of an in progress track;
- (f) When a suspect(s) and/or tag is located and taken into custody, the bill pack containing the tag should be deactivated as soon as possible. This shall be done out of sight of the suspect(s) and the public;
- (g) The business where the tag originated should be contacted as soon as possible after it has been identified;
- (h) The bill pack and transmitter are collected as evidence; and
- (i) Have the suspect(s) be transported in a non-ETS equipped vehicle in order to maintain system security. The apprehension process is not to be discussed with the suspect(s).

### **343.6 ETS PRIORITY LOCATIONS**

The following five locations have been designated as priority ETS locations. When there is a 211T activation, the ComCen should dispatch ETS equipped units to appropriate locations to ensure the highest probability of intercepting a hot tag. These include:

- (a) Hyde Park, at top of hill (Thorne & Florence);
- (b) Freeway 41 at Highway 180 Interchange;
- (c) Chestnut/Kings Canyon;
- (d) Herndon/Freeway 41; and
- (e) Ashlan/Freeway 99 (overpass).

There are seven secondary locations to which the ComCen may direct other available ETS equipped units as they become available and as necessary. These include:

- (a) Jensen/Freeway 99 (overpass);
- (b) Freeway 41/Between O Street and Van Ness off ramps;
- (c) McKinley/Maple;
- (d) Cedar/Shaw;
- (e) Freeway 41/Shields (overpass);
- (f) Shaw/West; and
- (g) Clinton/Freeway 99 (overpass).

### **343.7 FALSE ALARMS**

Users who accidentally activate the ESP / ETS for more than 30 seconds are required to contact the Department to advise of the false activation. ComCen shall dispatch a patrol officer to the location of a reported accidental activation to verify the report.

ComCen shall notify Clovis PD of any ETS signal originating in their city.

When necessary, an ETS trained officer will respond to a user location to determine the origin of the false trip. It may be necessary to use a pocket tracker to determine which bill pack is activated when a user reports they have not had a robbery, but the system is still activated. Once the procedure is accomplished by the officer, they shall have ComCen enter the details into the CAD event and a printout of the event shall be forwarded to the Robbery/Felony Assault Supervisor.

#### **343.7.1 FALSE ALARMS BILLING**

ESP / ETS users are exempt from requirements of the City false alarm ordinance on ESP / ETS incidents only. Users must still comply with ordinance requirements as they apply to any other alarm system they might have.

#### **343.8 DOCUMENTATION OF ETS / ESP USE**

When the ETS / ESP tracking equipment provided the only probable cause leading to the arrest of suspect(s), that information will be documented in the CR.

All other information regarding the ETS / ESP equipment and specific details of how the system was used shall not be included in the CR.

#### **343.9 MULTI-JURISDICTIONAL INCIDENTS**

When it appears that a track will enter Clovis, the ComCen will notify Clovis PD dispatch and provide current information regarding:

- (a) Approximate location of the track and direction of travel;
- (b) Suspect and vehicle description, type of offense, and weapons used;
- (c) Number of trackers involved in operation;
- (d) The terminus of the track and disposition of suspect(s); and
- (e) The need for assistance from their units.

When Clovis initiates a track that may move into Fresno, units will be notified city-wide.

The initiating agency in multi-jurisdictional incidents has primary responsibility for and operational control of a track. It is also responsible for the handling of all arrestees resulting from the tracked event.

#### **343.10 TRAINING EXERCISES**

Before commencing any training exercise, the ComCen shall be notified. The ComCen shall then announce on all applicable frequencies that the signal about to be transmitted is a training exercise.

#### **343.11 LIAISON OFFICER**

A member will be designated by the Department who is responsible for:

- (a) Acting as liaison between participating businesses, the Clovis Police Department, the City Communications Services Division, the Department, 3SI Security Systems, and ETS Systems;
- (b) Providing the ComCen with a current list of participating businesses;
- (c) Maintaining training kits;
- (d) Coordinating training of new members through the PTO program;
- (e) Conducting Departmental training exercises; and
- (f) Providing ComCen with a current list of ETS equipped vehicles.

## **344 Report Preparation**

### **344.1 POLICY**

A Crime Report shall be prepared whenever any reported crime has been committed or is logically suspected of having been committed in the City. 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. Members shall not repress, conceal, or distort the facts of any reported incident, nor shall any member make a false report orally or in writing.

#### **344.1.1 PURPOSE AND SCOPE**

The purpose of reports is to document sufficient information to refresh the member'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.

#### **344.1.2 EVENT ID/CASE NUMBERING**

The Department employs a single, unique, event and case numbering system. Each event that is created receives an Axon Computer Aided Dispatch (CAD) event ID number beginning with the two-digit year, four-digit (month/date), and four sequential digits. Example: 2301011234. The event ID will also serve as the case number if a crime report is documented. Both event IDs and case numbers reset on January 1 at 00:00:01.

### **344.2 REPORT COMPLETION**

A Crime Report shall be prepared whenever any reported crime has been committed or is logically suspected of having been committed in the City. The reporting member shall list their full name and badge number as well as provide the full name and badge number of all assisting members on all reports.

When practical members shall complete the offense section in Axon Records for all reports at the time the case number is pulled, but no later than the end of the member's shift. This shall be done regardless of whether the full report is completed at that time.

All police reports should be completed and submitted for approval at the end of the duty shift on which the initial incident was handled by the reporting member. When reports cannot be completed prior to the end of a member's duty shift, the report(s) shall be completed during the member's next duty shift.

Before leaving at the end of the shift, members shall complete and submit for supervisory approval all reports which involve:

- (a) Part One and possible Part One offenses
  - 1) Homicide;
  - 2) Rape;
  - 3) Robbery;
  - 4) Aggravated Assault;
  - 5) Burglary;
  - 6) Larceny;
  - 7) Motor Vehicle Theft;
  - 8) Arson;
- (b) In custody, cited, or identified suspects;
- (c) Solvability factors which would require immediate action by a follow-up investigator;
- (d) A missing person;
- (e) A Welfare & Institutions Code §300 placement; or
- (f) Crimes of violence or hate incidents.



\* The definition of "Aggravated Assault" for the National Incident-Based Reporting System (NIBRS) purposes is, "An unlawful attack by one person upon another wherein the offender uses a dangerous weapon or displays it in a threatening manner, or the victim suffers obvious severe or aggravated bodily injury, or where there was a risk for serious injury/intent to seriously injure."

### **344.3 ON DUTY REPORT WRITING**

Field members are to come in service from a call as soon as they have completed their preliminary investigation.

- (a) Reports are not to be written while still out on the call.
- (b) When there are no 0 or 1 priority calls holding in their district, field members may put themselves out "report writing" without having to consult with the ComCen.
- (c) Consistent with other dispatching protocols, ESD's should allow field members to report write when no 0 or 1 priority calls are holding in their district.

When permission has been granted by a supervisor, members may remain out of service to write reports on major investigations (e.g., homicides, fatal vehicle collisions, etc.). In such cases, a member who is report writing shall not be dispatched on calls without the approval of a field supervisor or, district commander or field commander.

### **344.4 DICTATING**

Report narratives may be dictated when the narrative, if handwritten, would exceed one single-spaced page and:

- (a) The incident is a felony; or
- (b) The incident is a misdemeanor with suspect(s) in-custody; or
- (c) The report is of a sensitive or unusual nature (permission to dictate must be given by the member's supervisor).

When submitting a dictated report, the narrative should state "Narrative Dictated" and be submitted in Axon Records for supervisor approval. The supervisor shall leave the report, unapproved, in 'Supervisor Review' status. The Transcriptionist will paste the dictated narrative into the member's report and reject the report back to the authoring member for review.

When dictated reports are returned for review/correction, they shall be reviewed and if necessary corrected prior to the end of the member's next duty shift. The name of the supervisor approving dictation shall be listed following the "Narrative Dictated" notation described below. The only material authorized for dictation is that which can be documented on narrative pages. No forms other than narrative pages may be dictated.

### **344.5 SYNOPTICAL REPORT**

A crime report is required in any criminal investigation where there is an identifiable suspect or where there is physical evidence which could lead to the identification of a suspect.

The Synoptical Report may be used by members to document pertinent information by assigning a case number to an event in lieu of completing a full police report.

Copies of the Synoptical report printouts may be obtained from the Records Bureau.

Use of the Synoptical Report is limited to the following categories:

- (a) WIC §5150 committals (see Policy §418);
- (b) Theft (except vehicles, vehicle burglary, license plates, firearms, and checks) and vandalism (except graffiti cases);
- (c) Noise complaints when documentation is requested, and no arrest is forthcoming;
- (d) Telephone offenses except where an immediate threat to life exists;
- (e) Lost property (except checks);
- (f) Found property/contraband;
- (g) Property stored for safekeeping not related to an incident otherwise requiring a report;

- (h) Courtesy reports except those mandated by law (e.g., missing persons) or those involving person related felonies;
- (i) Misdemeanor hit and run with no suspect or suspect vehicle information;
- (j) Industrial accidents involving injury;
- (k) Animal complaints, except bites involving special circumstances;
- (l) All other misdemeanor crimes;
- (m) Illegal dumping;
- (n) Citizen requests for documentation relating to disturbances in which no crime has occurred;
- (o) Suspected child abuse, neglect or endangerment where there is no one at the location, or where the investigating officer determines that the case is unfounded;
- (p) Non-crime incidents where juveniles are involved but are not cited or arrested, including:
  - 1) Reprimand and release without any further police action;
  - 2) Disturbance; or
  - 3) Detention with later release to a parent.
- (q) Death involved the End-of-Life Option Act:
  - 1) Whether or not assistance was provided to the person beyond that allowed by law (HS §443.14);
  - 2) Whether an individual knowingly altered or forged a request for an aid-in-dying drug or concealed or destroyed a withdrawal or recession of a request for an aid-in-dying drug (HS §443.17); and/or
  - 3) Whether coercion or undue influence was exerted on the person to request or ingest an aid-in-dying drug (HS §443.17)

A CR is required in any criminal investigation where there is an identifiable suspect or where there is physical evidence which could lead to the identification of a suspect.

#### 344.5.1 SYNOPTICAL REPORT CONTENT

- (a) Identifying information on the parties involved (i.e., name, race, sex, DOB, address, and phone numbers);
- (b) All property should be listed in the property section of the report and described in as much detail as available. Stolen property shall have an estimated value included; and
- (c) A detailed synopsis of the incident being documented. The synopsis should be thorough enough to allow for an upgrade of the Synoptical Report to a Crime Report.

#### 344.5.2 EXPLANATION TO RP'S

The Synoptical case number will be given to the RP prior to clearing the call.

- (a) The RP will be advised that the case number is documentation of their call, and no further action shall be taken unless additional information is obtained.
- (b) The RP should be instructed to keep whatever level of formal documentation they desire along with the original case number.
- (c) Should the RP provide additional pertinent information at a later date, such as suspect and/or serial number information, an event will be generated to permit appropriate follow-up.
- (d) Copies of the Synoptical Report printouts may be obtained from Records.

#### 344.5.3 FOLLOW UP

When an event, in which a Synoptical Report was completed, generates a Supplemental Report, the member who completes the Follow-up shall upgrade the case to an original Crime Report.

### **344.6 MANDATORY REPORTING OF JUVENILE GUNSHOT INJURIES**

A report shall be taken when any incident in which a child 18 years or younger suffered an unintentional or self-inflicted gunshot wound. The Records Bureau shall notify the California Department of Public Health (CDPH) of the incident as required by CDPH (PC §23685).

### 344.7 ELECTRONIC PROBABLE CAUSE DECLARATION (ePCD)

The ePCD is also known as the Fresno County Law Enforcement Warrantless Arrest Declaration. The ePCD is used to document the probable cause for an arrest of a named suspect and shall be completed when:

- (a) A juvenile is booked into JJC without a warrant on felony or misdemeanor charges; or
- (b) An adult is booked into FCJ without a warrant on felony or misdemeanor charges, excluding PC §647(f).

Officers shall utilize the Fresno County ePCD system (<https://epcd.fresno.courts.ca.gov>) to:

- (a) Create a new ePCD and/or edit a previously started ePCD;
- (b) Submit a 'Not In Custody' (NIC) ePCD for at-large suspects for supervisor review/approval;
- (c) Submit an 'In-Custody' ePCD for judicial review/approval at the time of booking;
- (d) Complete a previously submitted NIC ePCD when an arrest is made;
  - 1) Requires ePCD to be reviewed/approved by a supervisor prior to judicial review/approval.
- (e) Edit/correct ePCD's returned for additional information by a supervisor or reviewing judge; and
- (f) Monitor the status of ePCD's previously submitted for supervisor or judicial review/approval.

#### 344.7.1 NARRATIVE

The narrative of the ePCD shall be a synopsis of the report details and articulate:

- (a) The facts that support probable cause for detention or other contact that subsequently lead to the discovery of a crime;
- (b) The basic elements of the crime for which the arrest is made; and
- (c) How the suspect was identified and connected to the crime(s).

#### 344.7.2 AT-LARGE SUSPECTS

A NIC ePCD shall be completed and submitted for supervisor review/approval for named, at-large felony suspects. When a wanted suspect is arrested, the NIC ePCD will be retrieved by the arresting officer, completed, and submitted for judicial review/approval at the time of booking.

#### 344.7.3 IN-CUSTODY SUSPECTS

After probable cause is established, the arresting officer shall complete an ePCD in the Fresno County ePCD system. Upon completion, the arresting officer shall save the ePCD for supervisor review. The arresting officer shall advise the on-duty supervisor that the ePCD is completed and awaiting review. The supervisor should promptly review the in-custody ePCD for approval. If the arresting officer's supervisor is unavailable (e.g., OIS or barricaded suspect), the officer can seek approval from another on-duty supervisor. Verbal advisements are strongly discouraged unless there is an extenuating circumstance (e.g., no available supervisor that can review or the ePCD system is down). Upon approval, the supervisor will advise the arresting officer to submit the ePCD to the Superior Court for judicial review. The ePCD shall be approved by a supervisor prior to booking any suspect into FCJ and the ePCD shall be submitted for judicial review immediately after booking.

\*When feasible, sergeants should respond to the arrest location and obtain the circumstances surrounding the arrest from the primary officer prior to booking.

Exceptions: Corporals are authorized to approve ePCD submissions for their assigned trainees and when acting in the capacity of a supervisor.

#### 344.7.4 HOSPITALIZED SUSPECTS

In the event a suspect in custody on a felony charge is subsequently placed on a hold under WIC §5150, the arresting officer will complete a NIC ePCD. (See Policy §418)

In the event a felony suspect is going to be admitted to the hospital and the on-duty PIO Field Commander has approved the prisoner standby, the arresting officer shall complete and submit an in-custody ePCD following the arrest but no later than the end of the shift. (See Policy §355)

### 344.7.5 REJECTED EPCDS

The Duty Office will assume responsibility for tracking rejected in-custody ePCD's. When a judge rejects an in-custody ePCD, the Duty Office and the officer will receive an email notification. When the officer is still on-duty, the Duty Officer will contact them immediately to make necessary corrections and resubmit the ePCD.

When an ePCD is rejected and the officer is off duty, the Duty Officer will determine whether the officer will be returning to work before the 48-hour ePCD deadline expires:

- (a) When the officer is scheduled to return to work before the 48-hour deadline, the Duty Office will contact the officer upon their return to work and ensure he or she is aware of the need to correct and resubmit the ePCD;
- (b) When the officer is not scheduled to return to work before the 48-hour ePCD deadline expires, and it appears the ePCD expiration will result in the premature release of a suspect, the Duty Officer will contact the officer while the officer is off-duty. The officer has two options:
  - 1) Access Fresno County ePCD system remotely to correct and resubmit the ePCD (without responding in person); or
  - 2) Respond in person to make the corrections and resubmit the ePCD.

### 344.8 PROPERTY

Members shall list any property that is lost, stolen, found, or booked for safekeeping in the property section of the report in Axon Records. Any property booked as evidence with a serial number or owner applied number shall be listed in the property section in Axon Records. When the property has a serial or owner applied number, the member shall forward the property information to Teletype through Axon Records for entry into CLETS.

The Burglary/Theft Form may be used to document additional information about already reported stolen items (e.g., serial numbers) or to report property not known to be stolen at the time of the original investigation and the victim's identifying information. The Burglary/Theft Form will be provided to the victim (either in person or by mail). The Burglary/Theft Form Letter may be submitted by the victim by mail, or the victim may add the property information by completing a supplemental report through the online reporting system.

### 344.9 MULTIPLE OFFENSES

When there is a separation of time and place between the commission of several crimes, each of the crimes should be handled and reported as separate incidents and each will be reported as a separate case.

When a review of the facts indicates conclusively that several crimes have been committed during the course of one distinct combined operation, only one report shall be prepared to report all of the crimes.

- (a) A single report shall be used to report several counts of the highest offense occurring at the same time and at the same place, and it shall also document all lesser Part I and Part II offenses.
- (b) The one report may include several businesses and/or persons as victims.

**Exception:** These rules do not apply to a series of vandalisms or vehicle burglaries involving separate victims. These crimes will be reported as separate offenses on separate reports.

### 344.10 PERSONNEL CHANGES

Prior to promotion, separation or change of assignments, personnel are required to review the report writing system to assure that all reports that are pending approval or incomplete have been completed approved and submitted to records.

### 344.11 SUPERVISOR RESPONSIBILITIES

Supervisors shall check all reports holding in their assigned shift team box immediately after briefing and before logging off.

When a supervisor is assigned to work in a district/unit other than their primary assignment (being loaned) the supervisor shall check all reports holding in the shift team box of the district/unit they were loaned to immediately after briefing and before logging off.

There may be circumstances where a supervisor may not be able to check all reports holding and those situations may include but are not limited to a supervisor's response to a critical incident or a Department member requesting a supervisor's presence in the field.

#### **344.11.1 EPCD REVIEW / APPROVAL**

Supervisors shall check and review all NIC ePCD's in Fresno County ePCD system completed by officers in their District/Unit. Supervisors shall notify the submitting officer when an ePCD is in need of correction.

Supervisors shall review all in-custody ePCDs prior to booking and submission to the Superior Court. When an ePCD needs correction, the supervisor will notify the submitting officer to have the ePCD corrected and re-submitted to the Superior Court for judicial review.

#### **344.12 REPORT CORRECTIONS / MODIFICATIONS**

When the originating officer is no longer employed by the Department and has open reports, the reports may be modified to allow for report access and closure. A note will be added to the report to document what changes were made, the reason for the changes, and who made the changes.

**345.1 POLICY**

Department members will assist the Fresno Fire Department (FFD) and members of the public as necessary on any fire related calls to ensure public safety and maintain order.

**345.1.1 PURPOSE AND SCOPE**

Although the primary function of the Department is not one of fire control it is often called upon as a "first responder" and will often arrive before the FFD personnel or discover fires before they are reported. As such, members must act to provide for the safety of the public, limit property damage when able, and assist the FFD as needed.

**345.2 MEMBER'S DUTIES BEFORE FIRE DEPARTMENT ARRIVAL**

Members who arrive at a fire before the FFD should, if it can be done with reasonable safety, attempt the rescue of injured or trapped persons. Any occupied building on fire should be evacuated until FFD officials permit re-entry. If the fire appears to be the result of any criminal event or police action, members shall advise ComCen. If it is apparent that the scene is not safe for FFD and/or EMS personnel, ComCen shall notify them of the circumstances.

**345.3 MEMBER'S DUTY AFTER FIRE DEPARTMENT ARRIVAL**

The member's primary duty after arrival of the FFD is to prevent interference with (PC §§148.2, 402, HS §13006 a-d) or injury to (PC §§240 and 245.1) fire personnel, and equipment (VC §21708). The officer in charge of the police response to a fire scene shall immediately contact the FFD Incident Commander and determine what assistance members can provide and coordinate the Department's response to the incident.

**345.4 CLOSING AREA**

The authority for closing an area during a fire is found in PC §409.5. Upon request of the fire official in charge, members shall close the fire area and/or divert traffic in such a manner as to allow a minimum of congestion and maximum freedom of movement by FFD personnel and equipment (VC §§2812, 21707).

**345.5 USE OF BARRICADES**

In more serious fires, barricades and warning flashers may be used in order to more effectively close an area and best utilize available members. Members who need barricades and flashers shall advise the ComCen of the number and type needed and the location where they should be delivered. The ComCen shall contact the appropriate City department for delivery of the barricades to the specified location.

**345.6 SPECTATORS**

Officers shall keep spectators who may become a source of interference from approaching a fire. The distance at which spectators should be kept will depend on the seriousness of the fire, the probability of an explosion, and/or exposure to hazardous materials. Media access to the scene is governed by Policy §346.

**345.7 AUTHORITY OF THE INCIDENT COMMANDER**

The ranking member of the FFD at the scene of a fire is the Incident Commander. Members shall comply with their orders or instructions at all times. When an order of the Incident Commander is contrary to the provisions of this Manual or other Department policies or procedures, the member shall obey the order and notify their supervisor immediately.

**345.8 SUPERVISOR AT SCENE OF FIRE**

A supervisor and a district or field commander shall be dispatched to the scene of any major fire or disaster.

### **345.9 POST-FIRE SECURITY**

The FFD has primary responsibility for locating an owner or person responsible for burned premises.

When the ComCen cannot locate an owner or responsible party, FFD personnel shall be responsible for notifying the ComCen when security is required at the scene. Upon receiving such notification, the ComCen shall contact a private security firm to secure the scene.

### **345.10 REPORTING OBSERVED FIRES AND ALARMS**

On-duty members who discover a fire or locate an activated fire alarm shall immediately notify the ComCen and give the location and a description of the size and type of fire/alarm observed. The ESD receiving the notification shall ensure that the appropriate fire dispatching entity is notified.

Members who locate a recent fire that has been extinguished where the FFD has not been notified, shall notify the ComCen of the circumstances so that appropriate fire personnel may be dispatched to investigate and to ensure that the fire has been properly extinguished.

### **345.11 REPORTING OF FIRE HAZARDS**

Members detecting a fire hazard or potential fire hazard shall notify the ComCen of the location and nature of the hazard. The ESD receiving such notification shall contact the appropriate fire dispatching entity for action.

### **345.12 ARSON INVESTIGATIONS**

#### **345.12.1 INITIAL INVESTIGATION**

The FFD may dispatch a fire investigator to the scene of fires of suspicious origin in the City, only upon recommendation of the Incident Commander. Members should consult with the Incident Commander regarding the need for arson investigator response. The primary responsibility for investigating the incident and preparing the initial crime report on all arson fires rests with the FFD arson investigator.

**Exception:** When it is determined that another crime is involved (e.g., burglary, homicide, vehicle theft, etc.) the primary member shall investigate and have primary reporting responsibility. When dispatched upon recommendation of the Incident Commander, the fire investigator will prepare any supplemental report deemed necessary after consultation with the primary investigating member at the scene. Any supplemental report prepared by the FFD fire investigator will be limited to the specific details of the arson investigation.

#### **345.12.2 SCENE PRESERVATION**

When a fire has been extinguished and it has been determined that arson may have been involved, the FFD may turn crime scene security over to the Department which shall assume responsibility for preservation of the scene.

When it appears that long term security will be required, a private security firm may be contacted to relieve the member(s) preserving the crime scene.

#### **345.12.3 FIRE BOMBS AND INCENDIARY DEVICES**

Members shall request notification of fire investigators when any incendiary devices have been discovered, and shall assist the fire investigator as requested.

Fire investigators shall complete a crime report and handle all evidence and materials when they respond to a call. When a fire investigator is not available, members are responsible for completing a crime report and handling all evidence and materials.

When the device is still active and presents a possibility of igniting or exploding, the EOD Team shall be notified.

## Fresno Police Department Policy Manual

# News Media Relations

### 346 News Media Relations

#### 346.1 POLICY

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.

##### 346.1.1 PURPOSE AND SCOPE

This policy provides guidelines for media releases and media access to scenes of disasters, criminal investigations, emergencies, and other law enforcement activities.

#### 346.2 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the Chief of Police, however, in situations not warranting immediate notice to the Chief of Police and in situations where the Chief of Police has given prior approval, Division Commanders, Shift Sergeants and designated Public Information Officer(s) (PIO) may prepare and release information to the media in accordance with this policy and the applicable law.

##### 346.2.1 MEDIA REQUEST

Prior to releasing any information to the media, members shall consider the following:

- (a) At no time shall any member of the Department make any comment or release any official information to the media without prior approval from a supervisor or the designated Department PIO;
- (b) In situations involving multiple law enforcement agencies, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this Department;
- (c) Under no circumstance should any member of the 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 and bona fide 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) & 409.7]:

- (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. Media representatives may not bring or facilitate the transport of an unauthorized person into a closed area unless it is for the safety of the person;
- (b) Media representatives may be prevented from interfering with emergency operations and criminal investigations. In situations where media access would reasonably appear to interfere with emergency operations and/or a criminal investigation, every reasonable effort should be made to provide media representatives with access to a command post at the nearest location that will not interfere with such activities (e.g., Text message the location to the media);
- (c) Media reporters may access areas shut off by police for a command post or similar. This access is limited to demonstrations, marches, protests, or a rally. It does not apply to a crime scene, traffic accident with road closures, scenes of an officer involved shooting, or an ongoing critical incident such as a barricade, search warrant, or SWAT callout. Note: When any of the activities become unruly or violent, members of the media are not granted access. [Penal Code §409.7]
- (d) No member of the Department shall be subjected to media visits or interviews without the consent of the involved member [Government Code §3303(e)] ; and
- (e) Media interviews with individuals who are in custody shall not be permitted without the approval of the Chief of Police and the expressed consent of the person in custody.



#### **346.4 SCOPE OF INFORMATION SUBJECT TO RELEASE**

The Department will provide information to members of the media on a daily basis through the following methods:

- (a) Social Media Updates - The Department social media site will be updated with items of significant interest to the media on a daily basis (See Policy §1058);
- (b) Text Messaging – Text Messages shall be sent to members of the media as soon as possible after newsworthy events to allow the opportunity for on-the-scene coverage; and
- (c) Crime Data – Crime data is available for download via the City of Fresno web site.

Information relating to crimes will be provided to the media. This information will be restricted to:

- (a) The date, time, location, case number, type of crime, extent of injury or loss, and names of individuals (except confidential informants) involved in crimes occurring within this jurisdiction unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation;
- (b) The date, time, location, case number, name, birth date and charges for each person arrested by this Department unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation;
- (c) The time and location of other significant law enforcement activities or requests for service with a brief summary of the incident subject to the restrictions of this policy and applicable law; and
- (d) General facts of the case. This can be released at the discretion of the PIO and the investigator overseeing the case.

At no time shall identifying information pertaining to a juvenile arrestee, victim or witness be publicly released without prior approval from the Chief of Police, Department Legal Advisor, or a court order. Information concerning incidents involving certain sex crimes and other offenses set forth in GC §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 unless prior approval has been obtained from the Chief of Police.

Any requests for copies of related reports or additional information shall be referred to the Department Legal Advisor. Such requests will generally be processed in accordance with the provisions of the Public Records Act (GC §6250, et seq.)

#### **346.5 RESTRICTED INFORMATION**

It shall be the responsibility of the authorized member dealing with media requests to ensure that restricted information is not inappropriately released to the media by this Department. When in doubt, authorized and available legal counsel should be obtained. Examples of such restricted information include, but are not limited to:

- (a) Confidential peace officer personnel information (See Policy §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; and/or
- (g) Any information that is otherwise privileged or restricted under state or federal law. [GC §6254(k)].

### **347.1 POLICY**

Members shall thoroughly investigate all reported sexual assault cases. All sexual assault investigations shall be properly documented in a police report.

#### **347.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide guidance to members investigating sexual assaults. Due to the sensitive nature of investigations dealing with sexual assaults, members shall demonstrate the utmost tact and consideration for the feelings of victims and their families during the investigation.

### **347.2 SEXUAL ASSAULT INVESTIGATIONS**

Members shall attempt to obtain as much information as possible from victim/witness statements, even if a victim refuses to cooperate and expresses no desire for police involvement, and list information which would enhance evidence collection. Members shall:

- (a) Complete a report regardless of the intent of the victim;
- (b) Provide all sexual assault victims with the Sexual Assault Victim Information Form [Penal Code §264.2(a) and §13701] containing their name, badge number, and case number;
- (c) Check for any video/or electronic evidence;
- (d) Determine the location of occurrence (i.e., crime scene) and make appropriate arrangements to process it.

Victims who choose not to assist with an investigation, do not desire that the matter be investigated, or wish to remain anonymous may still consent to the collection of evidence under their control. In these circumstances, the evidence should be collected and stored appropriately (Penal Code § 680).

### **347.3 SEXUAL ASSAULT FORENSIC EXAMINATIONS (SAFE)**

A sexual assault forensic examination kit should be used in all rape and sodomy cases within five days (120 hours) of the crime and oral copulation cases when the elapsed time since the crime is less than three days (72 hours). This applies even when the victim has washed, douched or is on a menstrual period. If the type of sexual assault requires a forensic examination or the victim requests one be performed, officers shall authorize the examination.

In instances where an officer feels the incident does not warrant a sexual assault examination, the officer will advise their supervisor who will contact the Sexual Assault Unit (SAU) supervisor for direction. The SAU supervisor will make the final determination if a sexual assault kit will be completed.

If the above listed requirements for a sexual assault kit are not met, but there is a possibility of the presence of DNA evidence on the victim's body (e.g., face, neck, breast, etc.), officers should consider utilizing the Crime Scene Investigations Bureau to collect DNA from the victim's body utilizing buccal swabs. If the possible DNA evidence is located on the genitalia or buttocks of the victim, officers should contact their supervisor who will contact the Sexual Assault Unit supervisor for direction.

#### **347.3.1 LOCATION OF EXAMINATION**

Victims/Suspects who need or request medical treatment shall be transported to an appropriate medical facility such as Community Regional Medical Center (CRMC) or Valley Children's Hospital (VCH) if under 18 for medical treatment and a sexual assault forensic examination. This shall be facilitated via a private vehicle, taxi, police vehicle, or ambulance when appropriate.

Victims/Suspects who do not need/request medical treatment shall be transported to Central Valley Forensic Nursing Specialists (CVFNS) at 7025 N. Chestnut Ave. Suite 103 for the sexual assault forensic examination. The officer requesting the examination shall notify CVFNS at (559) 324-9100.

advising of their pending response. Members shall assist victims in arranging transportation to CVFNS via private vehicle, taxi, or police vehicle. EMS will not transport to CVFNS.

Prior to transport, the transporting member should notify ComCen of the transport to the medical facility or CVFNS. Once the member arrives, they shall advise ComCen to notify Resource Center for Survivors (RCS) [PC §264.2(b)(1)].

### **347.4 EVIDENCE COLLECTION**

#### **347.4.1 CLOTHING**

Clothing worn at the time of the examination will be collected by the forensic nurse. All other clothing evidence should be collected and booked by the investigating officer.

#### **347.4.2 VICTIM KITS**

When it is determined a sexual assault kit needs to be completed on a victim, the officer investigating the sexual assault will respond to the location conducting the examination. The officer will brief the forensic nurse on the details of the assault (providing specific details) to enhance the collection of evidence, authorize the examination with their signature, and FPD case number.

- (a) Officers shall remain at the location with the victim until they brief the forensic nurse.
- (b) The officer will also request the forensic nurse to take a blood and/or urine sample that can be sent to CVT for a toxicology analysis. This should be done on adult cases whether or not the victim talks about alcohol or drug use.
- (c) Once officers have briefed the forensic nurse and made arrangements for the victim to be safely transported back home, they may clear the call unless additional investigation is required.

#### **347.4.3 SUSPECT KITS**

When it is determined that a sexual assault kit needs to be completed on a suspect and a search warrant is required the investigating member shall contact the SAU supervisor. The SAU supervisor will determine if a detective callout will be initiated. The investigating member will transport the suspect to CRMC, VCH, or CVFNS and request a forensic nurse for a sexual assault examination.

- (a) The investigating member will brief the forensic nurse on the details of the assault (providing specific details) to enhance the collection of evidence and authorize the examination with their signature.
- (b) Two members (gender appropriate) will stand by the suspect while the forensic nurse completes the sexual assault examination and maintain custody of suspect.
- (c) Officers will confirm that the forensic nurse collects a third vial of blood for blood/alcohol testing on adult suspects. This vial will not be placed in the suspect sex kit. The third vial will be booked at HQ in the evidence box for CVT testing.

#### **347.4.4 PHOTOGRAPHIC EVIDENCE**

**Intimate Photos** - Any injuries occurring in intimate areas will be photographed by the forensic nurse during the sexual assault examination. When the victim of a sexual assault (e.g., sexual battery, attempted rape) did not undergo a sexual assault examination, but photographs are still needed of intimate areas, they shall be taken by a same sex Crime Scene Investigation Section technician. Intimate victim photos will not be taken in the Crime Scene Investigation Section (CSIS) but will be taken in a private setting such as the victim's home, CRMC, VCH, or **CVFNS**. When a same sex CSIS technician is not available, the follow-up detective will make arrangements for a same sex CSIS technician to take injury photographs.

**Non-Intimate Photos** - can be taken by a male or female technician if they were not taken during the sexual assault examination. Officers should consider the value of taking photos that show the victim/suspect does not have visible injuries. Victims have the right to have an advocate present while being photographed.

When a victim refuses to be photographed, investigating members should attempt to gain their cooperation by stressing the importance of the evidence to the successful prosecution of the case and by fully explaining all photographic procedures and measures taken to ensure privacy.

Officers should encourage victims to take updated photographs of injuries (i.e., bruising) that appear or worsen after the initial report is made.

### **347.5 INVESTIGATIVE ASSISTANCE / DETECTIVE CALL-OUT**

#### **347.5.1 MANDATORY NOTIFICATIONS**

Members shall contact their supervisor while investigating sexual assaults which involve any of the following circumstances:

- (a) Sexual assault involving serious injury in which immediate follow-up investigation is needed;
- (b) Sexual assault with substantial sexual conduct where the suspect is a stranger, and there are investigative leads, which require immediate follow-up;
- (c) Child molestation involving serious injury;
- (d) Offenses which are part of a recognized pattern of criminal sexual activity;
- (e) Offenses which may generate media interest or department liability; or
- (f) Prior to questioning out of custody suspects (detectives may want to utilize a pretext call or other investigative technique in furtherance of the investigation).

Supervisors will then contact the SAU Supervisor who will determine the need for response or involvement by a detective.

When the primary officer places the suspect on the DCB as an arrestable suspect, the officer shall send an email to the SAU Supervisor advising of such action.

#### **347.5.2 ARREST OF FELONY SEXUAL ASSAULT SUSPECTS**

When officers arrest a felony sexual assault suspect on open charges, they shall notify a SAU supervisor of the arrest and booking via phone.

### **347.6 RESPONSIBILITIES**

#### **347.6.1 SAFE NURSE DUTIES:**

- (a) Complete the sexual assault examination and collection of evidence (to include the clothing worn by the victim/suspect at the time of the examination);
- (b) Draw blood for toxicology analysis on adult cases;
- (c) Complete a "Forensic Medical Report: Sexual Assault Victim/Suspect Examination";
- (d) Maintain and document the proper chain of custody of the evidence; and
- (e) The designated Property and Evidence Technician will make arrangements for SA kit, evidence, and medical report pickup.

#### **347.6.2 SEXUAL ASSAULT UNIT/HOMICIDE SUPERVISOR**

Once advised of the request to pick up a sexual assault kit from a facility, the designated Property and Evidence Technician will pick up the kit.

#### **347.6.3 VICTIM SEXUAL ASSAULT KIT COLLECTION FROM FAMILY HEALING CENTER:**

The designated Property and Evidence Technician shall:

- (a) Collect the sexual assault kit, medical report, and related evidence from the forensic nurse/administrative assistant;
- (b) Respond directly to the PECS warehouse and book *all items received*;
- (c) Photos CDs and CVT samples shall be sent to HQ for storage or release to the CVT courier;
- (d) Sexual assault kits are then placed in the freezer for storage and clothing is placed in dry storage; and
- (e) Ensure the case number is on the medical report and scan and attach to the chain of evidence report in FPD Axon.

#### **347.6.4 SEXUAL ASSAULT KIT COLLECTION FROM OTHER MEDICAL FACILITIES**

The designated Property and Evidence Technician shall:

- (a) Create a FileOnQ entry;
- (b) Respond directly to the PECS warehouse and book all items received;

- (c) Prepare BFS One form for each kit and transport the kit directly to the California Department of Justice Bureau of Forensic Services Laboratory (5311 N. Woodrow, Fresno, CA); and
- (d) Ensure the case number is on the medical report and scan/attach to the chain of evidence report in Axon.

The Property and Evidence Technician will verify with lab personnel if there are any kits which are to be transferred back to Department custody. If kits are collected from the lab, the Property and Evidence Technician shall transport the kits directly to the PECS warehouse for storage.

**Exception:** When the kit is related to a homicide investigation, the Homicide Unit supervisor shall direct its pickup, testing, and booking.

### **347.7 BOOKING OF SEXUAL ASSAULT EVIDENCE**

The designated Property and Evidence Technician is tasked with the collection of sexual assault kits from medical facilities. Below is the procedure for the collection and booking of evidence:

- (a) The large white box (main Sexual Assault kit) should be listed as your first item in this box shall be clearly identified in FileOnQ as a Victim or Suspect Sexual Assault Kit. Victim and Suspect Sexual Assault Kits (medical box from facility) shall be booked separately from other related items and shall not be placed in any other box.
- (b) Any bags/boxes of clothing should be listed as separate items in successive order. Make sure the description denotes contents and whether the item is from the Victim or the Suspect.

Note: The above listed 2 items SHOULD be listed on the same page:

- 1) Make sure to group Suspect and Victim items together.
- (c) The small white box/paper bag containing the victim/suspect DNA blood sample should be listed as a DNA sample;
- (d) Each item should have a SEPARATE label;
- (e) Sexual Assault kits from CVFNS are then stored in the PECS Sexual Assault Kit freezer and all DNA blood samples are stored in the PECS refrigerator;
- (f) Any blood/urine samples that need to be analyzed at CVT, those samples MUST be listed separately in FileOnQ. The samples are to be labeled, placed in a biohazard bag, and sent to HQ for CVT pickup;
- (g) If given a photo CD by the hospital, the photo CD shall be booked separately in FileOnQ and sent to HQ for storage. DO NOT book CD's in the refrigerator, as this can damage them.
- (h) The sexual assault examination report is NOT to be booked or left with the evidence. All medical reports are to be scanned and attached via FPD AXON to the follow-up chain of custody report prepared by the transporting Property and Evidence Technician.

Refer to Policy §804.19.8 Sexual Assault Evidence for booking procedure. Any questions can be directed to a Property Tech at 621-2675. Messages can be left after hours.

### **347.8 SEXUAL ASSAULT KITS - DNA PROCESSING**

Once the SA kit is booked, it will be the responsibility of PECS to notify the SAU supervisor of the number of SA kits held in evidence. The designated Property and Evidence Technician will complete the DOJ form and attach the required reports, so the SA kit can be sent to DOJ within the 20-day requirement. (PC §680)

In order to maximize the effectiveness of such testing and identify the perpetrator of any sexual assault, the designated Property and Evidence Technician shall ensure that an information profile for the Victim SA kit evidence has been created in the California Department of Justice SAFE-T database within 120 days of collection. The assigned SAU detective shall ensure that the results of any such test have been timely entered into and checked against both the DOJ Cal-DNA database and the Combined DNA Index System (CODIS) (PC §680.3)

### **347.9 CPS NOTIFICATION**

When the initial investigating officer of a suspected child sexual assault case concludes that an offense is believed to have occurred and the officer has decided to place the minor in protective custody pursuant to Welfare & Institutions Code §300, the officer shall contact CPS to request a social worker respond to handle placement. Members shall confer with CPS to properly assess the circumstances of their investigation.

In those cases where the investigating officer determines the minor does not require protective custody placement, or otherwise would not normally be in contact with a social worker, a telephone report shall be made to CPS by the investigating officer before clearing the call. This telephone report shall include the following information:

- (a) The member's name;
- (b) The name of the juvenile;
- (c) The location of the juvenile;
- (d) The nature and extent of injury, if any;
- (e) Information that led the member to suspect the child was sexually assaulted; and
- (f) Any other information requested by CPS.

The member shall include in their report that CPS was advised of the case, the time of notification, and to whom the information was given. In addition to the telephone notification, a written report is required to be forwarded to CPS within 36 hours of the time the Department received the reported sexual assault [PC §11166(k)].

### **347.10 INFORMATION CONFIDENTIALITY**

PC §293 and Government Code §6254(f)(2) address the confidentiality of information regarding sexual assault victims. When utilizing Axon Records for report completion, officers shall mark the "Confidential" box under 'Case Factors' and the 'Name' tab for the victim(s), when requested.

### **347.11 MAINTENANCE AND DESTRUCTION OF SEXUAL ASSAULT KITS**

Sexual Assault (SA) kits shall be stored and may be destroyed in accordance with the following:

- (a) Pursuant to PC §680(e)(2), SA kits for unsolved crimes must be kept at least 20 years (adult victim) or until a minor victim's 40<sup>th</sup> birthday.
- (b) SA kits involving convicted suspects should be maintained in evidence storage until such time as the suspect has completed their penal sentence and are no longer in custody;
  - 1) **Exception:** While in custody, when authorization to dispose of the SA kit is obtained by Department personnel through the process outlined in PC §§1405 and 1417.9, the SA kit may be disposed according to law.
- (c) In cases where there has not been a conviction, SA kits may be destroyed at the expiration of the Statute of Limitations (SOL) as set forth in PC §§801.1(a), 801.1(b), 803, and 804.

Prior to the destruction of any SA kit the SAU supervisor shall be notified. The SAU supervisor will make the final determination as to whether the kit will remain stored or destroyed.

### **348.1 POLICY**

Compliance with court appearances and subpoenas is mandatory on all cases for which members have been properly subpoenaed, or properly notified.

#### **348.1.1 PURPOSE AND SCOPE**

This policy has been established to provide for the acceptance of subpoenas and to ensure that members appear when subpoenaed or are available to appear in court when requested and present a professional appearance.

### **348.2 COURT CASE STATUS / DISPOSITIONS**

**Court Standby** – The status of being on-call for court and available by phone to respond as needed. The member must be able to appear at the proceeding within a maximum of one hour of being notified, and must be completely prepared to participate, including proper attire, reports, and evidence. [Any deviation from these conditions must be approved in advance by the Court Liaison Office (CLO).]

Members will be advised of their Court Standby status (on-call status) by checking the Court Standby Log in Power DMS, the day prior at 1700 hours. If a member does not appear on the Court Standby Log, they are considered released from being on Court Standby status (on-call status.) When a case “trails” to a different court day, the options shall remain the same with the exception of the appearance time or location, which may be adjusted by the requesting authority.

**Trailing Cases** - Cases often “trail” to the following day or for several days after the scheduled proceeding. Members are not released from their appearance notice simply because they did not appear on the date indicated. Members are under obligation to appear as explained in “Court Standby”. It shall be the member's responsibility to continue checking on the case until released.

**Trailed Cases with Specific Dates** - When a case has been “trailed” to a specific date, the member will be temporarily released from the case until the date in question, at which time the court appearance obligation will resume. No subpoena will be re-issued, and the member should change the date on their subpoena accordingly.

**Mandatory Appearance** – Unless otherwise noted, members shall appear on all traffic citation cases, parole revocation hearings, DMV hearings, ABC hearings, school expulsion hearings, and scheduled depositions as directed in their notices.

When a Department member is specifically ordered to appear in court at a particular date and time by a court official outside of the subpoena process, they shall do so in accordance with this Policy.

**Cases with Dispositions** - When a case has been disposed of (i.e., pled, dismissed, or continued), the member will be released from the case. New subpoenas will generally be issued for continued cases; if uncertain, CLO should be contacted for verification.

**Members Going Off-duty** - Members going off-duty with an unresolved appearance notice will be subject to being on-call for court until released from “Court Standby” status by CLO.

### **348.3 COORDINATION OF APPEARANCE AT LEGAL PROCEEDINGS**

It shall be the responsibility of the CLO to coordinate the mandatory appearances of members at legal proceedings resulting from their employment with the City, regardless of whether or not members are to appear on or off-duty. These proceedings shall include criminal court appearances, traffic court



appearances, juvenile court hearings, parole revocation hearings, DMV hearings, Alcohol Beverage Control hearings, civil service hearings, depositions, and any legal proceeding (criminal, civil, or administrative) conducted as part of any judicial process.

Members contacted directly by legal counsel regarding a legal proceeding (to include deposition statements) shall contact CLO as soon as practical. Before answering questions or appearing at any legal proceeding, members shall ensure CLO has been notified of the contact. CLO personnel are responsible for ensuring the City Attorney's Office is aware of any such requested appearance by a member, when appropriate.

When a member receives a subpoena from a source other than CLO, they should contact CLO as soon as practical and before any court appearance. Members should provide CLO with details of the subpoena, to include any requests for the member to produce documents such as police reports, photographs, or body camera video. Members should also provide CLO a copy of the subpoena before any appearance dates.

Where lateral officers receive a subpoena requiring a court appearance on behalf of the member's prior agency for work related duties, the Department will adjust the member's work hours and/or days off, or at the Department's discretion, pay overtime so the member can attend to the court process on duty. The member will be responsible for their travel expenses.

#### **348.4 COURT SUBPOENAS**

Members are expected to cooperate with the prosecution to ensure the successful conclusion of a case. This applies to civil and criminal subpoenas.

#### **348.5 COURT APPEARANCES**

Members who respond to a proceeding without CLO approval will not be compensated. The CLO reserves the right to cancel or to continue the appearance dates and times as directed by the requesting authority, provided such cancellation or continuance is made before the member appears at the requested appearance location.

It shall be the member's responsibility to continue to check on their case for their appearance date and time until released. Members will not be released from an appearance obligation simply because they were not needed on the date indicated. The "Court Case Standby Log" will be updated by 1700 hours on the day prior to the court appearance. The "Court Case Disposition Log" will be posted to Power DMS by 1700 hours at the end of each court day.

#### **348.6 DISTRIBUTION AND SERVICE OF SUBPOENAS AND OTHER NOTICES**

Service of a subpoena requiring the appearance of any Department member in connection with a matter arising out of the member's course and scope of official duties shall be coordinated by the delivery of two copies of the subpoena to CLO [Government Code §68097.1 and Penal Code §1328(c)]. CLO is responsible for the initial receipt and proper distribution of all criminal subpoenas and other appearance notices, regardless of the type of proceeding.

##### **348.6.1 HARDCOPY SUBPOENA DISTRIBUTION**

The original notice and a copy will be forwarded to the member's immediate supervisor or briefing officer, who shall be responsible for serving the notice in a timely manner.

Upon being served, the member shall:

- (a) Sign and date the original notice immediately upon receipt;
  - (b) Indicate any date conflict(s) in the space provided, or on an attached memo;
  - (c) Provide an explanation if it is believed that the member's testimony is not needed;
  - (d) Return the notice to the supervisor or designee, who shall forward it to the CLO by the conclusion of the shift;
  - (e) Retain the member's copy in a suitable location to serve as a timely reminder of the obligation;
- and



- (f) Utilize one of the copies provided as a downtown-parking permit for the designated appearance. This permit will be valid only in the Underground Garage at Van Ness and Tulare Avenues. The permit must not be visible within the parked vehicle, but simply shown to the parking attendant if requested upon exit.

When the supervisor or briefing officer is unable to serve an appearance notice because the member is on vacation, extended days off, or other extended leave, the supervisor shall return the notice to the CLO as soon as possible with a brief explanation as to why the notice could not be served. The supervisor or briefing officer shall not file or otherwise retain an appearance notice while awaiting the return of a member who is absent for any reason other than regular days off.

#### **348.6.2 ELECTRONIC SUBPOENA DISTRIBUTION**

The original notice will be automatically forwarded to the member's department issued email address.

Upon being served, the member shall:

- (a) Click the link acknowledging receipt;
- (b) For any conflicts or if it is believed the member's testimony is not needed the member shall email CLO by clicking the link [CLO.Conflicts@Fresno.Gov](mailto:CLO.Conflicts@Fresno.Gov) found within the original email. The member will need to indicate the date of the conflict(s) along with an explanation for the conflict(s) or as to why the member's testimony is not needed;
- (c) Retain a copy in a suitable location to serve as a timely reminder of the obligation; and
- (d) Print one copy to use as a downtown parking permit for the designated appearance. This permit will be valid only in the Underground Garage at Van Ness and Tulare Avenues. The permit must not be visible within the parked vehicle, but simply shown to the parking attendant if requested upon exit.

#### **348.7 VALID SUBPOENAS**

No subpoena shall be accepted for a member unless it has been properly served and verified to have originated from a recognized legal authority.

#### **348.8 SUBPOENA'S AND APPEARANCE NOTICES BY MEANS OTHER THAN CLO**

The CLO may refuse to accept a subpoena received less than five working days prior to the appearance date [PC §1328(e)]. When this occurs, the member may be served directly by a process server or by phone.

When a member is directed to appear by a subpoena or other document received through the mail, by process server, or by carrier other than the CLO, the member shall notify the CLO of the document by the end of the next business day. The member shall provide the CLO with all pertinent information, including the type of proceeding, the defendant's name, the date of the appearance, the location of the appearance, the charge, the attorneys involved, etc. Members are required to appear as requested when notified through these methods, the same as if they were served by the CLO.

Members may be requested to appear for judicial proceedings via telephone or in person by representatives of the DA's Office, the City Attorney's Office, or other authority. When this occurs, the person making the request shall be advised to contact the CLO immediately, who will in turn notify the member of their need to appear. Members who appear on such direct requests shall notify CLO if not advised.

When a member is directed by a judge, superior member, or any member of the CLO to appear for a proceeding, even though no appearance document was issued, the member shall respond as directed. When the directive is received from a source other than the CLO, the member shall notify the CLO of the directive and all pertinent information immediately upon receipt.

Members receiving notices of appearance may voluntarily place themselves on "Court Standby" status, subject to the conditions outlined above.

### **348.9 DAYS OFF AND PLANNED ABSENCES**

Prior to the beginning of each work week or detail month, it shall be the responsibility of each commander to submit to the CLO a list of the regular days off of all members under their command, with the exception of Patrol, whose work schedules are available on the network.

It shall be the responsibility of members to forward copies of scheduled vacations, or planned absences of more than two consecutive work shifts, to the CLO at the earliest possible time to facilitate the proper distribution of notices received during the scheduled leave. Furthermore, each supervisor shall notify the CLO when any member under their supervision is terminated, retired, suspended, off injured, on temporary duty, or out-of-town training.

### **348.10 CONFLICTS**

When a member believes that testimony is not needed, or that a date conflict exists with a requested appearance, the CLO will attempt to negotiate a change on the member's behalf. This information should be noted on the original notice, or an attached memo, when it is returned to the CLO as an acknowledgment of receipt.

Regardless of efforts made by the CLO, there may be times when the member will be required to appear in court, even when on vacation, in training, or during other scheduled absences. Regular days off or inconveniences (i.e., childcare, or in-town training obligations) do not constitute a conflict for the purpose of negotiating a change in appearance. Members are under obligation to appear for all proceedings, including those in which a conflict has been indicated, until they are released.

Members shall not contact any deputy DA, public defender, private attorney, clerk, staff member, bailiff, parole officer, judge, or any person associated with the judicial system in any way whatsoever to negotiate a change in their court appearance, to determine if or when the member is needed, or to be released from appearing. Nothing in this paragraph is intended to prevent contact with the requesting authority for the purpose of discussing the member's pending testimony so long as appearance times and conflicts are not discussed.

### **348.11 OFF-DUTY RELATED SUBPOENAS**

Members receiving valid subpoenas for actions taken off-duty not related to their employment with the Department shall comply with the requirements of the subpoena. Members receiving these subpoenas are not compensated for their appearance and arrangements for time off shall be coordinated through their immediate supervisor.

### **348.12 FAILURE TO APPEAR**

Any member who fails to appear (or who fails to appear at the designated time) for any legal proceeding conducted as part of any judicial process, after being served with a notice to appear (or after being ordered to appear by a superior member, deputy DA, city attorney, or member of the CLO) is subject to disciplinary action.

### **348.13 RELEASE BY MEANS OTHER THAN CLO**

When a member is directly released from a hearing or judicial proceeding by a deputy DA, public defender, city attorney, or any attorney, clerk or staff member associated with a case, the member shall immediately notify the CLO of the release, advising (by name) who authorized the release and why.

### **348.14 ILLNESS, INJURIES OR EMERGENCIES**

When a member is ill, injured, or encounters an emergency that prevents a requested appearance, the member shall notify the CLO at the earliest possible moment so that all involved parties can be notified of the member's inability to appear as requested. Mere absence from regularly scheduled work shall not constitute notification as required by this provision.

### **348.15 TRIAL BY DECLARATION**

When a traffic court defendant requests a trial by declaration, the CLO shall forward a Declaration of Officer for Trial by Declaration Form to the reporting member. Upon receipt of the form, the member shall provide all pertinent information, including speedometer calibration, and return the form to the CLO during

the same shift in which it was received.

## **348.16 JURY SUMMONS FOR CIVILIAN MEMBERS**

### **348.16.1 ON-DUTY MEMBERS**

- (a) Upon receipt of a summons for jury duty, the summoned member shall expeditiously notify their immediate supervisor.
- (b) When possible, civilian members shall place themselves on-call for jury duty so that they may be assigned work which will benefit Departmental operations while still satisfying court mandated on-call response times.
- (c) The supervisor of a member assigned to the Patrol Division shall contact the Duty Office to arrange for a work assignment while the summoned member is on-call. Supervisors of members assigned to other divisions of the Department shall make arrangements within their respective divisions for summoned members to perform work during their on-call status.
- (d) When a member is required to appear by the Jury Commissioner but is subsequently released during the course of the workday, the member shall report back to their assigned duty station until needed again, until the end of the workday, or until they are completely released from the summons, whichever comes first.
- (e) Members shall receive their regular wages or salary during the time they are required to be absent from their assigned duties due to a jury summons but shall turn over to the Fiscal Affairs Bureau any fees, including mileage allowances, received for such attendance or service. An OTTO Request covering the missed work time shall be completed and submitted to the Fiscal Affairs Bureau with the Court Time Verification Card (issued by the Jury Commissioner's Office) attached.

### **348.16.2 SHIFT ADJUSTMENT**

The Department will allow a summoned member assigned to a night shift to temporarily flex their work hours, at the request of the member, to a day shift workweek. The flexed hours shall cease when the member is released from the summons.

### **348.16.3 WORKDAY ADJUSTMENT**

The Department will not approve a modification of a member's workdays during the time the member is obligated to respond to a jury summons.

## **348.17 COURTROOM PROTOCOL**

Members must be punctual when appearing in court and shall be prepared to proceed immediately with the case for which they are subpoenaed.

## **348.18 COURTROOM ATTIRE**

Uniformed members who are subpoenaed to testify in court during duty hours shall appear in court in uniform, except that caps and helmets shall not be worn or carried. On request of the prosecuting attorney, members may change into civilian clothes to testify, but shall return to uniform subsequent to the court appearance.

On duty, non-uniformed members shall wear conservative, professional clothing when testifying in court or during other related proceedings for which the appearance is coordinated by the CLO. Male members shall wear suits or sports coats and ties.

Off-duty members have the option of appearing in professional clothing as indicated above, or to appear in uniform. Should members testify they are to follow the uniform provisions of this order. Those appearing in uniform may be assigned duties as outlined above.

Undercover members are not required to change clothes for preliminary hearings, parole hearings and other non-trial proceedings.

## **348.19 PREPARATION FOR TESTIMONY**

Before the date of testifying, the subpoenaed officer shall review all relevant reports and other evidence

(e.g., body worn camera video, reports, photos, etc.,) and become familiar with their content in order to be prepared for court.

Members testifying in any legal proceeding should only provide testimony on matters they have personal knowledge of or can prove. When members provide personal opinions, it can have unintended consequences that are often detrimental to the proceeding or future proceedings.

#### **348.20 COURTROOM DECORUM**

Members shall observe all rules of the court in which they are appearing and shall remain alert to changes in the assigned courtroom where their matter is to be heard.

#### **348.21 COMPENSATION FOR COURT TIME**

If the member appeared on their off-duty time, they will be compensated in accordance with the members Memorandum of Understanding (MOU).

#### **348.22 COURT TIME DEFINED**

Off-duty appearances resulting from the performance of duties as a member of this Department shall be compensated as court time under the following guidelines:

- (a) When the appearance is in response to a subpoena or other appearance notice, or at the direction of a court, superior member, prosecuting attorney, city attorney, defense attorney, or member of the CLO, to attend any court hearing, deposition, or other legal proceeding as a witness;
- (b) When the appearance is in response to a request by a prosecuting attorney, defense attorney, or court to confer on an investigation or a pending court proceeding. This shall include requests by a city attorney (or attorneys representing the City) in civil proceedings, and attorneys representing other governmental agencies in civil proceedings, but it shall not include requests by other attorneys involved in civil proceedings. (Attorneys involved in other civil proceedings should be instructed to meet with the desired member during that member's normal duty hours. No compensation will be paid for conferences of this type unless special arrangements have been made, and compensation has been authorized by the CLO supervisor.);
- (c) For off-duty telephone conversations between a member and any deputy DA, deputy public defender, private attorney, judge, court clerk, or any person associated with the judicial system, when the contact is initiated or requested by such person in the judicial system. Compensation for member-initiated off-duty contacts when not requested by any of the above parties will not be authorized without prior approval of the CLO supervisor; and
- (d) When the time spent is not the result of the member's former employment.

For the purpose of this order, time in attendance shall be defined as the difference in time, in 1/10th hours, from the time the member begins a proceeding or conference to the time the member's presence is no longer required.

#### **348.23 LOCAL PROCEEDINGS**

Notwithstanding the general provisions for overtime, as identified in FMC §2-1514, members shall be compensated for all judicial proceedings (criminal, civil, and administrative) consistent with their respective MOUs.

#### **348.24 OUT OF TOWN PROCEEDINGS**

The same provisions for local judicial appearances shall apply to out-of-town appearances with the exception of travel time. For the purpose of out-of-town proceedings, "actual time" shall mean the sum of travel time and time in attendance. When this sum exceeds the applicable minimum number of hours as established with the member's MOU, the greater time shall be compensated. Compensation shall be determined as follows:

- (a) When the appearance is scheduled on a regular workday, only the actual time spent in excess of the normal number of daily work hours shall be compensated;
- (b) When the appearance is scheduled during a regular day off, a vacation, or a day of compensatory time off, the amount of time allowed shall be the actual time spent in attendance plus travel, or the applicable minimum number of hours set forth by the MOU, whichever is greater; and
- (c) When the scheduled appearance requires an overnight stay, compensation time shall be

calculated on each day in accordance with the prior two guidelines.

When the appearance is made on a regular day off, a vacation, or a day of compensatory time off, a maximum of 8 hours compensation per day will be allowed for those days during which the member must remain out of town. However, if the "actual time" as defined in the first paragraph of this section exceeds 8 hours on any given day, the "actual time" shall be compensated for;

- (a) When a member is required to stay out of town through the weekend, the member's days off for the week shall be changed to Saturday and Sunday, if possible. The member will not be compensated for non-duty days while out of town. The Department is not responsible for returning members home for the weekend; and
- (b) Agencies requesting members to appear out of town for a court hearing or legal proceeding are generally responsible for travel arrangements, room, and meals for the member. Members shall not be compensated for using their private vehicle or other personal means of transportation unless prior arrangements have been made with the supervisor of the CLO. The CLO is responsible for coordinating all out-of-town court appearances.

#### **348.25 REPORTING OF COURT TIME**

All members required to make an appearance as defined in Section 348.22, Court Time Defined, shall submit an OTTO Request to their supervisor as soon as possible after the appearance. The OTTO Request shall contain the defendant's full name, the prosecuting DA's name, and the courtroom number in the "comments" section for verification purposes and must be accurately completed to avoid a delay in processing. Inaccurate OTTO Requests will be returned to the member for correction prior to being approved by the CLO.

#### **348.26 REPORTING OF CIVIL APPEARANCE TIME**

Appearances associated with civil proceedings generally do not qualify for reimbursement through the OTTO System. A separate "Civil Appearance" compensation form will be attached to the appearance notification at the time of service, and this form shall be completed and returned to the CLO for processing, regardless of whether the appearance was on-duty or off-duty. The City will be compensated if the appearance was on-duty; the member will be compensated if the appearance was off-duty.

#### **348.27 REPORTING OF COURT STANDBY TIME**

Members who qualify for "Court Standby" compensation pursuant to their MOU shall submit a completed OTTO Request to their supervisor immediately upon their return to work. The OTTO Request shall contain the defendant's full name, the prosecuting DA's name, and the courtroom number in the "comments" section, and must be reviewed by a supervisor responsible for verifying that the scheduled appearance was on a regular day off or scheduled workday for swing, lap and midnight shifts. Inaccurate OTTO Requests will be returned to the member for correction prior to being approved by the CLO for processing.

#### **348.28 REIMBURSEMENTS FROM OTHER AGENCIES FOR TRAVEL EXPENSES**

Any witness fee(s) paid to a member by any agency other than the City shall be turned over to the Fiscal Affairs Bureau. Any travel fees paid by any outside agency which were paid or advanced by the City shall also be turned over to the Fiscal Affairs Bureau. Witness and travel fees paid to members who are not compensated by the Department for their appearance are exempt from this requirement.

#### **348.29 TESTIFYING AGAINST THE INTEREST OF THE PEOPLE OF THE STATE**

Any member or employee who is subpoenaed to testify, who has agreed to testify, or who anticipates testifying or providing information on behalf of or at the request of any party other than the People of the State of California, any county, any city, or any of their officers and employees in which any of those entities are parties, will notify their immediate supervisor without delay. The supervisor will then notify the Chief of Police, District Attorney's Office in criminal cases, County Counsel or City Attorney, as may be indicated by the case.

This includes, but is not limited to the following situations:

- (a) Providing testimony or information for the defense in any criminal trial or proceeding;
- (b) Providing testimony or information for the plaintiff in a civil proceeding against any county, any city, or their officers and employees; or
- (c) Providing testimony or information on behalf of or at the request of any party other than any county, city, or any county or city official in any administrative proceeding, including but not limited to personnel and/or disciplinary matters.

## Fresno Police Department Policy Manual

# Supervisory Responsibilities

### 349 Supervisory Responsibilities

#### 349.1 POLICY

Supervisors shall be responsible for the proper completion of all work assigned to personnel under their command.

##### 349.1.1 PURPOSE AND SCOPE

Supervisors shall be generally responsible for all the activities of the personnel under their command. This shall apply whether the supervisor has exercised direct control over those activities.

#### 349.2 GENERAL RESPONSIBILITIES

Supervisors shall be responsible for their own activities and for the proper completion of all work assigned to them, whether they do the work themselves or delegate it to subordinates.

Supervisors shall be responsible for ensuring the proper development of their assigned personnel through training, evaluation, counseling, guidance, commendation, discipline, or other available means.

Supervisors are responsible for ensuring their superiors are continually apprised of all matters that affect personnel under the supervisor's command that may require Departmental action, impact the superior in the performance of their duties, or that may be of interest to other members of the Department or the public. Supervisors are responsible for ensuring that officers assigned to them perform all their duties efficiently and expeditiously.

#### 349.3 SUPERVISORY CALLS

Supervisors shall respond to all calls assigned to their personnel that involve:

- (a) The use of firearms (not including shots fired calls);
- (b) The use of explosives;
- (c) Injured members;
- (d) Members using reportable force;
- (e) Homicides and other crimes involving serious injury;
- (f) All cases of death or impending death other than those which are confirmed to be from natural causes;
- (g) Fatal and serious injury accidents;
- (h) Missing juveniles under 12 years of age;
- (i) Vehicular pursuits;
- (j) Riots, large disturbances, or labor disputes;
- (k) Complaints against the Department or its members;
- (l) Incidents involving off-duty members; and
- (m) Incidents involving members of any other law enforcement agency.

When a supervisor is unable to break from other mandatory supervisory calls, another sergeant shall be contacted by ComCen to respond on their behalf.

##### 349.3.1 REPORTABLE FORCE DEFINED

Reportable force has occurred when:

- (a) Members (including canines) use force and a person is injured, has expressed a complaint of pain, or has been rendered unconscious;
- (b) Members strike a person with a body part (e.g., fist, foot, elbow, etc.) or any object (e.g., flashlight, clipboard, etc.) including misses;

- (c) Members use (not merely display) a Department issued weapon (e.g., baton, chemical agents, Electronic Control Device (ECD), less-lethal, shotgun, firearm, etc.) against another, including misses; or
- (d) Members use any technique or transport method where direct and continuous pressure is applied to the neck, torso, or back of a person as specified within Policy 308.2.5.

#### **349.4 REPORTABLE FORCE – REQUIRED DOCUMENTATION**

##### **349.4.1 USE OF FORCE - CIVIL LIABILITY STATEMENTS**

When members use reportable force, the supervisor shall respond to the scene to interview the involved individual(s) and when practical, any available witnesses.

- (a) The supervisor shall record on body camera or by using a recording device the statements of all involved individual(s) and witnesses interviewed.
  - 1) **Exception:** K-9 officers will obtain civil liability statements for K-9 related reportable force.
- (b) The supervisor shall ensure any injuries or relevant evidence is photographed (to include lack of visible injuries).

Supervisors shall not record statements from sworn officers without first affording them their Police Officer Rights in accordance with POBR.

##### **349.4.2 BODY CAMERA VIDEO/DIGITAL RECORDINGS**

When supervisors utilize a body worn camera or digital recorder for a Use of Force statement, the recording supervisor shall upload the video or digital recording into IAPro BlueTeam web interface. The data upload will take place as soon as possible after the interview is completed. When a body camera or a digital recorder is unavailable or does not work, supervisors shall request another supervisor respond with a working body camera or digital recorder.

When possible, supervisors shall include the following information at the beginning of recorded interviews:

- (a) Date and time of Interview;
- (b) Name of person(s) interviewed;
- (c) Location of interview; and
- (d) Name of member conducting interview(s).

##### **349.4.3 USE OF REPORTABLE FORCE FORMS – GENERAL INSTRUCTIONS**

Supervisors shall thoroughly complete an electronic Use of Force Form via the IAPro BlueTeam web interface.

- (a) Whenever possible, the supervisor completing the Use of Force Form should also approve the officer's report documenting the reportable force.
- (b) When a supervisor has used reportable force, a non-involved supervisor shall complete the Use of Force Form.
- (c) Any police report documenting force that caused injury shall be approved by a supervisor. Use of Force Forms will not be completed for officer involved shootings (OIS).
- (d) Supervisors shall review all available Body Worn Camera recordings which captured the use of force.

Completion and routing of the Use of Force Form via BlueTeam:

- (a) A copy of the officer's report shall be electronically attached;
- (b) Supervisors shall highlight the portions of the report specifically detailing the use of force;
- (c) All available Body Worn Camera recordings which captured the use of force shall be linked;
- (d) In the comments section of the form, the supervisor shall list the names of staff members in the involved officer's chain of command (to facilitate accurate routing);
- (e) The completed form will be forwarded from the supervisor directly to the Legal Advisor;
- (f) After the Legal Advisor's review, the form will be forwarded to the first staff member in the officer's chain of command (as listed in the comments section by the initiating supervisor);
- (g) Each staff member in the chain of command will generally have ten business days for review prior to forwarding it, along with their comments, to the next person in the review process.



- (h) The Division commander, or a temporary designee in absence of the Division Commander, shall review and forward the form to the Policy and Procedures Unit along with any comments that may have been added;
  - 1) When the Division commander, or temporary designee, determines additional review is necessary, they will ensure the form is copied to the appropriate bureau/section/unit (i.e. Training, Internal Affairs, Policy & Procedures, etc.) via the BlueTeam interface.
- (i) The Policy and Procedures Unit will review the form for accuracy and forward it to the Internal Affairs secretary.

#### **349.4.4 K-9 APPLICATIONS**

When a canine is utilized as a means of force and a person is injured, the Use of Force Form shall be completed by the on-scene supervisor and routed directly to the K-9 Unit supervisor via BlueTeam. Additionally:

- (a) The K-9 Unit supervisor will electronically attach the K-9 officer's report documenting the K-9 application; and
- (b) K-9 Unit supervisors shall highlight the applicable portions of the report which document the use of reportable force prior to attaching to the form.

#### **349.4.5 K-9 APPLICATION WITH OTHER REPORTABLE FORCE**

In cases where there is both a K-9 application and another type of reportable force is also used by a non-K-9 officer (e.g. ECD, baton, etc.), the initiating supervisor will complete the form, highlight and attach the non-K-9 officer's report and route it directly to the K-9 supervisor via Blue Team.

After highlighting and attaching the K-9 officer's report, the K-9 supervisor will route the form to the Legal Advisor. The Legal Advisor will review and forward the form to the first staff person listed in the non-K-9 officer's chain of command. Once the non-K-9 officer's chain of command has reviewed it, it shall be forwarded for review by the K-9 officer's chain of command. Once both reviews have been completed, the final reviewing bureau commander shall forward the form to the Accountability and Compliance Unit.

#### **349.5 UNUSUAL OCCURRENCES**

Supervisors are required to notify a field/district commander when any of the following incidents occur:

- (a) A homicide or attempted homicide occurs in the City;
- (b) A member discharges a weapon other than for training or evidentiary purposes;
- (c) Department vehicles suffer major damage from accident or attack;
- (d) City property suffers major damage from attack;
- (e) A member is injured in the line of duty and the injuries will cause the member to be relieved of their duties for any period of time;
- (f) Any situation occurs which is likely to result in considerable news media attention;
- (g) There has been a disturbance involving large numbers of persons;
- (h) There exists a reasonable possibility of criminal or civil liability for any incident involving a member, the Department, or the City;
- (i) The SWAT team responds to any incident;
- (j) An Electronic Tracking System event occurs;
- (k) There is information that the Chief of Police, or designee, does not have and should be advised of;
- (l) A person dies while in the custody of the Department; or
- (m) Personal injury or major property damage has been sustained as a result of a hate incident.

#### **349.6 PURSUIT CRITIQUE**

Whenever a pursuit occurs, prior to completion of their shift, supervisors shall:

- (a) Create a pursuit review package using the BlueTeam web interface to include answering related questions and selecting appropriate entries via drop down boxes; and
- (b) Click "save" (can be accessed by the IA secretary).

The supervisor shall ensure a written report and critique, to determine whether the pursuit was within Department guidelines, is prepared in an approved format. The critique will be forwarded via BlueTeam to the Pursuit Review Officer for review and a determination of the findings.

The Pursuit Review Officer is a staff officer appointed by the Chief of Police. The Pursuit Review Officer shall forward the critique and their findings to the Division Commander through the involved officer's chain of command. The Pursuit Review Officer, or any staff officer in the chain of command, may return the critique to the supervisor and direct an internal investigation to be conducted.

Automated Vehicle Locator (AVL) data, including an analysis of the data, shall be included in pursuits resulting in administrative investigations or pursuits involving a collision resulting in serious injury or death. AVL data should be reviewed by a member of ISB staff to determine the accuracy of the AVL information.

### **349.7 INCIDENT REQUIRING DIRECT NOTIFICATION OF THE CHIEF OR DESIGNEE**

When any of the following incidents occur, the commander of the district in which the event occurred, and the Deputy Chief of the Patrol Division shall be contacted as soon as practical by the commander of the incident:

- (a) A member is seriously injured or killed;
- (b) A member is involved in any action that results in a potentially fatal injury or the actual death of any person;
- (c) Members or resources are requested or likely to be requested in another jurisdiction under formal or informal mutual aid;
- (d) A riot, major disturbance, or public catastrophe occurs in the City; or
- (e) A member is involved in any action which is likely to be the focus of significant public interest or is likely to bring the Department into disrepute.

The Deputy Chief, after notification, will provide direction as to any further notifications deemed necessary (e.g., the Chief of Police, the commander of involved member, etc.)

The on-duty supervisor or field commander shall contact the duty office for call out notification of City personnel Policy §358.

### **349.8 CHECKING REPORTS**

Supervisors or their designee shall check Axon Records to review and approve completed reports during their shift. Sergeants or their designees shall also be responsible for the prompt delivery of all completed hard-copy reports to Records. Refer to Policy §344. Sergeants (not designees) shall approve all officer reports documenting reportable force incidents. When a sergeant is required to document force they personally used, another sergeant should review and approve their report.

### **349.9 INJURED MEMBERS**

Supervisors shall supervise the handling of all incidents involving injured members. Their responsibilities include:

- (a) Arranging for medical treatment, if needed;
- (b) Completion of Supervisor's Report of Injury (SRI) Form; and
- (c) Completion of Employee's Claim for Workers' Compensation Benefits Form (DWC1) within 24 hours.

Refer to Policy §1042 for additional information regarding injured members.

### **349.10 OBSERVATION AND EVALUATION**

For purposes of this order, supervisors who perceive/observe any performance of subordinate members not administratively assigned to them shall assume the responsibilities of that subordinate's assigned supervisor for the purposes of supervising and monitoring the subordinate's performance.

### **349.11 BRIEFING**

Supervisors, or their designees, are responsible for conducting briefing at the beginning of each shift.

- (a) Supervisors should assess the readiness of each Department member with respect to the performance of their duties; and
- (b) Supervisors should use available briefing time to train subordinate members on topics related to their duties

Briefings will consist of detail assignments for the shift as well as the dissemination of any pertinent information which may include:

- (a) Wanted persons;
- (b) Problem locations;
- (c) Any new or recently modified policy/procedures;
- (d) Daily patrol activity, with particular attention to unusual situations occurring within the district or City;
- (e) Potential and actual police hazards;
- (f) Changes in status of wanted persons, stolen vehicles, major investigations, community activities, etc.; and
- (g) Notification of new directives or any changes in directives.

When members do not attend shift briefing, their supervisor, or designee, shall make personal contact with the on-coming member as close to the start of the member's shift as possible.

- (a) Members shall receive all current information regarding their district/unit during the contact; and
- (b) A briefing packet shall be compiled for each on-coming member who does not attend shift briefing and shall contain the same information given during the shift briefing.

Supervisors in non-patrol assignments should conduct briefings weekly which, at a minimum, cover issues relating to the unit or bureau.

### **350.1 POLICY**

The Fresno Police Department shall recruit and appoint to the Reserve Unit only those applicants who meet the high ethical, moral and professional standards set forth by the Department.

#### **350.1.1 PURPOSE AND SCOPE**

The Fresno Police Department Reserve Unit was established to supplement and assist regular sworn police officers in their duties. This unit provides professional, sworn volunteer reserve officers who can augment patrol officers and special events.

### **350.2 DEFINITIONS**

**General Law Enforcement Duties** - refers to duties which include the investigation of crime, patrol of a geographic area, responding to the full range of requests for police services, and performing any enforcement action on the full range of law violations.

**Immediate Supervision for Level II Reserves** - means the reserve officer acts under the direction of a peace officer who has completed the basic training course for deputy sheriffs and police officers prescribed by the Commission on Peace Officer Standards and Training (P.O.S.T.), and is routinely in the physical proximity of and available to the reserve officer. However, allowance is permitted for necessary temporary separations.

**Working Alone** - refers to a qualified Level I reserve officer who works without immediate supervision and makes independent decisions. Two qualified Level I reserves, or a qualified Level I reserve and a regular officer, are not precluded from working together.

### **350.3 SELECTION AND APPOINTMENT OF POLICE RESERVE OFFICERS**

The authority to appoint qualified persons to the position of reserve police officer is vested in the Chief of Police or their designee. All reserves shall be sworn in by the City Clerk and take a loyalty oath to observe and obey all of the laws of the land and to carry out their duties to the best of their ability.

Reserve officers assist the Department in the enforcement of laws and in maintaining peace and order within the community.

#### **350.3.1 RESERVE OFFICER LEVELS**

**Level I** – Refers to a sworn reserve officer trained as described in Penal Code §830.6(a)(1) who has successfully completed all P.O.S.T. requirements for the designation of Level I, and successfully completed all Department requirements for the designation of Level I, to include the Police Training Officer Program. Level I reserve officers may be assigned specific functions or to the prevention and detection of crime and general law enforcement duties. Once completed, this level of reserve may be assigned to work alone or supervise Level III reserve officers in lieu of a regular full-time peace officer.

**Level II** – Refers to a sworn reserve officer trained as described in PC §832.6(a)(2), who have successfully completed all P.O.S.T. requirements for the designation of Level II, and successfully completed all Department requirements for the designation of Level II, to include the Police Training Officer Program. Level II reserve officers may be assigned to:

- (a) The prevention and detection of crime and general law enforcement duties, working under the immediate supervision of a peace officer possessing a basic POST certificate; or
- (b) Limited support duties such as traffic control, evidence transportation, and duties not likely to result in a physical arrest without immediate supervision.

**Level III** – Refers to a sworn reserve officer trained as described in PC §832.6(a)(3), who have successfully completed all P.O.S.T. requirements for the designation of Level III, and successfully completed all Department requirements for the designation of Level III, to include the Police Training Officer Program. Level III reserve officers shall be supervised in the accessible vicinity by a Level I reserve officer or a full-time regular peace officer employed by a law enforcement agency authorized to have reserves and deployed in limited support duties not requiring general law enforcement powers in their routine performance. Those limited support duties shall include traffic control, security at parades and sporting events, report taking, evidence transportation, parking enforcement, and other duties that are not likely to result in physical arrests. Level III reserve officers may transport prisoners without immediate supervision.

#### **350.4 POLICY COMPLIANCE**

Reserve police officers shall be required to adhere to all Departmental policies and procedures. A copy of the policies and procedures will be made available to each reserve officer upon appointment and they shall become thoroughly familiar with these policies. Whenever a rule, regulation, or guideline in this manual refers to a sworn regular full-time officer, it shall also apply to a sworn reserve officer unless by its nature it is inapplicable.

#### **350.5 UNIFORM**

Reserve officers shall conform to all uniform regulations and appearance standards of the Department, as listed in the Uniform Specifications Manual.

#### **350.6 EMERGENCY CALL-OUT FOR RESERVE PERSONNEL**

A commander must approve any emergency call out for reserve officers by calling the Duty Office.

#### **350.7 OFF-DUTY WEAPONS AUTHORIZATION**

It is the policy of the Fresno Police Department to comply with HR 218, the Law Enforcement Officers Safety Act (LEOSA) Codified as 18 United States Code §926B and §926C. The Act permits the nationwide carrying of a concealed handgun by a Reserve Police Officer, and amends the Gun Control Act of 1968 to exempt qualified Reserve Police Officers from state and local laws prohibiting the carrying of a concealed firearm.

To qualify for a weapons authorization card, a reserve officer must meet the following conditions:

- (a) Be in good standing with the Reserve Unit and off probation, as described in Section II – General Regulations, paragraph E of the Reserve Unit Operations Manual
- (b) All firearms must be within Department guidelines (refer to Policy §312 - Firearms, section 312.3 – Approved Handguns & Ammunition)
- (c) The issuance of a department weapons card does not grant off-duty peace officer authority to reserve officers.
- (d) Police officer reserves are reminded that their private employer or any other private business may have a policy that prevents them to carry their off-duty firearm onto their premises and this policy shall be honored with no exceptions.
- (e) Police officer reserves are forbidden to wear their reserve badge and or any other department identification next to their weapon while off-duty.

#### **350.8 OVERALL RESPONSIBILITY**

Reserve police officers fall under the command of the Traffic & Special Services Bureau, under the general supervision of the Reserve Coordinator. However, when deployed outside of the Traffic & Special Services Bureau, bureau commanders and district commanders are responsible for the deployment and supervision of reserve police officers.

Bureau commanders and district commanders will ensure that reserve police officers are deployed within the legal guidelines as set forth in PC §§830.6(a)(1), 832.6(a)(1), and 832.6(a)(3).

### **350.9 GENERAL RESPONSIBILITIES**

Reserve police officers will be assigned to a patrol district, based on an annual voluntary signup.

Reserve police officers assigned to a patrol district shall notify the on-duty Sergeant when they log on. Reserves will include the name of the on-duty Sergeant they reported to in the log information, by computer, or by voice. When reserve police officers are performing general law enforcement duties, the on-duty Sergeant is responsible for their deployment and will ensure immediate supervision by a full time officer is provided.

Crime reports completed by reserve police officers shall be reviewed and approved by a district Patrol Sergeant. Reserve police officers completing a report outside of their assigned district shall ensure that the report is transferred through the Records Bureau to the appropriate district.

### **350.10 SUPERVISOR RESPONSIBILITIES**

When a reserve police officer reports for duty, the on-duty Sergeant responsible for their deployment will ensure immediate supervision by a full time officer is provided.

The responsibility to investigate any inquiry/complaints against a reserve police officer generated from their deployment shall be that of the bureau or district where the reserve officer was working at the time of the complaint.

## Fresno Police Department Policy Manual Juvenile Delinquency Prevention / Intervention Programs

### 351.1 POLICY

The Department, and each of its members, is committed to juvenile justice programs and procedures which build relationships, prevent crime, and control juvenile delinquency. In all circumstances, interaction between Department members and juveniles shall work to accomplish these goals and objectives.

#### 351.1.1 PURPOSE AND SCOPE

Members who deal with juvenile offenders shall use the least coercive among reasonable alternatives available (reprimand & release, citation, arrest) that are appropriate under the circumstances.

### 351.2 PROGRAMS

Certain units within or associated with the Department are actively involved in the prevention and controlling of juvenile delinquency. Officers wishing to refer juveniles to the following programs shall contact the appropriate resource listed below:

- (a) **Police Activities League** – The primary function of the Police Activities League is to promote positive interaction between volunteers, off-duty law enforcement personnel, and youth through social, recreational and educational activities in order to encourage good values, acceptable behavior, and responsible citizenship.
- (b) **Student Resource Officer/Student Neighborhood Resource Officer** Student Resource Officers (SRO) and Student Neighborhood Resource Officers are assigned to school campuses in the city and they work toward improving the quality of life. SRO's/SNRO's provide guidance on ethical issues; individual counseling and/or mentoring to students; and prevent criminal activity through high visibility patrol.
- (c) **Youth Liaison Officer** The Youth Liaison Officer (YLO) creates a healthy exchange of dialogue between the youth and law enforcement that will deepen trust, develop improved understanding, and foster a positive relationship. The YLO also assists with referring at-risk youth between the ages of 14 to 18 to an appropriate service provider depending on their need.
- (d) **School Resource RISE Coaches** - School Resource RISE Coaches are on campus to help identify and reduce crimes against children, provide a support element to families and staff, along with integrating socially acceptable life choices and behavior through an integration of "Resistance and Resilience Curriculum." RISE Coaches spend their volunteer time in the classrooms teaching an evidence based curriculum which focuses on seven essential characteristics that are known to help deal with: stress and adversity; overcoming childhood disadvantage; a sense of hopelessness leading to stress disorders; alcohol and drug abuse; and gang association.

At least annually, the above programs shall be reviewed by the responsible bureau, section, or unit commander, to justify their continuance.

### **352.1 POLICY**

It is the policy of this Department to provide assistance whenever possible, consistent with the applicable laws of arrest and detention policies of this Department, when another law enforcement agency requests assistance with an arrest or detention of any person. This Department may also request an outside agency to provide assistance.

#### **352.1.1 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.

### **352.2 COOPERATION WITH OTHER AGENCIES**

In order to serve the public, the criminal justice system relies upon the cooperation of the police with other law enforcement agencies, prosecutors, courts and correctional officers to ensure the development of a safer community. Where possible, members shall fully cooperate with outside criminal justice entities to allow for the greatest level of safety for the community and to strive towards successful prosecution of persons involved in criminal activity.

To facilitate this cooperation, the Department will establish a close working relationship with professional organizations directly involved with the planning of the judicial system's response to crime in the community. Programs such as the Prostitution Abatement Program, LifeSkills program, Crisis intervention Training, and involvement in CARE Fresno are examples of public and private collaborations with the Department that address social issues as they relate to law enforcement responses and needs within the community.

### **352.3 REGIONAL FIRST RESPONDER – INSTANT AID (FPD AND FCSD)**

When the Fresno Police Department (FPD) receives a life threatening CFS, and there are no FPD personnel available, ComCen will request the aide of the Fresno County Sheriff's Department (FCSD). FCSD will be dispatched to the scene and will be responsible for stabilizing the call, and standing by for FPD personnel who will take over primary investigative responsibility, if needed. This same rule will apply for FPD, if FCSD has no units available to respond to a life threatening CFS and the call is within a county pocket, within the Fresno Metropolitan Sphere of influence. This is per an MOU dated 4/3/02 between the Chief of Police and Sheriff of Fresno County.

The overall aim for both the FPD and FCSD is to ensure a timely law enforcement response to life threatening calls, regardless of jurisdictional boundaries.

### **352.4 ASSISTING OUTSIDE AGENCIES**

Field members will respond to requests for assistance from other law enforcement agencies consistent with the priority and volume of Department calls for service holding at the time. Requests requiring multiple unit responses, for other than temporary backup, require supervisory response and notification of the appropriate commander. All other members shall assist outside agencies consistent with their own workloads.

### **352.5 MULTIPLE CRIMINAL ACTS IN MULTIPLE JURISDICTIONS**

Multiple criminal acts involving major crimes occurring in more than one jurisdiction shall be handled as follows:

- (a) The jurisdiction in which the most serious crime occurs (using the Part I crime classification) will be the primary investigative agency and will investigate all other related offenses;



- (b) In the absence of knowledge of the location of other offenses, the jurisdiction where the last known offense occurred will assume investigative responsibility;
- (c) When jurisdiction is not clearly defined, area or field commanders or supervisors from the affected agencies shall meet, evaluate the total circumstances, then determine the agency that would appear to have primary responsibility under the above guidelines; or
- (d) When an agency begins an investigation but later discovers the investigative responsibility is with another agency, an administrative decision shall be made by the bureau commander of the applicable follow-up unit whether to continue the initial investigation or to transfer the investigation to the agency with original jurisdiction. When responsibility is transferred, all information and evidence shall also be transferred. All reasonable assistance to accommodate the transfer of the investigation shall be provided.



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## Fresno Police Department Policy Manual Shoplifter Release Program

### 354.1 POLICY

It shall be the policy of the Fresno Police Department to establish alternative methods for handling petty theft (shoplifting) incidents at businesses.

#### 354.1.1 PURPOSE AND SCOPE

The purpose of this order is to outline procedures for the Shoplifter Release Program.

### 354.2 GENERAL

- (a) The Shoplifter Release Program will reduce the amount of time the Fresno Police Department spends on misdemeanor shoplifting detentions when the need for an officer to intervene is not necessary.
- (b) Businesses that employ security personnel working in a loss prevention capacity [Loss Prevention Officer (LPO)] are eligible to participate in the program.
- (c) The Fresno Police Department will conduct training with the participating business to assure successful application of this program.
- (d) Officers shall not be dispatched when a business declines prosecution.

### 354.3 SHOPLIFTER RELEASE CRITERIA

When the LPO has identified the suspect, the LPO will contact ComGen to determine if the suspect is field releasable. The following conditions must be met:

- (a) The suspect can be identified by i.e. identification card, name and date of birth, identifiers, etc.;
- (b) They are not a danger to self or others;
- (c) They have no active warrant for arrest; and
- (d) No felony crime has been committed; and, if applicable;
- (e) Parent/Guardian will respond to the business to take custody of the juvenile.

### 354.4 REPORTING CRITERIA

Members shall prepare a crime report on petty thefts from businesses only when:

- (a) A suspect is in custody, and
  - 1) The suspect does not meet the **Shoplifter Release Program** release criteria.

All other petty thefts shall be handled in accordance with Policy §307 - Petty Thefts.

### 354.5 COMCEN RESPONSIBILITIES

The Emergency Services Dispatcher (ESD) receiving a call of a petty theft from a Loss Prevention Officer (LPO) from a retailer part of the Shoplifter Release Program shall screen the call using the criteria listed in Policy §354.3

Obtain the LPO's identifying information, name and location of the business;

- (a) Obtain the facts associated with the detention;
- (b) Obtain the detained suspect's identifying information; name, date of birth and address, tattoos, scars, marks, etc.; The LPO shall have all identifying information at the time of calling ComGen. If the LPO does not have all the suspects identifying information they are to be told to call back when they have everything ComGen requires.
- (c) Conduct a warrant check; if suspect does not have identification, attempt to identify the suspect the same as a patrol officer, i.e. RMS, tattoos, DMV CDL/ID information etc., with the information provided by LPO. If the information matches i.e. tattoos, etc., suspect would be eligible for release.
- (d) Advise the LPO if the suspect is eligible for release, if so, provide the LPO with Event Number and the 90 misdemeanor cite date to be placed on LPO release waiver form; clear the call with disposition code 4F10 (to designate this was a shoplift with no officer response, or

- (e) Dispatch an officer for identification problems, warrants, or when the suspect does not meet the release criteria.

When the retailer is not a participant of the Shoplifter Release Program, the ESD shall:

- (a) Direct the reporting party (RP) to the eReporting website located at <http://www.fresno.gov/reportcrime> to complete an eReport with the available information, if no suspect is in custody.
- (b) If the retailer has someone in custody, an officer will be dispatched to complete an original report, cite or book the suspect, and obtain any video, if available.

### **354.6 LOSS PREVENTION OFFICER (LPO) ARRESTS OF ADULTS**

When an adult is arrested by an LPO that utilizes CopLogic, LPO's will:

- (a) Call FPD Dispatch who will advise whether the suspect qualifies for the release program;
- (b) Photograph the suspect (to be attached to the CopLogic report);
- (c) Photograph the recovered property (to be attached to the CopLogic report);
- (d) Photocopy/photograph the suspect's identification (to be attached to the CopLogic report);
- (e) Fingerprint the suspect;
- (f) Have the suspect sign the release waiver and write the event number provided by ESD. If the suspect refuses to sign, the LPO will write "Refused" in the signature box and release the suspect.
- (g) Release the suspect with a copy of the release waiver; and
- (h) Attach a photocopy of the release waiver form to the report.

### **354.7 STORE SECURITY DETENTIONS / ARRESTS OF JUVENILES**

When a juvenile is detained/arrested by a LPO, the LPO will complete a CopLogic report (Note: this will become Juvenile Arrest Report (JAR) when CopLogic report migrates into Axon Records).

### **355.1 POLICY**

Officers and Cadets shall exercise sufficient control over arrestees in their custody so as to minimize the potential for escape, injury, property damage, and/or evidence destruction.

#### **355.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide general guidelines for dealing with adults that have been placed in custody.

### **355.2 CRITERIA FOR PROCESSING**

Adults arrested on criminal charges who are going to be booked into the Fresno County Jail (FCJ) shall be processed through the Crime Scene Investigation Bureau (CSIB) prior to booking, with the following exceptions:

- (a) Persons arrested only for public intoxication; and
- (b) Persons who are too belligerent, combative, drunk, or persons who, while at the CSIB, become so belligerent or combative they pose a danger to processing personnel (supervisor's approval is required); and
- (c) Persons arrested on warrants other than FPD original arrest warrants (i.e., pink or blue warrants);

**Note:** Routine medical screening shall be performed at FCJ during the intake process. Members who suspect an arrestee is developmentally disabled shall notify the FCJ intake nurse who will properly evaluate the arrestee.

### **355.3 ARRESTEE PHONE CALLS**

Penal Code §851.5 requires arrestees be given the opportunity to make three phone calls within three hours of their arrest. While officers are not affirmatively required to advise adult arrestees of their right to these phone calls, the law requires a sign advising arrestees of these rights be displayed at any Department location where an arrestee is detained. If adult arrestees are being detained in a location where there is no sign advising of such rights (e.g. hospital or in the field), officers should advise arrestees of their right to the phone calls and document the time of their advisement. Officers should provide an opportunity for the individual to make the phone calls as required by law.

When an arrestee requests to use the phone, they should be allowed to do so immediately, or as soon as practical, in accordance with the provisions of PC §851.5. If there are exigent circumstances that prevent an arrestee from accessing a telephone in accordance with the statute, a supervisor should be notified and the circumstances documented in the officer's report.

There is no obligation for an officer to make a call on the arrestee's behalf (e.g. when the person is so intoxicated that he or she cannot make a call). An officer is not required to wake an intoxicated or sleeping person so that they may use the phone. Under no circumstances are officers required to allow the usage of their own personal cell phones.

There is no limitation on the amount of time an arrestee's phone call may last. An arrestee should be given sufficient time on the phone to contact whomever they desire and to make necessary arrangements related to their arrest. The phone calls are not intended to be lengthy conversations and the officer may use their judgment in determining the duration of the calls.

The Department will pay the cost of local calls. Long distance calls must be paid for by the arrestee using a calling card or by calling collect. Calls between the arrestee and their attorney shall be deemed confidential and shall not be monitored, eavesdropped upon or recorded. Instructions for operating the prisoner phone system are posted in CSIB.

### 355.3.1 CUSTODIAL PARENTS

Officers must ask arrested persons if they are 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. Officers shall document in their reports the time the inquiry was made.

The rights provided by PC §851.5 shall be provided regardless of the arrestee's immigration status. Any officer who willfully deprives an arrested person of the rights granted by PC §851.5 may be guilty of a misdemeanor. Refer to Policy §900 for specific requirements involving juvenile arrestees.

### 355.4 APPROVAL OF MISDEMEANOR BOOKINGS

All misdemeanor bookings into the FCJ shall be approved by a supervisor prior to removal of the arrestee from the scene of arrest.

### 355.5 FEE EXEMPT BOOKING

A booking is deemed "Fee Exempt" when an adult suspect is booked for any of the following:

- (a) Felony or misdemeanor bench warrants issued for failure to appear in court;
- (b) Any arrest warrant issued for a crime committed outside the Department's jurisdiction;
- (c) Violations of parole or probation except where there is a separate charge for a crime occurring in the jurisdiction of the Department;
- (d) Charges resulting from a mutual aid response to another agency;
- (e) Escape from a local, state, or federal custodial facility;
- (f) On charges resulting from riots, disturbances, or events for which the Governor has declared a state of emergency; or
- (g) By an officer who is assigned to a formal multi-agency task force in which the county is a participant and the charges result from activities of that task force.

When a fee exempt booking into the FCJ is made, one of the above categories must be specified in the AR of the incident and officers shall write the words "FEE EXEMPT" in the top margin of the AR.

### 355.6 SICK OR INJURED ARRESTEES

Officers arresting and/or transporting, or detaining in the temporary holding cell, arrestees who require medical attention shall arrange for transport via EMS to Community Regional Medical Center (CRMC) for treatment. The officer shall standby the arrestee until treatment is complete.

The Emergency Room staff should tag in custody patients for "priority treatment" which should be rendered by both medical and nursing personnel within one hour's time. When this procedure is not adhered to the officer should contact their supervisor.

When the treatment time will be extensive (i.e., several hours) or when it is determined that an injured misdemeanor arrestee is to be admitted to the hospital for treatment, the Adult Misdemeanor Citation process shall be used in lieu of booking. Refer to Policy §420.

When the arrestee is incapacitated to the extent they are unable to sign a citation, the officer will complete a "dummy" Adult Misdemeanor Citation with all information except the date/time of appearance. This applies to all misdemeanor violations. The officer will forward the "dummy" citation (all copies) to the Bureau having responsibility for follow-up on the case (based upon the Uniform Crime Reporting hierarchy). These "dummy" citations will not be submitted to Records. The member receiving the "dummy" citation shall prepare and submit a complaint package and warrant request to the PLO.

Officers following this procedure will note in their report that a "dummy" citation was issued and to which Bureau it was sent. When the original report has already been completed, the issuing officer shall complete a FR with the "dummy" citation information.



### 355.6.1 COMMUNICABLE DISEASE PREVENTION

Officers arresting and/or transporting, or detaining in the temporary holding cell, arrestees that are known or suspected of having a communicable disease, shall take appropriate preventative measures as outlined in Policy §1016 and annual Advance Officer Training. Janitorial services shall be notified to treat any holding cells that have been contaminated with bodily fluids from detained/arrested individuals.

### 355.6.2 ARRESTEE REFUSES TREATMENT

An arrestee who is being booked into FCJ is not allowed to AMA (Against Medical Advice) from treatment in the field. When an arrestee refuses medical treatment at the hospital, the officer/cadet shall obtain a completed AMA form from the attending physician. The form acknowledges that the arrestee has had the opportunity for medical care and elected not to receive it. The arrestee shall then be processed and booked consistent with existing procedures.

An arrestee who is being cited and released in the field, may choose to AMA from EMS, unless otherwise required by Department policy or procedure (refer to Policy §300 – Use of Force).

### 355.7 DETOXIFICATION SERVICES

Detoxification services are not provided by the Fresno Police Department. Suspects who are severely intoxicated and do not meet the minimum intake requirements for detoxification at FCJ shall be transported via EMS to CRMC.

### 355.8 VERMIN CONTROL

Vermin control is provided by the Fresno County Sheriff's Department (FSD) during the booking process/procedure at FCJ. Members who suspect vermin infestation of an arrestee should bypass the Prisoner Processing Section and transport the arrestee to FCJ. If processing is required, CSB should be notified to arrange for prisoner processing after the arrestee has been treated for the vermin infestation. Janitorial services shall be notified to treat any holding cells that have been used to detain individuals suspected to have vermin.

### 355.9 GUARDING HOSPITALIZED FELONS

As of January 1, 2008, the Fresno Sheriff's Department will no longer provide guard services for prisoners who are admitted to the hospital. The responsibility will now shift to the Fresno Police Department to guard its own hospitalized prisoners. The following steps shall be taken when handling hospitalized prisoners:

- (a) Officers with a felony prisoner requiring hospitalization will advise their supervisor. The supervisor will respond to assess the factors surrounding the prisoner.
- (b) If the stay is expected to be extensive or the prisoner is going to be admitted to the hospital, the supervisor will contact the PIO Field Commander.
- (c) The PIO Field Commander will notify the Duty Office who will initiate prisoner watch duty assignments.
- (d) The Duty Office will first attempt to fill this request with a Cadet II; either on regular duty or on overtime. If a Cadet II is not available, an officer will be ordered-back to guard the prisoner. The Duty Office will coordinate the guard watch relief and document this on the Daily Detail Sheet.
- (e) The PIO Field Commander will monitor the prisoner watch process and can cancel any officer or cadet as outlined in PC §§4011.7 and 4011.9 after consulting with the Legal Advisor and Patrol Division Commander.
- (f) After 24 hours, if the felony prisoner is still hospitalized, the PIO Field Commander will consult with the Patrol Division Commander and Legal Advisor to examine alternatives to guarding the prisoner, such as seeking a warrant/summons and releasing the suspect, petitioning the Court for an arraignment, or continuing with the guard duties.
- (g) The seriousness of the offense, prisoner's medical condition, risk of escape, criminal history, risk to the community, risk to the prisoner to include threats or retaliation, and anticipated length of stay at the hospital will be considered in determining the course of action.
- (h) The Duty Office will maintain an updated log for hospitalized prisoners.

- (i) If a prisoner medical status changes, the Duty Office will be notified and the Duty Office will make necessary changes to the prisoner hospital log which will be maintained in the Duty Office.
- (j) The arresting officer or investigator shall submit the completed ePCD and AR following the arrest but not later than the end of their shift so it may be retrieved when the prisoner is released from the hospital.
- (k) Upon release from the hospital, the Duty Office will contact the CLO Office that the prisoner has been booked on Fresno Police Department open charges.
- (l) The Bureau Commander overseeing the Prosecution Liaison Office will oversee the arraignment process, should the prisoner remain in the hospital past the time to file charges. The Bureau Commander may consult with the Legal Advisor and Patrol Division Commander.
- (m) Once the arraignment has concluded, the PLO Bureau Commander will notify the PIO Field Commander who will make arrangements for the Sheriff's Department to take over guard duties.

### **355.10 ARRESTEE PROPERTY**

Personal property belonging to an arrestee that is not booked as evidence should be taken from the arrestee by an officer at the time of arrest and prior to transportation.

- (a) This property shall be put in a prisoner property envelope.
- (b) The information spaces on the envelopes shall be thoroughly completed, including the arrestee's signature.
- (c) When an arrestee refuses to sign the envelope, the officer shall write "Refused to Sign" on the inmate signature line.
- (d) An arrestee's money shall be deposited in the Intake Kiosk:
  - 1) During the booking process, the FCJ booking officer will provide the Arresting/Transporting Officer with the arrestee's Booking Number;
- (e) This number will be used to deposit the arrestee's money into the Intake Kiosk;
  - 1) The Intake Kiosk will dispense two (2) receipts when complete: One is to be initialed by the Arresting/Transporting Officer and then given to the FCJ booking officer along with the property. The second receipt shall be given to the arrestee.
  - 2) When the arrestee has no money then a money envelope shall be properly filled out indicating the zero balance. The money envelope along with the arrestee's property shall be given to the FCJ booking officer.

Any property belonging to an arrestee that is not accepted by the FCJ booking officer shall be booked into the PECS consistent with the guidelines of Policy §804.

- (a) Officers booking property from an arrestee into the PECS shall give a copy of the Property for Safe Keeping Receipt to the arrestee before they are booked.

When the arrestee's property is a living animal (i.e. dog) officers have the option of contacting animal control as outlined in Policy 337.11 to impound the animal OR, with the approval of the arrestee, they can release the animal at the scene to a friend or family member. When releasing an animal in the field, officers should record the arrestee's authorization via BWC to avoid any confusion as to the arrestee's wishes.

### **355.11 MIRANDA WARNINGS**

While on duty, and when testifying in court, officers shall have in their possession the Department issued Miranda Warning card.

#### **355.11.1 WARNING AND WAIVER REQUIRED**

The "Warning" and "Waiver" are generally required prior to any questioning in which the arrested person in custody may incriminate themselves about the offense for which the person is in custody or before questioning about any offense in which prosecution may be pending against the person being questioned.

When advising arrested persons of their rights, officers should read the Miranda Warning verbatim and then should read, verbatim, the questions regarding the "Waiver of Rights."

- (a) When the Miranda Warning and Waiver are given, officers shall note such fact in their report of the incident.
- (b) Any waiver given by a suspect shall also be included in the report using the suspect's exact words and/or gestures.

#### 355.11.2 WARNING NOT REQUIRED

The following list of examples where Miranda warnings are not required is not intended to be all inclusive:

- (a) The warnings are not required if the officer does not ask any question which is likely to produce an incriminating statement about the crime for which the person was arrested;
- (b) The warnings are not required in order to obtain information needed to complete arrest tags or the booking process; and
- (c) A person who, without any questioning by an officer, voluntarily makes an admission, statement, or confession shall not be interrupted to advise them of their rights. When an officer intends to ask any "clarifying" question following such an admission, statement or confession, they must then give the warnings and obtain a waiver before asking follow-up questions.

### 355.12 SERVING ADULT WARRANTS

#### 355.12.1 Fresno County Warrants (FSD)

Officers making arrests on adult warrants held by the FSD shall transport the arrestee to the PPS for processing and should obtain the warrant abstract once they arrive at the FCJ.

#### 355.12.2 OUT-OF-TOWN WARRANTS

Person's detained pending arrest for an out-of-town warrant must be taken to the PPS. The arresting officer will:

- (a) Contact the agency holding the warrant (usually by phone) to confirm the warrant and have them send a teletype abstract of the warrant to the Department;
- (b) The agency, if within California, will be given the mnemonics "FRF0" to be used in addressing the abstract;
- (c) Agencies outside of California will be given the ORI of CA0100500. Agencies outside of California may also need to be advised of the requirements of PC §850(b) to ensure that a legally complete abstract will be returned; and
- (d) Normally, an arrestee cannot be booked until the abstract is received. In those cases where contact has been made with the originating agency and it has been determined that an abstract will not be sent for several hours, officers will:
  - 1) Contact the FCJ booking section and advise them of the pending arrival of the abstract;
  - 2) Complete the AR with as much detail as can be obtained from the Wanted Persons Entry, phone conversations, etc.;
  - 3) Attach copies of the teletype "hit" to the AR;
  - 4) Book the subject at the FCJ;
  - 5) Be dispatched to retrieve the abstract when received by the Department;
  - 6) The officer shall take the abstract to the FCJ to be attached to the prisoner's paperwork; and
  - 7) When abstracts are received prior to booking, they shall be inspected for completeness [PC § 850(b)] and shall be signed, dated and attached to the AR.

The PCD shall contain facts sufficient to document probable cause for each and every felony charge and for each count where a suspect is booked on multiple counts of the same charge

### 355.13 RESPONSIBILITY FOR ARRESTEE

An officer's responsibility for an arrestee ends when the arrestee is booked.

### 355.14 NOTICE OF ADDITIONAL CHARGES

When additional charges are to be added after an arrestee is booked, officers shall complete the appropriate number of AR's consistent with the charges and case numbers involved.

- (a) The words "Add-On Charges" shall be written at the top of the AR.

When the additional charge is a felony, the AR shall be routed to the CSB supervisors. Mug and Print shall be written next to "Add-On Charges" to alert CSB personnel of the need for processing the prisoner on the new charge.

The officer shall also complete the FSD "Notice of Additional Charges" form.

- (a) Both the AR and Notice of Additional Charges shall be given to the FCJ intake officer.
- (b) Officers delivering the AR to the FCJ shall request that it be forwarded to the mug room for processing in felony cases.

### **355.15 P.C. 1203.2(a) ARRESTS**

When booking a suspect on the charge of PC §1203.2(a), members shall enter the Superior Court Case number (e.g. F10123456) in the 'Warr #' box of the charge screen for the PC §1203.2(a) violation. This number can be found on the Probation Department's SHARENET website within the suspect's record.

### **355.16 PUBLIC INTOXICATION P.C. 647(f)**

Members who detain individuals in violation of PC §647(f) (Public Intoxication) must meet the following criteria to be offered a voluntary alternative of transportation to the Rescue Mission / Poverello House as an alternative to booking at FCJ. Individuals qualify when:

- (a) They are non-combative;
- (b) They are ambulatory;
- (c) They have no known, existing medical conditions requiring immediate medical attention;
- (d) No controlled substance influence symptoms are present;
- (e) No known, violent mental disorders are present; and
- (f) They are not in possession of large amounts of personal property.

Individuals exercising this voluntary option can be dropped off at the Mission (males) or the Poverello House (females) on a 24-hour, 7-day a week basis.

- (a) Officers shall update their events, if no case is prepared, with the time of drop-off and an indication of the detainees desire to choose this voluntary option.
- (b) Similar information will be included in any case prepared in association with the detention.

### **355.17 DETENTION RELEASES PC 849 (B)**

Officers may release from custody any person arrested without a warrant when:

- (a) They are satisfied that there are insufficient grounds for making a criminal complaint against the person arrested;
- (b) The person arrested was arrested for intoxication only, and no further proceedings are desirable;
- (c) The person was arrested only for being under the influence of a controlled substance or drug and the person is delivered to a facility or hospital for treatment and no further proceedings are desirable;
- (d) The person was arrested for driving under the influence of alcohol or drugs and the person is delivered to a hospital for medical treatment that prohibits immediate delivery before a magistrate.

If a person is detained, then subsequently released after completion of that investigatory detention, officers are not required to complete a Certificate of Release Form, or a report for documentation. When a person is arrested and transported, but later released from criminal charges prior to booking or formal criminal filing, then that person will be released pursuant to PC §849(b) and Certificate of Release Form shall be completed.

When the incident does not otherwise require a report or when a citizen's arrest is not accepted by the officer due to a lack of probable cause, the arresting officer shall complete a Synoptical report and make a notation "Synoptical" next to the report number on the Certificate of Release Form.

**Megan's Law****356.1 POLICY**

Members authorized and responsible will facilitate public access to information allowed by legislation on serious and high-risk sex offenders commonly referred to as "Megan's Law".

**356.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to establish a procedure for the dissemination of information regarding certain registered sex offenders under California's Megan's Law. (Penal Code §§290 and 290.4).

**356.2 DEPARTMENTAL DISSEMINATION OF INFORMATION**

Whenever this Department determines that it is necessary to provide information to the public regarding a person required to register as a sex offender pursuant to PC §290 in order to ensure the public safety, such information may only be released by means determined by the Chief of Police to be appropriate (PC §290.45(a)(1)).

Officers shall obtain approval from a supervisor prior to the public release of any information regarding a registered sex offender. Under exigent circumstances, an officer may release the information without prior supervisory approval, however, a supervisor shall be notified of the information release as soon thereafter as is practical.

Included with all public disclosures of information about any registered sex offender will be a statement that the purpose of the release is to allow members of the public to protect themselves and their children from sex offenders (PC §290.45(a)(2)).

**356.2.1 LIMITATIONS ON EXTENDED RELEASE**

Individuals and entities receiving information regarding registered sex offenders may only be authorized to disclose such information to additional persons if the Department determines the appropriate scope and that such disclosure will enhance the public safety.

The Department may not authorize any disclosure of such information by its placement on a non-departmental Internet Web site (PC §290.45(c)(1)).

**356.3 RELEASE OF INFORMATION VIA THE INTERNET**

Information about a specific offender may be publicly disclosed by way of the Department Internet Web site only when the Department determines that such disclosure is necessary to ensure the public safety (PC §290.46(g)).

**356.3.1 INFORMATION PROHIBITED FROM INTERNET RELEASE**

The following information shall not be released over the Department Internet Web site (PC §290.46(a)):

- (a) Any information identifying the victim; and/or
- (b) The name and address of the offender's employer.

**356.3.2 INFORMATION PERMITTED FOR INTERNET RELEASE**

For those offenders listed in PC §290.46(c)(2) and (d)(2), the following information may be included on the Department Internet Web site:

- (a) The offender's full name;
- (b) The offender's known aliases;
- (c) The offender's gender;
- (d) The offender's race;
- (e) The offender's physical description;
- (f) The offender's photograph;

- (g) The offender's date of birth;
- (h) Crimes resulting in the registration of the offender under PC §290;
- (i) The community of residence and ZIP Code in which the registrant resides or the county in which the person is registered as a transient; and
- (j) Any other information which the Department deems relevant, such as:
  - 1) Description of the offender's vehicle(s) or vehicle(s) the offender is known to drive (only if the offender is currently wanted for a criminal offense);
  - 2) Type of victim targeted by the offender;
  - 3) Relevant parole or probation conditions, such as prohibiting contact with children;
  - 4) Dates of crimes resulting in current classification;
  - 5) Dates of release from confinement; and
  - 6) The offender's enrollment, employment, or vocational status with any university, college, community college, or other institution of higher learning.

For those offenders listed in PC §290.46(b)(2), the address at which the offender resides may also be included on the Department Internet Web site in addition to the above. Before releasing the address of any offender, the officer shall verify that the information is correct.

### 356.3.3 RECORD OF DISCLOSURE

The release of such information shall be noted by entering the notification into the comment field on the offender's Supervised Release File record.

### 356.3.4 LIMITED RELEASE WITHIN COLLEGE CAMPUS COMMUNITY

In addition to the authority provided elsewhere within this policy, any campus police department or local agency having jurisdiction over any university, college, community college or other institution of higher learning may release the following information within the campus community regarding other registered sex offenders:

- (a) The offender's full name;
- (b) The offender's known aliases;
- (c) The offender's gender;
- (d) The offender's race;
- (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 PC §290; and Megan's Law
- (i) The date of last registration.

The release of any information pursuant to this section shall be strictly limited to that which is intended to reach persons only within the campus community. For purposes of this section, campus community shall be defined as those persons present at or regularly frequenting any place constituting campus property, satellite facilities, laboratories, public areas contiguous to the campus and other areas set forth in PC §290.01(d)(1).

### 356.4 PUBLIC INQUIRIES

As a general rule information may not be given over the telephone. Members of the public may access detailed sexual offender information by way of their personal computer through the Internet at the Megan's Law Web site maintained by the Department of Justice ([www.meganslaw.ca.gov](http://www.meganslaw.ca.gov)). They may also submit a list of at least six persons directly to the Department of Justice on a designated form to inquire whether any of those persons are required to register as a sex offender and are subject to public notification ( Department of Justice fees may apply) (PC §290.4(a)).

### **357.1 POLICY**

When responding to calls involving civil matters, an officer's duty extends only to preserving the peace and taking enforcement action, as appropriate, for any criminal violations observed by the officer.

#### **357.1.1 PURPOSE AND SCOPE**

Civil problems, although not usually criminal in nature, can involve varying emotional responses for the parties involved as they seek police assistance in trying to resolve their disagreements. The purpose of this policy is to provide general guidance for the officer's response to these incidents.

### **357.2 CIVIL PROBLEMS**

Officers may be dispatched to assist citizens with civil problems including but not limited to:

- (a) Child custody / visitation exchanges;
- (b) Repossessions;
- (c) Court order enforcement;
- (d) Removal of tenants / trespassers; and
- (e) Civil standby's to preserve the peace.

### **357.3 CHILD CUSTODY EXCHANGES / OFFICER ASSISTANCE**

Requests for police response to perform a civil standby during a child custody/visitation exchange will be limited to the following guidelines:

- (a) The officer's response is to preserve the peace;
- (b) When the involved parties have a custody order issued in California, only the most recent order may be enforced;
- (c) Each involved party will be provided with a referral list of Supervised Child Visitation and Supervised Exchange Agencies.

Any future custody or visitation exchanges should be conducted at a supervising exchange agency unless modified by court order or the parties mutually agree in writing to other provisions.

#### **357.3.1 CHILD CUSTODY COMPLAINTS**

HQ shall maintain copies of the Custody Order Violation Self Reporting Forms. Public Counter Records Clerks shall provide the report forms to citizens requesting a custody order violation report. Completed report forms shall be taken to HQ where a case number will be issued, placed on the report form and provided to the R/P.

### **357.4 CHILD CUSTODY / VISITATION EXCHANGES**

#### **357.4.1 COMCEN RESPONSIBILITIES**

Only the Court can change custody orders. This Department only enforces the Court Orders. Refer your RP to the Court of Jurisdiction if they wish to have any Court Orders Changed.

The ComCen shall also keep a current default list of approved exchange agencies that are predetermined each month.

Officers will not be dispatched to standby for a child custody exchange; unless it is believed there may be a potential custody order violation, child concealment, or other criminal act or domestic disturbance. Parties requesting a civil standby will be referred to the nearest Policing District Exchange Zone to facilitate child exchange in a neutral monitored environment.

### 357.4.2 OFFICER RESPONSIBILITIES

When an officer is dispatched to perform a civil standby during a child custody/visitation exchange, the following guidelines will be followed:

- (a) Officer response is limited to preserving the peace;
- (b) When the involved parties have a custody order issued in California, only the most recent order may be enforced. When the involved parties do not have an existing custody order, each call for service shall be handled as a civil dispute;
- (c) Each party shall be provided with a referral list of Supervised Child Visitation and Supervised Exchange Agencies; and
- (d) When the child is 13 or older and refuses to go with the other parent even after speaking with law enforcement, do not use any force to enforce the custody order.
  - 1) Document the statements of the child and parents in a General Incident report; and
  - 2) Refer the parent requesting enforcement to return to family court to resolve the issue.

### 357.5 CHILD CUSTODY COMPLAINTS

#### 357.5.1 COMCEN RESPONSIBILITY

Upon receipt of a complaint regarding a child custody violation, the ESD shall determine whether the event is in-progress or a prior occurrence. When the event is in progress, a CFS shall be generated. When the event is a prior occurrence, the Reporting Party (R/P) shall be advised to complete an eReport for the Custody Order Violation via the Internet. No telephonic reports shall be taken involving child custody violations.

#### 357.5.2 SELF-REPORTING PROCEDURES

Reports shall be filed via the Internet. The reports will automatically be issued a temporary case number. After the submitted report is reviewed and approved, a permanent number will be issued and automatically emailed to the reporting party.

#### 357.5.3 DUTY OFFICE REVIEW OF SELF-REPORTED CUSTODY ORDER VIOLATIONS

The duty officer or other designee shall review the on-line Custody Order Violation reports completed by the public on a daily basis. If the reviewing officer discovers any indication that violence may be imminent, a CFS shall be generated and officers shall respond.

### 357.6 REPOSSESSIONS

An officer's duty extends only to preserving the peace. Officers are not to attempt to resolve the issue of ownership or right of possession of the property in question.

Officers shall determine who is in possession of the questioned property at the time of their arrival. When the debtor is still in possession, they may voluntarily relinquish possession, but they are not required to do so. The creditor (or an agent) has no right to use force to take the property from the debtor.

When the creditor has taken possession, but has been unable to leave the premises, the debtor is still held to be in possession and does not have to relinquish the item(s).

When the repossession has been completed (the creditor has left with the property), the creditor is then held to be in legal possession and the debtor is considered to have lost possession.

**Exception:** When the subject of the repossession is a vehicle a repossession occurs (the repossession is complete) when the reposessor gains entry to the vehicle or when the vehicle becomes connected (in any way) to a tow truck.

In any event, all involved parties shall be referred to contact their attorneys to resolve the issue through due process.



Under limited circumstances, an arrest may be made for disturbing the peace, trespassing, etc., however, voluntary compliance should be sought in order to minimize the need for arrest.

### **357.7 COURT ORDER ENFORCEMENT**

The different types of orders described in this section are generally identified by titles contained in the bottom margin of the court order form or the title on the CLETS hit.

The Confidential box shall be checked in Axon Records when documenting violations/possible violations of court orders in all DV investigations and the RP or victim's address and/or telephone number are unknown to the suspect.

#### **357.7.1 ORDERS TO SHOW CAUSE**

Orders to Show Cause order a court appearance only and do not contain enforceable provisions. However, Orders to Show Cause may contain Temporary Restraining Orders (TRO).

#### **357.7.2 TEMPORARY RESTRAINING ORDERS (TRO)**

A TRO is a court order, issued prior to a formal hearing, which contains enforceable provisions which may include child custody and visitation directives, stay away and protection provisions, etc. TRO's are valid until the date of hearing or as otherwise listed in the order.

TRO's are enforceable anywhere in California by any law enforcement agency that has received the order, is shown a copy of it, or has verified its existence through the Restraining Order System (ROS) of CLETS (Family Code §6224). Officers shall enforce these orders whenever they can establish:

- (a) That the order is valid. Validity is established by the signature or stamp of the issuing judge on the order and ensuring that the alleged violation is within the effective dates of the order;
- (b) Reasonable cause to believe that the restrained party violated a provision of the order in the officer's presence or a victim is willing to make a citizen's arrest for a violation not committed in the officer's presence; and (Penal Code §836(c)(1) allows a misdemeanor arrest for violation of a DV RO not committed in the officer's presence)
- (c) Proof of service upon the restrained party or other proof of knowledge (e.g., their presence at the hearing where the order was issued, admission of knowledge, etc.)

When the restrained party has not been served, service shall be completed as provided for in Section E.

Prior to enforcement, members shall review the order to confirm that the above conditions have been met. Care shall be exercised to ensure that the most recent version of an order is reviewed. This may be accomplished by contacting FPD and/or FSD Records for verification of dates on orders issued in Fresno County. For orders issued outside of Fresno County, the law enforcement agency of jurisdiction as indicated in the ROS entry should be contacted. It is not necessary that an order be in ROS or filed with a law enforcement agency before it can be enforced. It is only necessary to establish the above elements before enforcement shall be undertaken. If there are contradictory orders from two different courts, both of which appear to be valid, the Police Legal Advisor should be contacted.

TRO's may be reissued as a "Temporary Restraining Order Reissued" which is to be handled the same as an initial TRO.

Protected parties who do not have their court orders on file with the appropriate law enforcement agency should be directed to take copies to those agencies at their earliest convenience. When a copy of a valid order is received by the Records Bureau it shall be entered into ROS.

#### **357.7.3 RESTRAINING ORDER AFTER HEARING**

A Restraining Order after Hearing is issued after a judicial hearing and is valid for the period indicated on the face of the order. These orders establish specific conditions of restraint and may be used in conjunction with "Findings and Order after Hearing" orders.

Enforcement is handled in the same manner as TRO's.

#### 357.7.4 FINDINGS AND ORDER AFTER HEARING

This order establishes terms and conditions of custody and visitation, child support, spousal or family support, property, and other similar issues and are valid as specified or until modified.

#### 357.8 ENFORCEMENT OF RESTRAINING ORDERS AND EPO'S

When an officer is made aware that a restraining order/EPO exists, but cannot verify proof of service or prior knowledge of the order by the restrained party, the officer shall, when the restrained party is present:

- (a) Inform the restrained party of the terms of the order;
- (b) Admonish the restrained party that they are now on notice and that violation of the order will result in arrest;
- (c) Prepare a "Restraining/Emergency Protective Order Proof of Service Form". The FPD case number shall be inserted in the upper right hand corner of the form when applicable. When the proof of service is being served on an order in possession of the Sheriff's Department and there is no related FPD case number, the words "FSD Only" shall be inserted in the upper right hand corner. All blanks on the form shall be filled in with the exception of the "For Court Use Only" Box. The box labeled "Case Number" shall be used only for the court case number as listed on the restraining order. The space provided for the "Department Case Number" shall list the event number assigned to the call. The event synopsis shall include the Court Case Number. No report other than the Restraining/Emergency Protective Order Proof of Service Form is required when the only action being taken is service of a court order/EPO; and
- (d) Distribute copies of the service form as follows:
  - 1) The white original page shall be forwarded to Records;
  - 2) One copy shall be provided to the protected party, when present;
  - 3) One copy shall be provided to the restrained party; and
  - 4) The fourth and any undelivered protected party copies shall also be forwarded to Records.

When the restrained party continues to violate the order after being advised of the terms, an arrest shall be made.

#### 357.8.1 SERVICE OF RESTRAINING ORDERS

Officers shall not be dispatched to serve restraining/protective/civil orders (with the exception of EPO's). Additionally, officers should not be dispatched to perform a civil standby while the RP or their agent performs this task, unless the RP can articulate that a credible danger exists requiring officer response.

#### 357.9 ORDERS ISSUED OUTSIDE CALIFORNIA

Members who receive requests to enforce a TRO or court order issued in another state relative to child custody or child visitation MUST contact the Police Legal Advisor prior to taking or not taking any action based upon an out-of-state order.

#### 357.10 REMOVAL OF TENANTS / TRESPASSERS

When a tenant refuses to vacate premises after being evicted the investigating member shall determine if an Eviction Restoration Notice has been properly executed. Completed forms should list the plaintiff, defendant, court, action taken, Sheriff's file number, county, signature of a sheriff's deputy, and the date. When the member verifies that the notice is complete and accurate, they are authorized to arrest the violator(s) under PC §419.

#### 357.11 CIVIL STANDBY TO PRESERVE THE PEACE

Civil Standby is defined as the presence of an officer to preserve the peace during an attempt to conduct a lawful civil process (other than vehicle repossession or service of restraining/protective/civil orders) which has the potential of inciting violence, but has not yet resulted in criminal acts.

Officers will not be dispatched to facilitate a civil standby, except in incidents suspected or known to involve domestic violence.

When a request for Civil Standby involving suspected or known incidents of domestic violence is received by the ComCen, a call for service will be created and an officer(s) dispatched consistent with the priority assigned to the incident. The ESD receiving the call shall advise the RP that an officer will be dispatched when one becomes available. When the ESD is aware that a substantial delay in response is likely, the RP shall be so advised.

The assigned officer(s) shall remain at the scene to preserve the peace until the potential for violence is reasonably reduced or is eliminated. Except as otherwise provided in this Manual or in law, officers shall not become directly involved in conducting the civil process which generated the call.

When dealing with a civil dispute, the officer should maintain the peace and determine who is in possession of any property in question at the time of their arrival. All involved parties shall be referred to contact their attorneys to resolve the issue through due process and if necessary, return to court for clarification. Officers shall contact their supervisor any time they are unsure on how to interpret the property ownership documents. When additional assistance is needed, the supervisor can contact the legal advisor. When the ownership is in question, no property shall be removed without a valid court order that clearly defines which party shall possess the property.

### **358.1 POLICY**

Staff members are to be informed of certain incidents, in order to apprise their superiors and properly address inquiries from members of the media or public.

#### **358.1.1 PURPOSE AND SCOPE**

Incidents that are of a significant nature and that fall into the below listed criteria require notification of certain members of this Department.

### **358.2 MINIMUM CRITERIA FOR NOTIFICATION**

The following list of incidents is provided as a guide for notification and is not intended to be all-inclusive:

- (a) Homicide(s) or suspicious death(s);
- (b) Fatal traffic collision(s);
- (c) Officer involved shooting, while on or off duty (See Policy §310 for special notifications);
- (d) Any member seriously injured or killed, while on or off duty;
- (e) Death or serious injury of a City of Fresno official;
- (f) Arrest of any Department member or City of Fresno official;
- (g) Aircraft crash with major damage and/or injury or death;
- (h) Any "in-custody" death(s);
- (i) Major mutual aid request;
- (j) A riot, major disturbance, or public catastrophe occurring in the City of Fresno;
- (k) Bomb or credible bomb threat; and
- (l) Any situation or incident where the media show a strong interest.

### **358.3 NOTIFICATION RESPONSIBILITY**

The Assistant District Commander designated as PIO, Field Commander, or their designee is responsible for:

- (a) Making the appropriate notifications (or arranging for them to be made);
- (b) Making reasonable attempts to obtain as much information on the incident as possible before notification; and
- (c) Making the notifications as soon as practical.

### **358.4 STAFF NOTIFICATION(S)**

The Commander (or designee) of the district affected, will be notified along with the appropriate investigations lieutenant. The Commander (or designee) will provide direction as to any further notifications they deemed necessary (e.g., the Chief of Police, Division Commander).

### **358.5 CITY NOTIFICATIONS**

The Civil Liability Team, City Attorney's Office, and City Risk Management Departments shall also be notified of incidents involving potential liability to the City. The on-duty supervisor or field commander shall contact the duty office for call out notification process. The following list of incidents is provided as a guide for notification and is not intended to be all-inclusive. If there is a concern about whether the incident meets the standard for notification, the Civil Liability Commander shall be consulted. Contact numbers are available through the Duty Office.

- a) Officer Involved Shootings;
- b) In-Custody Deaths;
- c) At-fault traffic collisions involving City vehicles;
- d) Any incident where the City is exposed to or likely to incur liability.

### 358.6 BLUE ALERT SYSTEM NOTIFICATION

The purpose of a Blue Alert is to quickly coordinate and provide information to the public and solicit help in the safe and swift apprehension of suspects meeting specific criteria. A Blue Alert should only be implemented when all four of the below criteria have been met (Government Code §8594.5):

- (a) A law enforcement officer has been killed, suffers serious bodily injury, or is assaulted with a deadly weapon, and the suspect has fled the scene of the offense;
- (b) A law enforcement agency investigating the offense 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; and
- (d) Public dissemination of available information may help avert further harm or accelerate apprehension of the suspect.

#### 358.6.1 FIRST LEVEL RESPONSE PROCEDURES (FIELD SUPERVISOR)

- (a) Confirm that each of the four criteria are met;
- (b) Notify the Field Commander; and
- (c) Confirm that ComCen has provided broadcast information to FSO, Clovis PD, local CHP (and others as indicated); and

#### 358.6.2 FIELD COMMANDER

- (a) Obtain information, complete Blue Alert Info Sheet (see attached form);
- (b) Send the information via email to the following [REDACTED]

#### 358.6.3 SECOND LEVEL RESPONSE PROCEDURES (FIELD SUPERVISOR OR COMMANDER)

- (a) Identify a location for media response; initiate MAPS thru ComCen for an on-site press conference ASAP. Provide full information and photograph of the suspect(s), request broadcast ASAP (go "live" if possible - DO NOT wait for the PIO.)
- (b) Notify [REDACTED]
  - 1) Initiate call-outs of:
    - I. PIO;
    - II. Homicide Unit, as needed; and
    - III. Other resources, as needed.
  - 2) Make notifications to:
    - I. Patrol District & Division Commanders;
    - II. Criminal Investigations Bureau Commander; and
    - III. Chief of Police.

### 358.7 TRAFFIC BUREAU NOTIFICATION(S)

The sergeant in charge of the Collision Reconstruction Unit (CRU) will be contacted through the ComCen when any major or fatal traffic collision occurs meeting the criteria for a call out. They will then contact the appropriate accident investigator.

The following is a list of collision types which require notification:

- (a) Fatal collisions where the investigating member and scene supervisor believe a prima facie case exists to support a charge of murder, or vehicular manslaughter;
- (b) Collisions likely to result in a fatality, where criminal charges may result;
- (c) Fatal collisions where the cause cannot be determined by on scene personnel;
- (d) Collisions with a fatality in which there is a reasonable belief that the collision did not cause the fatality;
- (e) Collisions that result in the response of investigators of the National Transportation Safety Board (NTSB);
- (f) Collisions that cause the spillage of a significant amount of hazardous material(s);
- (g) Fatal or severe injury collisions where it is likely the City is exposed to civil liability

- (h) Any other collisions where technical assistance is required and the response is approved by a Commander.

### **358.8 PUBLIC INFORMATION OFFICER (PIO)**

The PIO will be called after members of staff have been notified and it appears the media may have a strong interest in an incident.

### **358.9 S.W.A.T. NOTIFICATION**

If an incident requires a SWAT callout, the Commander in charge of SWAT will be notified through ComCen and briefed on the circumstance.

The SWAT Commander will make the final determination if SWAT will be utilized and may direct a partial or full call out.

The Duty Office is responsible for notification of all team members using the Code Red system and will contact the ComCen supervisor to advise of the SWAT call out.

The on scene commander (or designee) will be responsible for providing the Duty Office with the following information:

- (a) Location of the Command Post;
- (b) Radio channel(s) being used;
- (c) Brief synopsis of the incident; and
- (d) Directions on how SWAT members are to enter the area.

ComCen and the Duty Office will complete a log of those SWAT members logging on.

SWAT members not logged on within 10 minutes will be called at home after the first page.

Any SWAT member not available for call outs will notify the duty office of the date(s) and time(s) they will not be available.

### **358.10 CODE ZERO NOTIFICATION**

In the event of an active shooter or dynamic violent incident, a Code Zero notification may be initiated by ComCen, the Duty Office, RTCC personnel, a supervisor or staff officer.

During a Code Zero activation, all available SWAT or Special Response Team (SRT) members shall respond directly to the location of the Code Zero, and monitor radio traffic in the vicinity of the incident.

SWAT or SRT members shall respond wearing appropriate attire that readily identifies them as a member of the department.

### **358.11 CODE RED NOTIFICATION**

The Code Red Emergency Notification System is intended to notify public safety personnel and/or citizens of the City of Fresno of an emergency situation that may require immediate attention and/or action.

Code Red may be activated at the discretion of the Chief of Police or their designee in emergency situations. Acceptable uses for emergency notification include, but are not limited to:

- (a) Missing Persons (Children, Elderly, Disabled, or at risk)
- (b) Escaped Fugitives
- (c) Hazmat
- (d) Evacuation Notifications
- (e) Evacuation Routes
- (f) Evacuation Shelters
- (g) Bomb Threats
- (h) Traffic Emergencies

- (i) Suspect Pursuits
- (j) Hostage Situations

The Duty Office is responsible for launching the notification using the [REDACTED]  
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]  
[REDACTED]:admonishment: "DO NOT call 911 for further information unless you need immediate aid from the police or fire department." For non-emergency Code Red Notifications refer to Policy §334.

### **358.12 E.O.D. NOTIFICATION**

The EOD Commander, through the ComCen, will be notified of all EOD requests and will direct the EOD response.

### **358.13 DETECTIVE NOTIFICATION(S)**

If the incident requires that a detective respond from home, the sergeant (or designee) of the appropriate investigative unit will be contacted. They will then contact the appropriate detective(s).

### **358.14 MEDIA NOTIFICATION**

Text messaging notification shall be used to alert the news media of newsworthy events as soon as possible to allow the opportunity for on-the-scene coverage. The ComCen Supervisor has primary responsibility for making text message notifications when any of the following incidents has occurred:

- (a) Plane crash;
- (b) Drowning;
- (c) Fatal accident of any type;
- (d) Accident involving major traffic congestion or a danger to the public (e.g., hazardous chemical spills, etc);
- (e) Major crime including, but not limited to: homicides, shootings (including officer involved), kidnapping, and bank robbery;
- (f) Riots, serious disturbances, and hostage situations (when contained);
- (g) Large drug seizures;
- (h) Large stolen property recoveries; or
- (i) News conferences called by the Department regarding any message of urgency.

As soon as possible after receiving confirmation that any of the above incidents is in progress or has just occurred, the field supervisor/field commander should call the ComCen by telephone or radio. The event location, type of event, and a contact person at the location should be given to the ComCen. Text messaging notification may be used to update major events as they develop and to notify the media that detailed information on an event has been placed on the Newslines. ESD's will immediately notify the ComCen Supervisor of any incidents described above which come to their attention.

### **360.1 POLICY**

Members will ensure that all sick or injured persons encountered are given emergency medical care required and all deaths are thoroughly investigated.

#### **360.1.1 PURPOSE AND SCOPE**

The investigation of cases involving death includes 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. One of an officer's primary responsibilities is to ensure the health and welfare of community members that need public safety services. Members shall also ensure adequate resources such as EMS and Fire respond as needed.

### **360.2 SICK AND INJURED PERSONS**

#### **360.2.1 FIRST AID REQUESTING ADDITIONAL RESOURCES**

When members encounter sick or injured persons, they shall render appropriate first aid, consistent with their training, to whatever extent is necessary.

Members shall also request EMS/Fire resources as needed to appropriately handle the event.

#### **360.2.2 INDUSTRIAL ACCIDENTS**

The Fresno Fire Department is the agency responsible for notifying Cal OSHA when called to an industrial accident involving a serious injury, illness, or death as outlined in the California Code of Regulations Title 8, §342.

Members dispatched to such industrial accidents shall notify their supervisor and complete a casualty report containing all pertinent information on the incident.

### **360.3 TERMINALLY ILL PERSONS**

The End of Life Option Act went into effect June 9, 2016, which authorizes an adult who meets certain qualifications and who has been determined by their attending physician to be suffering from a terminal disease, to make a request for a drug prescribed for the purpose of alleviating suffering and ending their life. The Act also provides certain immunity from civil or criminal liability for physicians, medical providers, and for persons present when the patient self-administers the drug, or if a person assists the patient by preparing the aid-in-dying drug, so long as the person did not assist with the ingestion of the drug. The intent of the law is to allow people to help a terminally ill person as long as the terminally ill patient takes an affirmative, conscious, and physical act to ingest the medication into their body. The Act does not authorize ending a patient's life by lethal injection, mercy killing, or active euthanasia. Action taken in accordance with the Act does not constitute suicide or homicide.

Members dispatched to an in-progress or just occurred ingestion of aid-in-dying medication call shall notify their supervisor and complete a casualty report containing pertinent information.

### **360.4 FORCED ENTRY TO PROVIDE EMERGENCY ASSISTANCE**

When information is received regarding sick, injured, or deceased persons inside residences the decision to proceed with forced entry should be made only after all other alternatives are exhausted.

**Entry should be immediate when it appears reasonably necessary to protect life.**

Extreme caution should be exercised to minimize the potential for a violent reaction by an unaware inhabitant.



#### 360.4.1 SECURING OPEN PREMISES

When available, a Citizen on Patrol (COP), Police Cadet II or CSO should be dispatched to standby and await a responsible party or the City contracted vendor to board up a private residence when:

- (a) Forced entry has been made to render emergency assistance;
- (b) Forced entry is anticipated; and
- (c) The scene is secure.

#### 360.5 REQUESTING AMBULANCE / PARAMEDIC

When the need for medical aid has been identified, members shall immediately inform the Communications Center (ComCen) regarding:

- (a) Number of victims;
- (b) Nature or injury or illness;
- (c) Age of victim(s);
- (d) Whether victim is conscious and/or breathing;
- (e) Any special instructions or needs; and
- (f) If the scene is not safe to enter, a request to have EMS/Fire personnel to stand-by will be made.

#### 360.6 CORONER NOTIFICATION

When an officer arrives on scene of a deceased person(s), the ComCen will be contacted, who will in turn contact the coroner. The coroner shall be notified of any in-custody death.

**Exception:** When a follow-up investigator responds to investigate an incident, the coroner shall not be requested until the follow-up investigator authorizes it.

#### 360.7 DETERMINING DEATH

An officer will not make a determination of death except in cases where there is severe trauma or other obvious indications of death (rigor mortis, decapitation, etc.).

#### 360.8 SEARCH OF THE DECEASED

An officer shall not search a deceased person.

**Exception:** Officers may search the bodies of persons killed in traffic accidents for an anatomical card or designation. If one is located, the coroner will be notified immediately.

#### 360.9 DEATH NOTIFICATIONS

Pursuant to an agreement with the Coroner's Office, death notifications will be made by either an FPD Homicide Unit Detective or an FPD Chaplain in the following circumstances:

- (a) Homicide investigations – Notification made by Homicide Unit Detective;
- (b) In-custody death investigation – Notification made by an FPD Chaplain; and
- (c) Death resulting from officer involved shooting – Notification made by an FPD Chaplain.

**NOTE:** Unless FPD requests to continue the investigation, the Fresno County Coroner will continue to make all other death notifications (i.e. suicides, natural deaths, traffic related fatalities, suspicious deaths, etc.).

#### 360.9.1 SAFEGUARDS PRIOR TO NOTIFICATION

When a death notification is to be delivered by a detective or Chaplain as a result of one of the above listed circumstances, the member making the notification shall ensure the following safeguards are strictly followed prior to the notification:

- (a) Positive identification of the decedent (i.e. fingerprints) shall be made to avoid any undue trauma that may result from an incident of mistaken identity; and
- (b) Identify the decedent's next of kin (Spouse, parents, siblings, or relative) and make notification to only ONE of them.
  - 1) Notifications needing to be made outside of this jurisdiction shall be coordinated with the appropriate local law enforcement agency or county coroner where the next of kin resides.

### 360.9.2 NOTIFICATIONS

The member making the death notification shall obtain the following information and provide it to the Fresno County Coroner via email after the notification:

- (a) Name and date of birth of the decedent;
- (b) Related FPD case number;
- (c) Date and Time of the notification;
- (d) Name, address, and telephone number of the person notified; and
- (e) Name of the person making the notification.

### 360.10 DOCUMENTATION

The following reports will be completed for an injury, illness, or death:

- (a) A Crime Report will be completed if injury is from a criminal activity;
- (b) A Casualty Report will be completed when the injury, illness, or death is the result of suspicious circumstances or potential liability to a public agency;
- (c) A Casualty Report will be completed for a person under the age of 18 who is the victim of a self-inflicted or unintentional gunshot that requires medical attention; and
- (d) A Casualty Report will be completed to document all End of Life Option Act deaths.

Natural deaths, excluding End of Life Option Act deaths, do not require a report when there are no suspicious circumstances present and:

- (a) A doctor is in attendance;
- (b) Victim is under hospice care;
- (c) The death occurs within a nursing home; or
- (d) The death occurs within a medical institution.

In all other cases of natural death, an officer shall be dispatched and a Casualty Report shall be completed.

### 360.11 TERMINALLY ILL PERSONS / END OF LIFE OPTION ACT

Death investigations involving a patient who has self-administered End of Life Option medications shall be treated as would any other death investigation including coroner notification when appropriate. End of Life Option Act investigations shall not be classified as suicide cases or homicide cases absent specific circumstances to support doing so. To meet the requirements of the End of Life Option Act, at the time of death the decedent must:

- (a) Be 18 years of age or older;
- (b) Be a resident of California;
- (c) Have had the physical and mental ability to self-administer the medication;
- (d) Have suffered from a terminal disease;
- (e) Have submitted a written request witnessed by two individuals and two oral requests to their physician at least 15 days apart; and
- (f) Within 48 hours prior to taking the drug, have signed a "final attestation" before ingesting the drug.

#### 360.11.1 IMPORTANT CONSIDERATIONS

- (a) Patients must be capable of and must self-administer the drug(s). The intent of the law is to allow persons present to help by holding a cup or pouring medication into a feeding tube so long as the patient takes an "affirmative, conscious, and physical act" to take the medication into their body;
- (b) No documentation is required by law to be present;
- (c) If at the scene of an in-progress or just occurred ingestion of aid-in-dying medication, when determining if life-saving measures are necessary, officers must use their best judgment to determine the circumstances, while considering and respecting what could be a very spiritual or emotional scene;
- (d) There may be a Do Not Resuscitate (DNR) order or a Physician Order for Life Sustaining Treatment (POLST) present; however, there is no requirement that the patient needs a DNR or POLST or that either needs to be presented to officers on the scene; and

- (e) There is no mandate for one particular drug to be provided and physicians may vary in what drugs they prescribe. Leftover drugs, that are part of a death investigation, shall be collected and placed into evidence for destruction.

### **360.12 HOMICIDES, UNATTENDED AND SUSPICIOUS DEATHS**

#### **360.12.1 INITIAL CALL**

Record the exact time the ComGen received the call and the type of call broadcasted.

#### **360.12.2 ARRIVAL AT SCENE**

- (a) Record exact time of arrival.
- (b) If EMS is not present, determine if possibility of life exists. Enter immediate crime scene to view the victim (preferably one officer, use one path).
- (c) If any possibility of life exists, apply appropriate rescue and first aid techniques and summon EMS to scene.
- (d) Record any alterations to crime scene that were necessary -- turned lights on/off, body moved -- if entry into the crime scene is necessary to ascertain victim's condition.
- (e) Protect the crime scene.
- (f) If victim is removed from scene by EMS, ensure that one officer responds to the hospital. If death is imminent, attempt to elicit a dying declaration.
- (g) If victim's clothing is removed at the hospital, the accompanying officer shall maintain control of clothing and turn them over to the Crime Scene Bureau (CSB).
- (h) Attempt to record names, addresses, DOB's, and telephone numbers of all persons at crime scene. Remove them from immediate area and maintain control of the crime scene.
- (i) If EMS is present, record names, work addresses and phone numbers.
- (j) Determine if EMS personnel or any other person moved the body or any items within crime scene. If any alterations were made, record: what alterations were made, when made; purpose for making alteration; and responsible party.
- (k) Initiate and maintain crime scene log, recording names, badge numbers of personnel at scene; time arrived and departed. Include information in supplemental report under "Crime Scene Log."
- (l) If RP is present, obtain valid identification, record identity and knowledge of crime.
- (m) If suspect has just fled the crime scene prior to officer's arrival, initiate crime broadcast if information is available.
- (n) Supplemental broadcast as necessary.

#### **360.12.3 EXPANSION OF CRIME SCENE CONTROL**

- (a) The assigned officer on the call shall ensure that no unauthorized persons enter the crime scene (includes other officers and news media).
- (b) Determine scope of general crime scene, such as outside terrain, garages, yards.
- (c) Establish a perimeter; secure and protect the crime scene.
- (d) Request additional units, if necessary, and assign to security positions.
- (e) Request ropes, barricades, or other equipment necessary to protect scene and control spectators.
- (f) Make no statements to the news media; refer media to detectives/P.I.O.
- (g) Do not direct comments regarding incident to spectators, witnesses, etc.
- (h) Do not touch areas or surfaces where possibility of evidence exists. (If available, wear gloves.)
- (i) Do not smoke inside crime scene areas.
- (j) Do not flush toilets or run water in sinks/tub.
- (k) Record any alterations made at crime scene, such as unlocking doors, opening windows, turning lights on, etc., during your investigation.
- (l) Depart from immediate crime scene using one route (preferably same as entry).
- (m) Secure and protect the crime scene pending the arrival of detectives.

\*\*\*\* Attention \*\*\*\*

**Searches of an emergency nature to locate suspect(s) or additional victims can be made. However, crime scene searches for evidence shall be made by detectives.**

360.12.4 ASSISTANCE TO DETECTIVES

- (a) Stand by for Detectives.
- (b) Continue to protect crime scene until relieved by Detectives.
- (c) Assist Detectives as directed.
- (d) If so requested, submit a supplemental report containing all information obtained by officers during preliminary investigation.

360.12.5 NOTIFICATIONS

- (a) Make notifications by telephone, if possible. (Do not use phones located inside the crime scene.)
- (b) Record time of notification and person notified.
- (c) Contact a supervisor and apprise them of the situation. Provide a call back number where you can be reached. The supervisor will contact the Duty Office and make notifications as appropriate. The supervisor will consult with the appropriate Detective supervisor for any death which is not clearly a natural death.
- (d) Contact Detectives and be guided by their advice. (When Detectives are not on-duty, request the Duty Office contact the on-call detective unit.)

360.12.6 SUICIDE AND ACCIDENT

- (a) If death appears to be suicidal or accidental, handle as homicide. Proceed with homicide checklist, summarized below.
- (b) Secure immediate scene.
- (c) Preserve evidence such as pills, weapons, and vials, noting their original location(s).

360.12.7 NATURAL DEATHS

- (a) If possible, request responsible relative/party to remain with you.
- (b) If possible, two officers should be present. **NOTE:** Do not search the body or premises.

**Exceptions:** Doctors, FFD, and EMS will be permitted entry if necessary to protect life. Record their names.

**NOTE:** Persons allowed to enter crime scene shall be accompanied by an officer and cautioned regarding contamination or alteration of evidence.

360.12.8 SUSPECT IN CUSTODY

- (a) Determine if the suspect is armed. Search for weapons. **NOTE:** If a weapon is recovered, record the description and location found/discovered. Maintain custody of the weapon and be guided by a detective's instruction regarding booking.
- (b) Do not attempt to unload weapons or change the position of evidence. Maintain control.
- (c) Handcuff the suspect as appropriate.
- (d) If the suspect is arrested outside of the crime scene, do not return the suspect to the crime scene. If the suspect is apprehended inside, immediately remove from crime scene.
- (e) Note and preserve evidence found on the suspect (blood, debris) and advise detectives.
- (f) Do not permit the suspect to wash their hands or the use toilet, to avoid contamination of evidence on their person.
- (g) Do not permit any communication between the suspect and other parties.
- (h) Do not initiate the interrogation phase with the suspect.
- (i) Do not Mirandize, but carefully record all spontaneous statements.
- (j) Observe and record the behavior of the suspect, such as sweating, nervousness, emotions, erratic actions, or lack of usual behavior.
- (k) Transport the suspect to Headquarters if directed by detectives or if the situation warrants.

### 360.12.9 PRELIMINARY INVESTIGATION

- (a) Witnesses: Isolate, separate. Do not permit them contact with any suspect. Obtain valid identification, complete an F.I. Card.
- (b) Examine the entire crime scene area. (Preferably one officer) conduct a visual examination only. Use one route. **CAUTION:** Do not step on evidence.
- (c) Determine history of illness and if a doctor has been in attendance.
- (d) Request a supervisor.

### **361.1 POLICY**

It is the policy of the Fresno Police Department for designated sworn and non-sworn members to be trained in the safe use and administration of opioid overdose medication in order to safely and effectively treat and reduce injuries and fatalities due to opioid-induced overdose.

#### **361.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to establish guidelines and procedures governing the use of naloxone hydrochloride, or Narcan.

### **361.2 DEFINITIONS**

**Emergency Opioid Antagonist** - A drug that nullifies in whole or in part the administration of an opioid. The opioid antagonist for the purpose of this policy is limited to naloxone hydrochloride.

**Naloxone Hydrochloride** - A prescription medication used as an emergency opioid antagonist/antidote that blocks the effects of opioids administered from outside the body and is approved by the U.S. Food and Drug Administration.

**Naloxone Nasal Spray** - The device issued to trained personnel to administer the prefilled dose of naloxone hydrochloride opioid antagonist via the intranasal mucosal atomization device (nasal spray) in accordance with medical and training protocols.

**Opioid** - Containing or derived from opium. Opioids are medications that relieve pain. They reduce the intensity of pain signals reaching the brain and affect those brain areas controlling emotion. Medications that fall within this class include hydrocodone (e.g. vicodin), oxycodone (e.g. OxyContin, Percocet) morphine, codeine, heroine, and related drugs.

**Opioid Overdose** - An acute condition due to excessive opioids in the body, manifested by respiratory and/or central nervous system depression.

### **361.3 NALOXONE NASAL SPRAY**

Naloxone nasal spray is a fairly stable medication, with a shelf life between 18 months and two years. It should be stored between 59 and 86 degrees Fahrenheit, and should be kept away from direct sunlight. Members issued naloxone nasal spray shall have it readily available during their shift and be stored in the cab of the vehicle

Members should check the medication and associated administration equipment at the beginning of their shift to ensure they are serviceable and not expired. Any expired medication or unserviceable administration equipment should be removed from service and exchanged at Equipment & Supply.

### **361.4 NALOXONE ADMINISTRATION**

Members may administer opioid overdose medication in accordance with protocol specified by the licensed health care provider who prescribed the overdose medication for use by the member and (Civil Code §1714.22; 22 California Code of Regulations §100019):

- (a) When trained and tested to demonstrate competence following initial instruction; and
- (b) When authorized by the medical director of the LEMSA.

Upon arriving at a scene of a medical emergency where it has been determined that an opioid overdose has likely occurred, the member shall:

- (a) Secure the scene;
- (b) Request EMS/Fire resources;

- (c) Utilize universal precautions to protect against blood borne pathogens and other communicable diseases;
- (d) Assess the patient to determine unresponsiveness and other indicators of an opioid-induced overdose;
- (e) Provide first aid, rescue breathing, or CPR, if needed;
- (f) Prepare and administer the naloxone hydrochloride in accordance with training;
- (g) Be aware that patients revived from an opioid overdose may regain consciousness in an agitated or combative state, and may exhibit symptoms associated with withdrawal. Members should be prepared to use appropriate defensive tactics to prevent injury if necessary.
- (h) If the naloxone is effective, immediately place the patient into and maintain the recovery position while providing supportive care until relieved by EMS or Fire personnel. Immediately notify EMS personnel of the use of the naloxone hydrochloride, the manner in which it was administered and the number of doses used.
- (i) Unless the patient is conscious and able to refuse, they shall be transported to a medical facility once the Naloxone nasal spray has been administered.
- (j) Used Naloxone nasal spray should be given to EMS to accompany the patient to the hospital or properly discarded in an appropriate biohazard disposal container, if not taken by EMS.

### **361.5 REPORTING REQUIREMENTS**

The administration of the Naloxone nasal spray shall be documented in Axon Records. Members shall include the member's observations of the necessity to deploy the naloxone, the number of doses, the manner of administration, and the final disposition of the patient.

Members shall notify their on-duty supervisor of the application. The supervisor shall complete the Naloxone Admin Report Form and send it via mail to the Fresno County Department of Public Health Central California Emergency Medical Services. A copy shall be forwarded to Records.

### **361.6 NALOXONE REPLACEMENT**

Members requesting a replacement Naloxone nasal spray will be required to provide the case number in which the medication was used, or turn in the defective/expired medication when seeking a replacement.

### **361.7 TRAINING**

Members shall receive naloxone hydrochloride training prior to the issuance or administration of naloxone. Training should be coordinated with the local health department and comply with the requirements in 22 CCR 100019 and CC §1714.22.

### **362.1 POLICY**

All incidents of identity theft will be investigated and thoroughly documented when reported to this Department, regardless of the jurisdiction where the crime is being committed. Members will cooperate with other law enforcement agencies in the investigation of identity theft crimes.

#### **362.1.1 PURPOSE AND SCOPE**

Identity theft is a growing trend that frequently involves related crimes in multiple jurisdictions. This policy is intended to provide guidelines for the reporting and investigation of such crimes.

### **362.2 REPORTING**

- (a) In an effort to maintain uniformity in reporting, officers investigating the crime of identity theft (Penal Code §530.6) shall initiate a report for victims residing within the jurisdiction of this Department. For incidents of identity theft occurring outside this jurisdiction, members may either take a courtesy report to be forwarded to the victim's residence agency or the victim should be encouraged to promptly report the identity theft to the law enforcement agency where he or she resides.
- (b) While the crime of identity theft should be reported to the law enforcement agency where the victim resides, members 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 our jurisdiction).
- (c) Members should include all known incidents of fraudulent activity and make every effort to obtain all financial information (e.g., account numbers, financial institution/business information, etc.) related to those incidents.
- (d) Members should also cross-reference all known reports made by the victim (e.g., U.S. Secret Service, credit reporting bureaus, U.S. Postal Service and DMV) with all known report numbers.
- (e) Members shall provide victims with a Fresno Police Department Identity Theft Information Brochure and discuss identity theft prevention methods with them.
- (f) Members shall have the victim sign an Identity Theft Victims Fraudulent Account Information Request Form (PC §530.8). The form shall be submitted along with the officer's report.



### **364.1 POLICY**

The Department will assist with all private person arrests that are made lawfully pursuant to Penal Code §837.

#### **364.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide guidance for the handling of private person arrests made pursuant to PC §837; however the provisions of PC §837 do not apply to juveniles pursuant to WIC §625. (Refer to Policy §324).

### **364.2 ADVISING PRIVATE PERSONS OF THE ARREST PROCESS**

PC § 836(b) Any time a peace officer is called out on a domestic violence call, it shall be mandatory that the officer make a good faith effort to inform the victim of his or her right to make a citizen's arrest, unless the peace officer makes an arrest for a violation of paragraph (1) of subdivision (e) of Section 243 or 273.5. This information shall include advising the victim how to safely execute the 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**

PC §837 provides that a private person may arrest another:

- (a) For a public offense committed or attempted in their presence;
- (b) When the person arrested has committed a felony, although not in their presence and when a felony has been in fact committed, and they have 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 REPORTING REQUIREMENTS**

In all circumstances in which a private person is claiming to have made an arrest, the individual must complete and sign a Department Private Person's Arrest form under penalty of perjury. In addition to the Private Person's Arrest Form (and any other related documents such as citations, booking forms, etc.), officers shall complete a narrative report regarding the circumstances and disposition of the incident.

### **364.5 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 (PC §847).

### **364.6 PRIVATE PERSON ARREST (UNLAWFUL)**

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.

- (a) Any officer who determines that a private person's arrest appears to be unlawful should promptly release the arrested individual pursuant to PC §849(b). The officer must include the basis of such a determination in a related report.
- (b) 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.

#### 364.6.1 DOCUMENTATION OF PRIVATE PERSON ARREST (UNLAWFUL)

- (a) A report detailing the basis of determination to release; and
- (b) A completed PC §849(b) form, signed by the officer authorizing the release.

#### 364.7 PRIVATE PERSON ARREST (LAWFUL)

When 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:

- (a) Take the individual into physical custody for booking; or
- (a) Release the individual pursuant to a notice to appear; or
- (b) Release the individual pursuant to PC §849(b); or
- (c) Where no physical arrest is desired, officers may inform the private person that a report will be made and they can later request case review should they desire prosecution in the future.
  - 1) When the victim later desires prosecution, they shall be advised to wait at least 7 days for the report to be entered into the system before responding to the Records Counter at HQ during normal business hours to complete a 'Request for Case Review' form. The victim shall not be referred to the DA's Office for prosecution. The victim shall also be advised that if they take no action, no charges will be filed.

#### 364.7.1 DOCUMENTATION OF PRIVATE PERSON ARREST (LAWFUL)

A report detailing the circumstances of the arrest and statements of involved parties/witnesses;

- (a) Citation: Arresting Citizen/Party signs Notification to Appear and retains the pink copy; or
- (b) Arrest Report: When the citizen's arrest requires the suspect to be booked, an Arrest Report shall be completed in Axon Records.
  - 1) The circumstances of the private person's arrest shall be listed in the narrative portion of the 'Arrest Details' section.

**Fresno Police Department Policy Manual**  
**Limited English Proficiency Services****368.1 POLICY**

The Department will take all reasonable steps to ensure timely and equal access to all individuals, regardless of national origin or primary language (Title VI of the Civil Rights Act of 1964, Section 601, 42 United States Code 2000d). Department members will inform members of the public that language assistance services are available free of charge to limited English proficiency (LEP) persons whom they encounter.

**368.1.1 PURPOSE AND SCOPE**

Language barriers can sometimes inhibit or even prohibit individuals with limited English proficiency from gaining meaningful access to, or an understanding of important rights, obligations and services. The purpose of this Policy is to establish effective guidelines consistent with Title VI of the Civil Rights Act of 1964 and the Omnibus Crime Control and Safe Streets Act of 1968, for Department personnel to follow when providing services to, or interacting with, LEP individuals.

**368.2 DEFINITIONS**

**Bilingual** - The ability to use two languages proficiently.

**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)** - Those individuals whose primary language is not English. If these individuals have a limited ability to read, write, speak, or understand English, they are limited English proficient. LEP individuals may be competent in certain types of communication (e.g. speaking or understanding), but still be LEP for other purposes (e.g. reading or writing). Similarly, LEP designations are context-specific. An individual may possess sufficient English skills to function in one setting, but these skills may be insufficient in other situations.

**Primary Language** - An individual's native tongue or the language in which an individual most effectively communicates.

**Translation** - The replacement of written text from one language (source language) into an equivalent written text in another language (target language).

**368.3 LEP PROGRAM RESPONSIBILITIES**

The Department's LEP Program will be coordinated through the Commander of the Audit & Inspections Unit. The Commander will be responsible for the following:

- (a) Receiving and reviewing LEP services complaints; and
- (b) Conducting audits relative to Department LEP Programs, including an annual review of demographic data, Language Line usage data, and Department reports documenting encounters with LEP individuals to ensure that the Department is providing meaningful access to LEP persons in all Department-conducted programs or activities.

**368.4 FOUR FACTOR ANALYSIS**

Since there are potentially hundreds of languages officers could encounter, this Department will analyze four factors in determining those measures which will provide reasonable and meaningful access to various rights, obligations, services and programs to everyone. It is recognized that law enforcement contacts and circumstances will vary considerably therefore this analysis must remain flexible and requires an ongoing balance of the following four factors:

- (a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by officers or who may benefit from programs or services within the Department's jurisdiction or a particular geographic area;

- (b) The frequency with which LEP individuals are likely to come in contact with officers, programs or services;
- (c) The nature and importance of the contact, program, information or service provided; and
- (d) The cost of providing LEP assistance and the resources available.

As indicated above, the intent of this analysis is to provide a balance that reasonably ensures meaningful access by LEP individuals to critical services while not imposing undue burdens on the Department or officers.

### **368.5 QUALIFYING INDIVIDUALS**

While 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, the above analysis will be utilized to determine the availability and level of assistance provided to any LEP individual or group.

### **368.6 TYPES OF LEP ASSISTANCE AVAILABLE**

The Department will make reasonable efforts to provide meaningful and timely assistance to LEP individuals through a variety of services.

#### **368.6.1 AUDIO RECORDINGS**

The Department may develop audio recordings of important information needed by LEP individuals.

**Example:** Officers may be provided with a canine warning or crowd dispersal order for broadcast in a language most likely to be understood by involved LEP individuals.

#### **368.6.2 COMMUNITY VOLUNTEERS**

Depending on the circumstances, location and availability, responsible members of the community may be available to provide qualified interpreter services. Sources for these individuals may include:

- (a) Local businesses;
- (b) Banks; and
- (c) Churches.

In addition, the Volunteer Unit will attempt to maintain and update a list of qualified community volunteers.

#### **368.6.3 FAMILY AND FRIENDS OF LEP INDIVIDUALS**

While family and friends of an LEP individual may frequently offer to assist with interpretation, officers should carefully consider the circumstances before relying on such individuals. Unless it is an emergency or critical situation, officers and other Department members should only use family, friends, or bystanders for interpreting in very informal, non-confrontational contexts, and only to obtain basic information. Children should never be relied upon except in emergency or critical situations. Further, the nature of the contact and relationship between the LEP individual and the individual offering services must be carefully considered (e.g., victim/suspect). Using family, friends and bystanders to provide interpretation could raise issues relating to confidentiality, privacy, and conflict of interest.

#### **368.6.4 INTERPRETER SERVICES**

LEP individuals may elect to accept interpreter services offered by the Department at no cost or choose to provide their own interpreter services at their own expense.

- (a) The Department may decide to provide its own independent interpreter when precise, complete, and accurate interpretations are critical for law enforcement or legal reasons, or when the competency of the LEP individual's interpreter is not established.
- (b) Officers should document in any related report whether the LEP individual elected to use interpreter services provided by the Department or some other source.
- (c) Where the Department provides the LEP services, members shall first utilize certified Department interpreters and translators from the City of Fresno Bilingual Certification List (BCL).

- 1) The BCL is accessible by all members via the Intranet utilizing the 'Employee Apps' button within PDWEB or at <http://bcl.police.fresno>.
- 2) Members may request assistance from any on-duty member listed on the BCL.

When a certified interpreter is not available and the LEP service does not involve a felony violation of law, Department provided interpreter services may include, but are not limited to:

- (a) **Other Bilingual Staff** - Members that are bilingual but are not certified as interpreters should be able to accurately listen to communication in one language and orally convert it to another language. When bilingual members of this Department are not available, employees from other departments within the area may be requested by a supervisor depending on the circumstances. A request for other bilingual staff may be made through the ComCen.

When bilingual members of the Department are not available, employees from other departments within the area may be requested by a supervisor depending on the circumstances.

- (b) **Telephone Interpreter Services**: Through Voiance, the Department provides 24-hour telephone access to interpreters who speak more than 140 languages. This service may be accessed by dialing 1-866-998-0338 and providing account number 24199. At the prompt, enter the 4-digit PIN: ComCen is 1947 or Patrol is 9773. Follow the instructions for entering your employee number and the number and the language needed.

### **368.7 TRANSLATED DOCUMENTS**

Members shall have translated documents (including Sexual Assault and Domestic Violence Victim Information Form, DMV DUI Combination Form, Towed Vehicle Information Sheet) in the following languages (Spanish and Hmong) available to them in the field when they may have contact with LEP persons. Additional documents are located on the Intranet at: L:\LIBRARY\FORMS\Translated Public Documents – LEP. The public will have access to translated Complaint Brochures and Information Advisory for Personnel Complaints at all public counters.

When LEP documents have not been translated into an LEP individual's primary language or in the case of illiteracy, the document will be read to them using an interpreter. The Policy and Procedures Unit will be responsible for reviewing Department documents on an annual basis to assess whether additional documents should be translated into frequently-encountered foreign languages. Should a Department member identify the need for a document, letter, or note to be translated, the member shall contact the Audits and Inspection Unit to request a translation.

### **368.8 WRITTEN FORMS AND GUIDELINES**

The Department will endeavor to provide frequently used and critical forms and guidelines in languages most commonly represented within the community or a particular area. When appropriate, these forms will be conspicuously posted at the public counters and otherwise available upon request. For example, the Department's Personnel Complaint form and information about various Department programs and services should be made readily available to LEP individuals.

### **368.9 LEP CONTACT SITUATIONS AND REPORTING**

While all law enforcement contacts, services and individual rights are important, this Department will utilize the four-factor analysis to prioritize language services so that they may be targeted where most needed because of the nature and importance of the particular law enforcement activity involved.

When a criminal investigation involves a felony violation of law, every effort shall be made to utilize a certified interpreter or translator. Where a certified interpreter or translator is not available, LEP services may include, but are not limited to: Voiance, or non-certified Department members who can interpret. In the event of an unforeseen or life threatening emergency, family members, friends or bystanders may be used to interpret while waiting for a qualified interpreter to arrive.

When a member is required to complete a report or other documentation and interpretation and/or translation services are provided to any involved LEP individual(s), such services should be noted in

the related report. When LEP services are provided and no police report is written, the LEP contact shall be documented by adding supplemental notes to the event or the public counter LEP log. Notes shall be made on the language spoken by the LEP person and the type of language assistance service provided.

### **368.10 TELEPHONE CONTACT**

Members who have telephone contact, whether incoming or outgoing with a LEP person, should utilize Language Line Services to assure clear communications. When Language Line Services is unavailable, members should utilize a certified Department interpreter. Non-certified interpreters should be used when other resources are not readily available.

### **368.11 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE**

In order to provide LEP individuals with meaningful access to police services when they are victims of, or witnesses to, alleged criminal activity or other emergencies, this Department has designated its 911 lines as its top priority for language services. Department members will make every reasonable effort to promptly accommodate such LEP individuals utilizing 911 lines through any or all of the above resources.

While 911 calls shall receive top priority, it is also important that reasonable efforts be made to accommodate LEP individuals seeking more routine access to services and information from this Department.

### **368.12 CUSTODIAL INTERROGATIONS AND BOOKINGS**

In an effort to ensure the rights of LEP individuals are protected during arrest and custodial interrogation, this Department places a high priority on providing competent language assistance services during such situations. It is further recognized that miscommunication during custodial interrogations may have a substantial impact on the evidence presented in any related criminal prosecution. As such, Department members providing language assistance services or forms in these situations will make every reasonable effort to accurately interpret all communications with LEP individuals.

Members shall use a certified interpreter or translator to clearly communicate with the LEP suspect or arrestee, whether in written or spoken form. Where no certified interpreter is available, Language Line Services shall be used. It should be recognized that interpretation services conducted over telephone lines are less effective than live interpretation and more prone to misunderstandings. Miranda warnings are available to officers in English and Spanish. When Miranda warnings have not been translated into a suspect's primary language or in the case of illiteracy, the admonishment will be read to them using an interpreter.

Members providing language assistance services shall also be aware of the inherent communication impediments to gathering information from the LEP individual throughout the booking process or any other situation in which an LEP individual is within the control of Department members.

Medical screening questions are commonly used to elicit information on an individual's:

- (a) Medical needs;
- (b) Suicidal inclinations;
- (c) Presence of contagious diseases;
- (d) Potential illness;
- (e) Resulting symptoms upon withdrawal from certain medications.
- (f) The need to segregate the arrestee from other prisoners.

Therefore it is important to make every reasonable effort to provide effective language services in these situations.

### **368.13 FIELD ENFORCEMENT AND INVESTIGATIONS**

Field enforcement will generally include such contacts as:

- (a) Traffic stops;
- (b) Pedestrian stops;
- (c) Serving warrants and restraining orders; and
- (d) Crowd/traffic control; and
- (e) Other routine field contacts.

The scope and nature of these activities and contacts will inevitably vary. Each member must assess each such situation to determine the need and availability for interpretation and/or translation services to LEP individuals. Although not every situation can be addressed within this procedure, it is important that an officer is able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action taken with an LEP individual. It would also, for example, be meaningless to request consent to search if the officer is unable to effectively communicate with an LEP individual.

### **368.14 FIELD ENCOUNTERS**

Members who have field contact with LEP persons shall assess the most appropriate LEP assistance available depending on the seriousness of the situation. When a criminal investigation involves a felony violation of law, every effort shall be made to utilize a certified interpreter or translator. When a certified interpreter or translator is not available, LEP services may include, but are not limited to: Language Line Services or non-certified Department members who can interpret. In the event of an unforeseen or life threatening emergency, family members, friends or bystanders may be used to interpret while waiting for a qualified interpreter to arrive (Refer to Family and Friends of LEP Individuals listed in 368.6(c) above).

### **368.15 WALK IN ENCOUNTERS**

Members who have contact with LEP persons at a police facility should attempt to locate a certified or non-certified Department interpreter to assist. When an interpreter is not available, the language line service should be utilized.

### **368.16 REPORTING USE OF SERVICES**

When a member of the Department is required to complete a report or other documentation and interpretation or translation services are provided to any involved LEP individual(s), such services should be noted in the related report or document. When LEP services are provided and no police report is written, the LEP contact shall be documented by adding supplemental notes to the event. Notes shall be made on the language spoken by the LEP person and the type of language assistance service provided.

### **368.17 POSTING OF AVAILABLE SERVICES**

Forms printed in available languages should be maintained in a conspicuous location at public counters and other appropriate areas such as a booking area. The Department will post signage in frequently encountered languages in places of public contact stating that language assistance services are available.

### **368.18 COMPLAINT INVESTIGATIONS**

Any LEP individual who wishes to file a complaint with the Department alleging police misconduct shall be provided with a translated Complaint Brochure and Information Advisory for Personnel Complaints, as available. Department members should utilize a certified interpreter to communicate with LEP complainants during a complaint investigation. When a certified interpreter is not available, members shall utilize the other language assistance resources as appropriate. The Department will provide written notice of the disposition of any complaint in the LEP complainant's primary language.

### **368.19 COMMUNITY OUTREACH**

Community outreach programs and other such services offered by the Department have become increasingly recognized as important to the ultimate success of more traditional law enforcement duties. The Department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services to LEP individuals and groups. This may be

accomplished through the use of bilingual Department members and programs such as the Hispanic Residents Academy.

### **368.20 TRAINING**

In an effort to ensure that all members in public contact positions (or having contact with those in custody) are properly trained, the Department will provide training in the following areas during new member orientation:

- (a) Member awareness of LEP policies, procedures, forms and available resources;
- (b) Members having contact with the public (or those in our custody) are trained to work effectively with in-person and telephone interpreters; and
- (c) Training for management staff, even if they may not interact regularly with LEP individuals, in order that they remain fully aware of, and understand this policy, so they can reinforce its importance and ensure its implementation by staff.

Any updates to this policy, related procedure, or the LEP program will be distributed to all members in the appropriate format.



## Fresno Police Department Policy Manual

# Communications with Persons with Disabilities

### 370.1 POLICY

It is the policy of this Department to 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.

Not every situation regarding the hearing impaired/disabled communications can be addressed within 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 taken with an individual with a disability.

#### 370.1.1 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.

### 370.2 DEFINITION:

**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.

**TTY** – A ‘Text Telephone’ device that allows deaf, hard of hearing or speech-impaired persons to use the telephone.

**TDD** – A ‘Telecommunication Device for the Deaf’ is an electronic device for text communication over a telephone line for the hearing impaired or persons with speech difficulties.

### 370.3 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE

Members will make every reasonable effort to promptly accommodate such individuals with disabilities utilizing 911 lines through any or all available resources.

While 911 calls shall receive top priority, it is also important that reasonable efforts be made to accommodate individuals with disabilities seeking more routine access to services and information.

### 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. These factors may include, but are not limited to:

- (a) Members should not assume that effective communication is being achieved. The fact that an individual appears to be nodding in agreement does not mean they 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. nonemergency, custodial vs. consensual contact, etc.); and
- (d) 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.

When considering these and other available information member(s) should carefully balance all factors to reasonably ensure meaningful access by individuals with disabilities to critical services while not imposing undue burdens on the Department or its members.

#### **370.4.1 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 and exercise special care in the use of all gestures, and verbal and written communication in an effort to minimize initial confusion and misunderstanding when dealing with any individual(s) with known or suspected communication disabilities.

In a non-emergency situation, when a member knows or suspects an individual requires assistance to effectively communicate, the member shall identify the individual's choice of auxiliary aid or service. The individual's preferred communication method must be honored unless another effective method of communication exists under the circumstances (28 CFR §35.160).

Factors to consider when determining whether an alternative method is effective include:

- (a) The methods of communication usually used by the individual;
- (b) The nature, length and complexity of the communication involved; and
- (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 the use of 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.

Safety permitting, when an individual who is deaf, hard of hearing or has impaired speech must be handcuffed while in the custody of this Department, consideration should be given to placing the handcuffs in the front of the body to facilitate communication using sign language or writing.

#### **370.5 TYPES OF ASSISTANCE AVAILABLE**

Members should document the type of communication utilized in any related report or document and whether an individual with a disability elected to use services provided by the Department or some other identified source.

Department provided services may include, but are not limited to the following:

- (a) Field Resources - Members are encouraged to utilize resources available to them in any contact with a person with a known or suspected disability.

Examples would include such simple methods as:

- 1) Hand gestures or written communications exchanged between the member and a deaf or hard of hearing individual;

- 2) Facing an individual utilizing lip reading and speaking normally and clearly; and
- 3) Clearly but normally speaking or reading simple terms to any visually or mentally disabled individual.

- (b) Audio Recordings and Enlarged Print - From time to time, the Department may develop audio recordings of important information needed by blind or visually impaired individuals. In the absence of such audio recordings, members may elect to read aloud a Department form or document such as a citizen complaint form or utilize a photocopier to enlarge printed forms for a visually impaired individual.
- (c) Qualified Interpreter Services - ComCen will maintain a list of qualified interpreter services to be contacted at Department expense to assist deaf or hard of hearing individuals. When utilized, notification to such interpreters shall be made at the earliest reasonable opportunity and the interpreter should be available to respond within a reasonable time (generally not to exceed one hour).
- (d) TTY and Relay Services - Individuals who are deaf or hard of hearing must be given the opportunity to use available text telephones (TTY or TDD). All calls placed by such individuals through such services shall be accepted by the Department.
- (e) Community Volunteers - Depending on the circumstances, location and availability, members of the community may be available to provide qualified interpreter services, (e.g. those who are proficient in American Sign Language (ASL)).

Sources for these individuals may include:

- 1) Local businesses;
- 2) Banks;
- 3) Churches;
- 4) Neighborhood leaders; and
- 5) School officials.

In addition to such sources, the Department will attempt to maintain and update a list of community volunteers who may be available to respond within a reasonable time (generally not to exceed one hour).

- (f) Family and Friends - While family and friends of an individual with a disability may often offer to assist with interpretation, members should consider the circumstances before relying on such individuals (e.g. children should not be relied upon except in emergency or critical situations, the nature of the relationship between the individual with a disability and the individual offering services (victim/suspect)).

Depending on the balance of the factors available for consideration at the time, this Department will make every reasonable effort to provide meaningful and timely assistance to disabled individuals through a variety of services, where available. The Department will not charge anyone for the expense of an accommodation. Disabled individuals may elect to accept department-provided auxiliary aids or services, choose to provide their own communication services at their own expense or any combination thereof. In any situation, the individual's expressed choice of communication method shall be given primary consideration and honored unless the member can adequately demonstrate that another effective method of communication exists under the circumstances.

### 370.5.1 FIELD RESOURCES

Members are encouraged to utilize resources immediately available to them in any contact with a known or suspected person with a disability. Examples of this would include such simple methods as:

- (a) Hand gestures or written communications exchanged between the member and a deaf or hard of hearing individual;
- (b) Facing an individual utilizing lip reading and speaking slowly and clearly;
- (c) Slowly and clearly speaking or reading simple terms to any visually or mentally disabled individual; and
- (d) Utilization of certified interpreters and translators from the City of Fresno bilingual certification program.

### 370.5.2 AUDIO RECORDINGS AND ENLARGED PRINT

From time to time, the Department may develop audio recordings of important information needed by blind or visually impaired individuals. In the absence of such audio recordings, members may elect to read aloud a Department form or document such as a citizen complaint form to a visually impaired individual or utilize a photocopier to enlarge printed forms for a visually impaired individual.

### 370.5.3 QUALIFIED INTERPRETER SERVICES

A qualified interpreter may be needed in lengthy or complex transactions (e.g., interviewing a victim, witness, suspect or arrestee), if the individual to be interviewed normally relies on sign language or speech reading (lip-reading) to understand what others are saying. The qualified interpreter should not be a person with an interest in the case or investigation involving the disabled individual. A person providing interpretation services may be required to establish the accuracy and trustworthiness of the interpretation in a court proceeding.

Qualified interpreters should be:

- (a) Available within a reasonable amount of time generally not to exceed one hour;
- (b) Experienced in providing interpretation services related to law enforcement matters;
- (c) Familiar with the use of VRS and/or video remote interpreting service;
- (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; and
- (f) Knowledgeable of the ethical issues involved when providing interpreter services.

ComCen will maintain a list of qualified interpreter services to be contacted at Department expense to assist deaf or hard of hearing individuals upon approval of a supervisor. No individual who is disabled shall be required to provide their own interpreter (28 CFR §35.160).

### 370.5.4 TTY AND RELAY SERVICES

Individuals who are deaf or hearing impaired must be given the opportunity to use available text telephones (TTY or TDD). 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).

### 370.5.5 COMMUNITY VOLUNTEERS

Depending on the circumstances, location and availability, responsible members of the community may be available to provide qualified interpreter services, such as those who are proficient in American Sign Language (ASL) or Signed English (SE). In addition to such sources developed by individual officers, the Department will attempt to maintain and update a list of qualified community volunteers who may be available to respond within a reasonable time.

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.

### 370.5.6 FAMILY AND FRIENDS

While family and friends of an individual with a disability may frequently offer to assist with interpretation, members should carefully consider the circumstances before relying on such individuals. For example, children should not be relied upon except in emergency or critical situations. Further, the nature of the contact and relationship between the individual with a disability and the individual offering services must be carefully considered (e.g., victim/suspect).

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; and

- (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.

### **370.6 CONTACT SITUATIONS AND REPORTING**

While all contacts, services, and individual rights are important, this Department will carefully consider reasonably available information in an effort to prioritize services to individuals with disabilities so that such services and resources may be targeted where most needed because of the nature and importance of the particular law enforcement activity involved.

When any member of the Department is required to complete a report or other documentation, and communication assistance is provided to any involved individual(s) with disabilities, such services should be noted in the related report or document (e.g., event comment). 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 shall document why another method was used. All written communications in a criminal case should be attached to the report or placed into evidence.

### **370.7 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE**

In order to provide individuals with disabilities with meaningful access to law enforcement services when they are victims of, or witnesses to, alleged criminal activity or other emergencies, this Department has designated its 911 lines as its top priority for assistance with such services. Members will make every reasonable effort to promptly accommodate such individuals with disabilities utilizing 911 lines through any or all of the above resources.

While 911 calls shall receive top priority, it is also important that reasonable efforts be made to accommodate individuals with disabilities seeking more routine access to services and information from this Department.

### **370.8 FIELD ENFORCEMENT AND INVESTIGATIONS**

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts which may involve individuals with disabilities. The scope and nature of these activities and contacts will inevitably vary, therefore the Department recognizes that it would be virtually impossible to provide immediate access to complete communication services to every officer in the field. Each officer and/or supervisor must, however, assess each such situation to determine the need and availability for communication assistance to any and all involved individuals with disabilities.

Although not every situation can be addressed within this policy, it is important that employees are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action taken with an individual with a disability. For example, it would be meaningless to verbally request consent to search if the officer is unable to effectively communicate with a deaf individual.

### **370.9 CUSTODIAL INTERROGATIONS**

Members providing assistance shall also be aware of the inherent communication impediments to gathering information from individuals with disabilities throughout the booking process or any other situation in which an individual with a disability is within the control of Department member.

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 they understand 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.

Medical screening questions are commonly used to elicit information on individual's medical needs, suicidal inclinations, presence of contagious diseases, potential illness, resulting symptoms upon withdrawal from certain medications, or the need to segregate the arrestee from other prisoners, therefore it is important to make every reasonable effort to provide effective communication assistance in these situations.

- (a) Individuals who require communication aids (e.g., hearing aids) should be permitted to retain such devices while in custody.
- (a) While it may present officer safety or other logistical problems to allow a physically disabled individual to retain devices such as a wheelchair or crutches during a custodial situation, the removal of such items will require that other reasonable accommodations be made to assist such individuals with access to all necessary services.

### **370.10 ARREST AND BOOKINGS**

In an effort to ensure the rights of all individuals with disabilities are protected during arrest and bookings, this Department places a high priority on providing reasonable communication assistance during such situations.

Members providing such assistance shall also be aware of the inherent communication impediments to gathering information from individuals with disabilities throughout the booking process or any other situation in which an individual with a disability is within the control of Department personnel. Medical screening questions are commonly used to elicit information on individual's medical needs, suicidal inclinations, presence of contagious diseases, potential illness, resulting symptoms upon withdrawal from certain medications, or the need to segregate the arrestee from other prisoners, therefore it is important for this Department to make every reasonable effort to provide effective communication assistance in these situations.

- (a) Individuals who require communication aids (e.g., hearing aids) should be permitted to retain such devices while in custody.
- (b) While it may present officer safety or other logistical problems to allow a physically disabled individual to retain devices such as a wheel chair or crutches during a custodial situation, the removal of such items will require that other reasonable accommodations be made to assist such individuals with access to all necessary services.

#### **370.10.1 FIELD ENFORCEMENT AND INVESTIGATIONS**

Members must assess each such situation to determine the need and availability of communication assistance for all involved individuals with disabilities. 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. Policy § 355.10.

### **370.11 COMMUNITY OUTREACH**

Community outreach programs and other such services offered by this Department have become increasingly recognized as important to the ultimate success of more traditional law enforcement duties. As such, this Department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services to individuals with disabilities and groups.

### **370.12 TRAINING**

In an effort to ensure that all members in public contact positions (or having contact with those in custody) are properly trained, this Department will provide training in the following areas during new member orientation:

- (a) Member awareness of related policies, procedures, forms and available resources; , and
- (b) How to work effectively with in-person and telephone interpreters and related equipment.

Management staff will receive training even if they may not interact regularly with individuals with disabilities. This is to ensure they remain fully aware of, and understand this policy, so they can reinforce its importance and ensure its implementation by staff.

Any updates to this policy or related procedure will be distributed to all members in the appropriate format. In addition, members will receive training related to the basics of ADA and appropriate ways of serving people with disabilities during the mandatory triennial anti-harassment/anti-discrimination training.

### **307.13 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; and
- (d) Hands-on experience in TTY and TDD communications, including identification of TTY or TDD tones.

Training should be mandatory for all Dispatch members who may have contact with individuals from the public who are deaf, hard of hearing or have impaired speech. Refresher training should occur every six months.

## Fresno Police Department Policy Manual Mandatory Employer Notification

### 372.1 POLICY

When any Department member makes an arrest, in accordance with Policy §372, of any school or community care facility employee they shall notify their immediate supervisor to facilitate forwarding the information to the Chief of Police or designee.

#### 372.1.1 PURPOSE AND SCOPE

The purpose of this policy is to describe the requirements and procedures to follow when school (teacher and non-teacher) or community care facility employee has been arrested under certain circumstances.

### 372.2 MANDATORY EMPLOYEE ARREST REPORTING

When a school or community care facility employee is arrested for any offense enumerated below the member must immediately notify their supervisor when the person is a:

- (a) Public school teacher, public school non-teacher employee, or private school teacher arrested for any controlled substance offense enumerated in Health & Safety Code §11590 or HS §11364, in so far as that section relates to HS §11054(d)(12), or for any of the offenses enumerated in Penal Code §290, PC §261(a), or Education Code (EC) §44010
- (b) Community College instructor arrested for any controlled substance offense enumerated in HS §11590 or HS §11364, in so far as that section relates to HS §11054(d)(9), or for any of the offenses enumerated in PC §290 or in PC §261(a)(1); or
- (c) Community care facility employee arrested for child abuse (as defined in PC §11165.6).

#### 372.2.1 ARREST OF PUBLIC SCHOOL TEACHER

In the event a public school teacher is arrested for any controlled substance offense enumerated in HS §11590 or HS §11364, in so far as that section relates to HS §11054(d)(12), or for any of the offenses enumerated in PC §290, PC §261(a), or EC §44010, the Chief of Police or 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 (HS §11591; PC §291).

#### 372.2.2 ARREST OF PUBLIC SCHOOL NON-TEACHER EMPLOYEE

In the event a public school non-teacher is arrested for any controlled substance offense enumerated in HS §11590 or HS §11364, in so far as that section relates to HS §11054(d)(12), or for any of the offenses enumerated in PC §290, PC §261(a), or EC §44010, the Chief of Police or 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 (HS §11591; PC §291).

#### 372.2.3 ARREST OF PRIVATE SCHOOL TEACHER

In the event a private school teacher is arrested for any controlled substance offense enumerated in HS §11590 or HS §11364, in so far as that section relates to HS §11054(d)(12), or for any of the offenses enumerated in PC §290, PC §261(a), or EC §44010, the Chief of Police or 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 (HS §11591; PC §291.1).



#### 372.2.4 ARREST OF COMMUNITY COLLEGE INSTRUCTOR

In the event a teacher or instructor employed in a community college district school is arrested for any controlled substance offense enumerated in HS §11590 or HS §11364, in so far as that section relates to HS §11054(d)(9), or for any of the offenses enumerated in PC §290 or in PC §261(a)(1), the Chief of Police or the authorized designee is mandated to immediately notify by telephone the superintendent of the community college district employing the person, and shall immediately give written notice of the arrest to the California Community Colleges Chancellor's Office (HS §11591.5; PC §291.5).

#### 372.2.5 ARREST OF PERSONS EMPLOYED IN COMMUNITY CARE FACILITIES

In the event an employee of a community treatment facility, a day treatment facility, a group home, a short-term residential therapeutic program or a foster family agency is arrested for child abuse (as defined in PC §11165.6) and the employee is free to return to work where children are present, the investigating member shall notify the licensee of the charge of abuse (HS §1522.2).

### 372.3 SUPERVISOR RESPONSIBILITY

#### 372.3.1 PUBLIC SCHOOL TEACHER:

- (a) Notify the Chief of Police or designee or designee so that they may immediately telephone the superintendent of the school district.
- (b) A written notice shall immediately be given to the Commission on Teaching Credentialing and the superintendent.

#### 372.3.2 PUBLIC SCHOOL NON-TEACHER EMPLOYEE:

- (a) Notify the Chief of Police or designee or designee so that they may immediately telephone the superintendent of the school district.
- (b) A written notice shall immediately be given to the governing board of the school district.

#### 372.3.3 PRIVATE SCHOOL TEACHER:

- (a) Notify the Chief of Police or designee or designee so that they may immediately telephone the private school authority employing the teacher.
- (b) A written notice shall immediately be given to the private school authority.

The written notice shall be made on the Commission on Teacher Credentialing Notification Form and mailed to:

ATTN: Legal & Professional Standards Branch Commission on Teacher  
Credentialing  
1812 Ninth Street  
Sacramento, CA 95814-7000

#### 372.3.4 COMMUNITY COLLEGE INSTRUCTOR:

- (a) Notify the Chief of Police or designee or designee so that they may immediately telephone the superintendent of the community college district
- (b) A written notice shall immediately be given to the California College Chancellor's Office

#### 372.3.5 COMMUNITY CARE FACILITY EMPLOYEE:

- (a) The investigating member shall notify the licensee of the charge of abuse.

### 372.4 DOCUMENTATION

- (a) See Policy §344

## Fresno Police Department Policy Manual Blood and Urine Evidence Collection

### 373.1 POLICY

Blood and urine will only be collected as evidence in accordance with established procedures. Blood evidence will only be collected by licensed health care professionals.

#### 373.1.1 PURPOSE AND SCOPE

To ensure that blood and urine evidence collection will be accomplished in the safest possible manner and to ensure the integrity of the evidence. Blood and urine may be collected in DUI, drug influence, or other criminal investigations.

### 373.2 BLOOD EVIDENCE

#### 373.2.1 LEGAL REQUIREMENTS

Blood samples obtained from persons charged with DUI shall be collected, handled and preserved as required by 1219 and 1219.1 of Title 17 of the California Code of Regulations.

To ensure compliance with Vehicle Code §23158(g), Chemical Test Procedure, Central Valley Toxicology Inc. (CVT), will be responsible for the 'general supervision' of all blood draws performed by the Department's phlebotomists.

A Department phlebotomist will be available for blood draws on arrests made between 1800-0400 hours, seven days a week. They will be logged on to the traffic channel or can be paged through ComCen.

- (a) The on-duty phlebotomist will be stationed at the Traffic Bureau.
- (b) The phlebotomist shall have all necessary supplies to complete blood draws and necessary paperwork for evidence.
- (c) During DUI checkpoints, a phlebotomist will be stationed at the checkpoints and will be available to all personnel.

Officers shall utilize the department phlebotomist unless injury to the suspect requires them to be transported to a hospital for medical treatment. The officer shall then utilize hospital staff to draw a blood sample and will follow the protocol established by that hospital.

#### 373.2.2 BLOOD DRAWS

Blood draws will be used unless the person is:

- (a) Afflicted with hemophilia; or
- (b) Afflicted with a heart conditions and is using an anti-coagulant under the direction of a physician.

If the person is afflicted with any of the above, they shall not be required to take a blood test. An alternate chemical test shall be provided.

#### 373.2.3 BLOOD COLLECTION

Two vials of blood shall be obtained when blood is drawn.

The phlebotomist will be available to respond to either the scene of the DUI, the Traffic Bureau, or any neutral location deemed appropriate by the investigating officer.

#### 373.2.4 BLOOD CONTAINER LABELING

- (a) Fill out the label and envelope and have the person drawing the blood initial the label and affix it firmly to the tube or vial.

- (b) Place the sample in the CVT envelope, fill out the necessary information and immediately seal using the gummed flap and transparent tape.
- (c) If a CVT label is *not* available, a label shall be produced including:
  - 1) Full name of suspect;
  - 2) Date and time blood drawn;
  - 3) Initials of person drawing blood; and
  - 4) Initials of witnessing officer.
- (d) If a CVT envelope is *not* available, the container used shall include:
  - 1) Full name of suspect;
  - 2) Submitting agency and the name of the county where the arrest occurred;
  - 3) Geographical location where blood was drawn (e.g., Community Regional Medical Center (CRMC), DUI Trailer, etc.);
  - 4) Name and person drawing blood sample;
  - 5) Date and time blood drawn;
  - 6) Signature of witnessing officer;
  - 7) A form for establishing the chain of possession for all persons handling the evidence; and
  - 8) The violation(s) committed.
- (e) When the witnessing officer is not the arresting officer and is not writing the original report, they shall write a Supplemental Report with the blood withdrawal and disposition information included.
- (f) If the offense being tested for is not traffic related, the offense code and section will be placed in the offense section of the envelope followed by "NTR".

### 373.2.5 DOCUMENTATION

In addition to Policy §344, Officers shall include the following in their report:

- (a) The name and title of the person drawing blood;
- (b) Which arm the blood was drawn from;
- (c) If force was used to obtain the sample or if it was obtained after a refusal; and
- (d) A description and disposition of all evidence obtained.

### 373.2.6 BOOKING BLOOD EVIDENCE

- (a) Misdemeanor evidence may be booked at HQ or the Traffic Bureau
- (b) Felony evidence shall be booked only at HQ

### 373.2.7 BLOOD SAMPLES FOR COMPARATIVE PURPOSES

- (a) Blood collected for evidence comparison purposes shall be booked into the PECS refrigerator located at HQ.
- (b) A PER shall be completed and placed with the blood vial envelope in the refrigerator

**NOTE:** All procedures listed under “Blood Container Labeling”, “Documentation”, and “Booking Blood Evidence” also applies to obtaining blood samples for comparative purposes.

## 373.3 URINE EVIDENCE

The urine test should be taken at a Crime Scene Investigation Bureau holding cell. Officers shall accompany the suspect at all times, affording the arrestee a reasonable measure of privacy while maintaining adequate prisoner security and evidence integrity.

All urine tests shall be conducted by an officer of the same sex as the suspect.

### 373.3.1 URINE TEST

A urine test may be used under the following circumstances:

- (a) If both the blood and breath tests are unavailable;
- (b) If the driver submits to a breath test and later requests an additional test to be taken for later analysis, per Trombetta, and a blood test is not available;

- (c) Unable to take a blood test due to medical reasons (e.g., hemophiliac, medication, etc.);
- (d) For drug influence investigation; or
- (e) Other non-specified investigations.

### 373.3.2 URINE CONTAINER AND LABELING

One 2 oz. sample is required for analysis.

- (a) Officer will use the designated collection vial available from CSB for samples collected at HQ.
- (b) If the sample is collected at another location (e.g. a hospital) a similarly sized container designed for urine collection and containing a sodium fluoride preservative may be used.
- (c) The designated label (available at CSB) will be completed and attached to all urine samples
- (d) The vials will be inserted into the "Urine Sample" envelope (available at CSB) after all the blanks on the envelope have been completed
- (e) The envelope will then be sealed and secured with transparent tape.

### 373.3.3 BOOKING URINE EVIDENCE

- (a) Alcohol only: Blood-Urine Drop Box located in PECS
- (b) Drug/drug & alcohol: PECS refrigerator

### 373.4 INJURED OR UNCONSCIOUS SUBJECTS

Any subject who is unconscious or deceased is considered incapable of withdrawing their consent for a blood draw for evidence purposes. An officer may direct medical staff to obtain the blood draw.

Blood and urine will only be collected as evidence in accordance with established procedures. Blood evidence will only be collected by licensed health care professionals.

### **374.1 POLICY**

This policy is to provide guidelines for the collection of DNA evidence from those individuals required to provide such samples under the DNA Fingerprint, Unsolved Crime and Innocence Protection Act, and the State of California DNA Data Bank Program (Penal Code §295, et seq.).

#### **374.1.1 PURPOSE AND SCOPE**

Only those qualifying individuals whose DNA sample is not currently on file with the Department of Justice may be required to provide samples. Verification of DNA samples on file may be determined by a DNA collection "flag" on the individual's criminal history record or, during regular business hours, by calling the Department of Justice at (510)620-3300 and pressing "11" in the automated system [PC §298(b)(5)].

#### **374.2 PERSONS SUBJECT TO DNA COLLECTION**

While the courts may order DNA samples taken in a variety of circumstances under the Act, members of this Department are only authorized to obtain DNA samples from the following individuals absent other lawful means (e.g., consent or a search warrant).

It is a misdemeanor for any qualified individual to refuse to give any or all required DNA samples following written notice of the requirement to do so [PC §298.1(a)].

##### **374.2.1 ARRESTEES**

Immediately following arrest, or during the booking process, or as soon as administratively practicable after arrest (but in any case prior to release on bail or other physical release from custody), any adult arrested or charged with a felony offense is required to provide DNA samples [PC §296(a)(2)(C)]. It is a misdemeanor for any qualified individual to refuse to give any or all required DNA samples following written notice of the requirement to do so [PC §298.1(a)].

The January 1, 2009, provisions governing DNA sample collection from all adults arrested for any felony offense are not retroactive and so do not permit sample collection for arrests that took place prior to 2009.

##### **374.2.2 SEX AND ARSON REGISTRANTS**

Any adult or juvenile who is required to register as a sex offender under PC §290 or arsonist under PC §457.1, including those whose registration resulted from a qualifying misdemeanor crime is required to submit a DNA sample. [PC §296(a)(3)].

At the time that any such registrant registers, updates registration, or is notified by the Department of Justice or other law enforcement officer, an appointment shall be made designating the time and place for the collection of DNA samples if no such sample has already been provided [PC §296.2(c)].

### **374.3 OBTAINING DNA SAMPLES**

Upon a determination that any individual is qualified and required to provide DNA samples under the Act, the arresting officer or other employee designated by a supervisor shall transport the arrestee to the Fresno County Jail to complete the booking process where DNA samples will be obtained in accordance with this policy. When an individual is qualified and required to provide DNA samples under the Act, and the individual is not in-custody, (e.g., sex registrants or arson registrants), a trained and authorized Crime Scene Bureau (CSB) member designated by a supervisor shall obtain DNA samples in accordance with this policy.

### 374.3.1 BLOOD SAMPLES

The withdrawal of blood may only be performed in a medically approved manner by health care providers trained and qualified to draw blood. Blood samples obtained for submission to the Department of Justice DNA lab shall be placed in Department of Justice blood vials [PC §§298(a) and (b)(2)]. A right thumbprint shall be placed on the sample vial along with other required identifying information.

### 374.3.2 BUCCAL SWABS

Buccal swab samples (taken from the inside of the mouth) may only be procured by employees who have successfully completed departmentally approved training in the collection of buccal swabs and with the use of Department of Justice buccal swab collectors. [PC §§298(a) and (b)(3)]. A right thumbprint shall be placed on the collector along with other required identifying information.

(Note: If an individual violently resists or presents other officer safety issues, employees may omit buccal swab samples upon approval of a supervisor.)

### 374.3.3 FULL PALM PRINTS

Full palm print impressions shall be obtained on Department of Justice prescribed forms along with all DNA samples. (PC §298(b)(4)).

## 374.4 SAMPLE COLLECTION REFUSALS

CSB Technicians should make every effort to obtain a DNA sample and palm print impressions from qualified adult arrestees and to avoid refusals. When an arrestee, who meets the criteria for DNA sample collection pursuant to PC §296, refuses to provide a DNA sample, the CSB Technician(s) shall advise the arresting officer. The arresting officer shall verbally inform the arrestee that if they fail to provide a DNA sample and thumb and palm impressions pursuant to PC §296 that they will be charged with PC §298.1(a), a misdemeanor.

When an arrestee refuses to provide the required DNA sample and thumb and palm prints, the arresting officer shall charge the arrestee with PC §298.1(a), a misdemeanor, and include the refusal information in the original report. When appropriate, a misdemeanor citation shall be completed consistent with Policy §420.

The CSB Technician(s) shall write "Refused DNA/palm collection" on the arrest report in the "Identification Bureau Use Only" field prior to the arrestee being transported to Jail to alert the Jail staff that collection was refused and a forced DNA sample collection (blood draw, etc.) is required.

### 374.4.1

[REDACTED]

For the purpose of this section, the "use of reasonable force" shall be defined as the force that an objective, trained and competent officer faced with similar facts and circumstances would consider necessary and reasonable to gain compliance. [PC §298.1(c)(1)(A)].

### **374.5 PROCESSING DNA SAMPLES**

All DNA samples and related materials shall be promptly forwarded to the DNA Lab using DOJ mailing tubes, labels and instructions for prompt analysis. [PC §§298(a) and (b)(1)].

#### **374.5.1 NOTICE OF A REJECTED SAMPLE**

In the event the Department of Justice notifies the Department that a DNA sample or print impression is not usable, the individual whose original sample or impression was provided is required to submit to collection of additional samples. The Department shall thereafter take all reasonable steps to collect additional samples from any such individual and promptly transmit these to the Department of Justice [PC §296.2(a)].

#### **374.5.2 FOLLOW-UP NOTICE TO DOJ**

Within two years of submitting any DNA specimen, sample or impression to the Department of Justice, this department shall notify DOJ whether the individual remains a suspect in a criminal investigation [PC §297(b)(2)]. It shall be the responsibility of the Department of Justice to thereafter purge samples of any individual(s) who are no longer a suspect in any criminal investigation from the DNA database.

### **374.6 RELATED STATUTES**

It is a felony for any qualifying individual to knowingly facilitate the collection of a wrongfully attributed DNA sample or identification information, or to knowingly tamper with any DNA sample or collection container with the intent to deceive the government as to their identity (PC §298.2).

It is unlawful for any person to knowingly misuse or disclose to an unauthorized entity a DNA sample collected or profile obtained for DNA database purposes [PC §299.5(i)(1)(A)].

### **374.7 LITIGATION**

The Chief of Police or authorized designee shall immediately notify the Department of Justice DNA Legal Unit at (415) 703-5892 in the event this Department is named in a lawsuit involving the DNA Data Bank sample collection, sample use, or any aspect of the state's DNA Data Bank Program.

### **375.1 POLICY**

It is the policy of the Fresno Police Department to petition and serve gun violence restraining orders in compliance with state law and to properly account for firearms and ammunition obtained by the Department pursuant to such orders.

#### **375.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide guidelines for petitioning and serving gun violence restraining orders and accounting for the firearms obtained pursuant to those orders.

### **375.2 DEFINITION:**

**Gun Violence Restraining Order (GVRO)** - Civil restraining order prohibiting a named person from controlling, owning, purchasing, possessing, receiving or otherwise having custody of any firearms or ammunition (Penal Code §18100).

**Immediate Family Member**- Any spouse, whether by marriage or not; domestic partner; parent; child; any person related by consanguinity or affinity within second degree; or any other person who regularly resides in the household, or who, within the prior six months, regularly resided in the household (PC §422.4)

### **375.3 GUN VIOLENCE RESTRAINING ORDERS**

An officer who reasonably believes a person is a present danger to themselves or another person by controlling, owning, purchasing, possessing, receiving or otherwise having custody of a firearm may request permission from their supervisor to petition the court for a gun violence restraining order.

The petition should describe the number, types and locations of any firearms and ammunition that the officer believes to be possessed or controlled by the person (PC §18107).

Based on circumstances, three types of GVRO may be issued by the courts:

- (a) Emergency GVRO;
- (b) Temporary GVRO; and
- (c) GVRO, issued after notice and a hearing.

The court may also issue a warrant to search and remove all firearms and ammunition from a prohibited person based on the sworn affidavit of a police officer that the prohibited person has failed to comply with the GVRO.

A person in possession of a firearm in violation of GVRO is guilty of a misdemeanor (PC §18205).

Any person who files a petition for a GVRO that contains statements the person knows are false, or with intent to harass the subject of the petition for a GVRO is guilty of a misdemeanor (PC §18200).

### **375.4 EMERGENCY GVRO**

GVRO's can be issued 24 hours per day, seven days per week.

A judicial officer may issue a GVRO whenever a law enforcement officer asserts reasonable grounds to believe **both** of the following:

- (a) The subject of the petition poses an immediate and present danger of causing personal injury to themselves or another by having in their custody or control, owning, purchasing, possessing, or receiving a firearm; and



- (b) An emergency gun violence restraining order is necessary to prevent personal injury to the subject of the petition or another because less restrictive alternatives either, have been tried and found to be ineffective, or have been determined to be inadequate or inappropriate for the circumstances of the subject of the petition [PC §18125(a)].

#### 375.4.1 PROCEDURES FOR ISSUANCE OF GVRO'S

A judicial officer shall be contacted, through the Court Dispatch Center at 457-4999, regardless of the time of day. Between the hours of 1800-0600, weekends, and court holidays, calls will be forwarded and processed by Sheriff's Department Communications Center. The determination of the designated judicial officer to issue or not to issue a GVRO will be final.

Note: The temporary inability of FSD dispatch to locate a judicial officer does not relieve officers of their obligations under this section.

The investigating officer shall ensure that the reporting party understands the circumstances under which a GVRO can be issued.

The expiration date for GVRO's shall be the 21<sup>st</sup> calendar day following the day of issuance.

The issuing officer shall inform the reporting party of:

- (a) The expiration date and time of the GVRO; and
- (b) The need to apply to the court for a temporary restraining order beyond that date.

The officer who completes a GVRO shall turn the GVRO in to the Records Bureau by the completion of their shift.

A GVRO shall be served upon the restrained party by the issuing officer when the restrained party can be reasonably located. When the restrained party cannot be located, the issuing officer shall contact the ComCen to have a premise history placed on the affected addresses listing the name of the restrained party and the fact that an unserved GVRO is on file in the Records Bureau. The premise history shall include the GVRO's date of expiration. When a valid GVRO is in effect and proof of service has been verified, the officer shall use every reasonable means to enforce the order.

#### 375.4.2 REQUIRED REPORTS FOR GVRO

When a GVRO is issued, the issuing officer shall:

- (a) Prepare a GIR entitled "GVRO";
- (b) The person to be restrained shall be listed as an "Involved Party"; and
- (c) The person(s) contacted during the investigation shall be listed as the "Reporting Party" or "Witness", as applicable.

#### 375.4.3 DISTRIBUTION OF GVRO FORMS

- (a) The white copy shall be turned in to the Records Bureau by the end of the work shift;
- (b) One copy shall be provided to the Court; and
- (c) One copy shall be provided to the restrained party, when present

Records shall maintain a 21-day file of all served and unserved GVRO's

#### 375.4.4 VERIFICATION OF GVRO'S

Prior to enforcement of a GVRO, officers shall determine if the order is valid, by contacting the issuing agency or examining a copy of the order to establish:

- (a) The order has not expired;
- (b) Whether proof of service or prior notice exists or can be established; and
- (c) The terms of the restraining order.

### 375.4.5 UNSERVED GVRO'S

When an officer is in possession of an unserved copy of a GVRO and encounters the restrained party within the effective period, they shall provide the copy to the restrained party and shall complete the "Restraining/Emergency Protective Order Proof of Service Form".

All other officers encountering unserved restrained parties listed in active GVRO's (and other court orders) shall follow the procedures listed above.

### 375.5 TEMPORARY GVRO

A police officer or an immediate family member may request a temporary GVRO from the Fresno County Superior Court, 1100 Van Ness Ave, Fresno, CA during normal court business hours. (PC §18150) An affidavit which sets forth the facts establishing the grounds for the petition must be completed.

Any Emergency GVRO issued by a member shall be reviewed by a SVS detective to determine if an affidavit needs to be submitted on behalf of the Department.

A court may issue a temporary GVRO against a person if the petitioner shows good cause to believe there is a substantial likelihood that the subject of the petition will, in the near future, cause personal injury to self or others by owning or possessing a firearm, and that the temporary GVRO is necessary to prevent such injury because less restrictive alternatives have been deemed ineffective, inadequate, or inappropriate.

The order will remain effective for 21 calendar days after its issuance. The court must provide a hearing for the restrained person within this 21-day effective period to determine whether a more permanent GVRO is warranted or if the order is no longer necessary and the firearms should be returned to the subject of the order.

### 375.6 GVRO AFTER NOTICE HEARING

Subsequent to the temporary GVRO hearing, the court will schedule another hearing to determine whether there is a need to order a more "permanent" order or to terminate the temporary restraining order. The prohibited person will receive notice of this hearing. During this proceeding, the court may hear from the restrained party seeking to terminate the order.

The court may also hear from the petitioner seeking the order and from any witnesses produced by the petitioner. After hearing all of the evidence, the court may extend the GVRO up to one year. The evidentiary requirements and standard of review for this order are similar to any temporary restraining order.

### 375.7 SERVICE OF GVRO

An officer serving any gun violence restraining order shall:

- (a) Request that any firearms or ammunition be immediately surrendered and issue a receipt for the surrendered items (PC §18120);
- (b) Take into temporary custody any firearm or other deadly weapon discovered in plain view or pursuant to consent or other lawful search (PC §18250);
- (c) Inform the restrained person of any scheduled hearing regarding the order (PC §18160);
- (d) Transmit the original proof of service form to the issuing court as soon as practicable but within one business day (PC §18115); and
- (e) As soon as practicable, but by the end of their shift, submit proof of service to the Records Manager for prompt entry into the California Restraining and Protective Order System (PC §18115).

The officer should also inform the restrained person that they are required, within 24 hours, to surrender to a law enforcement agency any other firearms and ammunition they own or that are in their custody or control or sell them to a firearms dealer. This notification should be documented.

All firearms and ammunition collected shall be handled and booked in accordance with Policy §804 - Property and Evidence.

### **375.8 SEARCH WARRANTS**

When a person who has been served with a gun violence restraining order refuses to surrender any firearm or ammunition, the officer should consider whether to seek a search warrant. If a search warrant is to be obtained, the preparation and service of the search warrant shall be done in accordance with Policy §323 - Search Warrant/Pre-Planned Tactical Operations. Additionally, (PC §1542.5):

- (a) The officer serving the warrant shall take custody of any firearm or ammunition that is controlled, possessed or owned by the person who is the subject of the gun violence restraining order, including any discovered pursuant to the warrant, a consensual search or other lawful search;
- (b) If the location being searched is jointly occupied and the firearm or ammunition is owned by a person other than the restrained person, the firearm or ammunition should not be seized if the following conditions are met:
  - 1) The firearm or ammunition can be stored in a manner that does not allow the restrained person to have control or access; and
  - 2) There is no evidence that the owner unlawfully possesses the firearm or ammunition; and
- (c) If a locked gun safe belonging to someone other than the subject of a gun violence restraining order is discovered, the officer shall not search the contents of the safe unless the owner consents or there is a valid search warrant for the safe. Any search of the safe must be done in the owner's presence.

### **375.9 RECORDS MANAGER RESPONSIBILITIES**

The Records Manager is responsible for ensuring:

- (a) Proof of service of any GVRO served by an officer or received from the clerk of the court is entered in the computer database system for protective and restraining orders maintained by the Department of Justice within one business day of service if served by an officer, or within one business day of receipt of proof of service if served by a person other than a law enforcement officer (PC §18115);
- (b) Oral orders are entered into the California Restraining and Protective Order System (PC §18140); and
- (c) Copies of receipts of surrendered firearms or ammunition issued by other agencies for gun violence restraining orders issued by the Department are properly maintained (PC §18120).

### **375.10 COURT ORDERED FIREARMS AND AMMUNITION SURRENDERS**

Authorized members shall accept firearms and ammunition from any individual who is the subject of a GVRO. The member receiving any firearm or ammunition shall:

- (a) Record the individual's name, address and telephone number;
- (b) Record the serial number of the firearm;
- (c) Prepare an incident report and property report;
- (d) Provide a property receipt to the individual who surrendered the firearms and ammunition; and
- (e) Package and submit the firearms and ammunition in accordance with Policy §804 - Property and Evidence.

### **375.11 RELEASE OF FIREARMS AND AMMUNITION**

Firearms and ammunition that were taken into temporary custody or surrendered pursuant to a GVRO shall be returned to the restrained person upon the expiration of the order and in accordance with PC §18120 and Policy §804 - Property and Evidence.

### **376.1 POLICY**

Senate Bill 2 (Kenneth Ross Jr. Police Decertification Act of 2021) – Commonly referred to as SB2.

On September 30, 2021, (SB) 2 was signed into law, which made significant changes to existing Civil, Government, and Penal Codes. These changes provide for additional peace officer hiring eligibility requirements and also grant the Commission on Peace Officer Standards and Training (POST) the authority to certify all peace officers in California, and subsequently take action against those certifications, should POST determine serious misconduct occurred. While the peace officer hiring requirements went into effect on January 1, 2022, the remaining changes became effective January 1, 2023.

#### **376.1.1 DEFINITIONS**

When the Department receives a complaint alleging “serious misconduct” by one of our sworn Department members, the Department will have ten calendar days to notify POST of the alleged misconduct. POST defines “serious misconduct” allegations as follows:

**Abuse of Power** - including, but not limited to, intimidating witnesses, knowingly obtaining a false confession, and knowingly making a false arrest. For purposes of this definition, in considering whether a suspension or revocation of certification is proper, POST will consider the extent to which the abuse of power was a knowing abuse of the power and authority of a public office.

**Acts that Violate the Law** - sufficiently egregious or repeated as to be inconsistent with a peace officer’s obligation to uphold the law or respect the rights of members of the public, as determined by POST.

**Demonstrating Bias** - on the basis of actual or perceived race, national origin, religion, gender identity or expression, housing status, sexual orientation, mental or physical disability, or other protected status in violation of law or department policy or inconsistent with a peace officer’s obligation to carry out their duties in a fair and unbiased manner. This does not limit an employee’s rights under the First Amendment to the United States Constitution.

**Dishonesty** - relating to the reporting, investigation, or prosecution of a crime, or relating to the reporting of, or investigation of misconduct by, a peace officer or custodial officer, including, but not limited to, false statements, intentionally filing false reports, tampering with, falsifying, destroying, or concealing evidence, perjury, and tampering with data recorded by a body-worn camera or other recording device for purposes of concealing misconduct. For purposes of this definition, in considering whether a suspension or revocation of certification is proper, POST will consider the extent to which the dishonesty relates to a material or significant fact in the context of the statement or omission alleged to be dishonest and will also consider whether the dishonesty appears to have been done willfully or intentionally, with the intent to deceive.

**Failure to Cooperate with an Investigation** - into potential police misconduct, including an investigation conducted pursuant to this Policy. For purposes of this definition, the lawful exercise of rights granted under the United States Constitution, the California Constitution, or any other law shall not be considered a failure to cooperate.

**Failure to Intercede** – when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject.

**Participation in a Law Enforcement Gang** - For the purpose of this definition, a “law enforcement gang” means a group of peace officers within a law enforcement agency who may identify themselves by a name and may be associated with an identifying symbol, including, but not limited to, matching tattoos, and who engage in a pattern of on-duty behavior that intentionally violates the law or fundamental principles of professional policing, including, but not limited to, harassing, or discriminating against any individual based on a protected category under federal or state antidiscrimination laws, engaging in or promoting conduct that violates the rights of other employees or members of the public, violating agency policy, the persistent practice of unlawful detention or use of excessive force in circumstances where it is known to be unjustified, falsifying police reports, fabricating or destroying evidence, targeting persons for enforcement based solely on protected characteristics of those persons, theft, unauthorized use of alcohol or drugs on duty, unlawful or unauthorized protection of other members from disciplinary actions, and retaliation against other officers who threaten or interfere with the activities of the group.

**Physical Abuse** - including, but not limited to, the excessive or unreasonable use of force.

**Sexual Assault** – as described in Penal Code Section 832.7(b) and shall extend to acts committed amongst members of any law enforcement agency. Penal Code 832.7 (b) defines sexual assault as the commission or attempted initiation of a sexual act of a member of the public by means of force, threat, coercion, extortion, offer of leniency or other official favor, or under the color of authority. For purposes of this definition, the propositioning for or commission of any sexual act while on duty is considered a sexual assault, and a “member of the public” means any person not employed by the officer’s agency and includes a cadet, explorer, or other youth program affiliated with the agency.

### **376.2 REPORTING TO THE COMMISSION**

The Department will, within 10 calendar days report to POST the following events: The Administrative Division Commander, or designee, shall make the required notifications.

1. The employment, appointment, or termination or separation from employment or appointment, of any peace officer. Separation from employment or appointment includes any involuntary termination, resignation, or retirement.
2. Any complaint, charge, or allegation of conduct against a peace officer that could render a peace officer subject to suspension or revocation of certification by POST because of any serious misconduct defined in this Policy. Supervisors have responsibilities in Policy section 376.2.1 below to follow.
3. Any finding or recommendation by a civilian oversight entity, including a civilian review board, civilian police commission, police chief, or civilian inspector general, that a peace officer employed by that agency engaged in conduct that could render a peace officer subject to suspension or revocation of certification by POST because of any serious misconduct defined in this Policy. This will include any such finding or recommendation by the City of Fresno’s Officer of Independent Review (OIR).
4. The final disposition of any investigation that determines a peace officer engaged in conduct that could render a peace officer subject to suspension or revocation of certification by POST because of any serious misconduct defined in this Policy.
5. Any civil judgment or court finding against a peace officer based on conduct, or settlement of a civil claim against a peace officer or the Department/City based on allegations of officer conduct that could render a peace officer subject to suspension or revocation of certification by POST because of any serious misconduct defined in this Policy.

### 376.2.1 SUPERVISOR RESPONSIBILITIES

When a supervisor completes a formal interview of a complainant and the supervisor identifies the allegation as “serious misconduct,” as defined in this Policy, the supervisor shall by the end of the shift send an email to the Internal Affairs Staff Assistant informing them of the allegation. The supervisor shall provide the following information, if known:

- a) Date and time supervisor was made aware of the alleged serious misconduct (including the date and time of any complainant’s formal interview into the allegation);
- b) Date and time or time range of the alleged misconduct;
- c) Location(s) of the alleged misconduct;
- d) Name of the complainant(s);
- e) Name(s) of the accused officer(s);
- f) List of any outside agency involved in the serious misconduct allegation;
- g) Brief narrative of what allegedly occurred.

### 376.2.2 NOTICE OF COMPLAINTS

When the Department receives notice of a complainant wishing to file a complaint that qualifies as serious misconduct, as defined in this Policy, but the complainant refuses to cooperate, the supervisor will make every effort to take a formal statement from the complainant. The supervisor shall document the attempts made to formally interview and receive the complaint. Once all means to receive the formal complaint have been exhausted, the supervisor shall notify the Internal Affairs Staff Assistant of the serious misconduct allegation. The date and time the final effort was made to contact the complainant shall be the date used for the date the Department became aware of the alleged serious misconduct or the date of the formal statement. SB 2 does not exclude frivolous, clearly unfounded or exonerated complaints. All complaints of serious misconduct, as defined in this Policy, either informal (closed out by the Informal Complaint Form process) or formal (resulting in an Internal Affairs investigation), shall be reported to POST.

Questions regarding whether an allegation should be considered serious misconduct, as defined in this Policy, shall be directed to the Internal Affairs Commander.

### 376.3 RECORD RETENTION

Internal Affairs files shall be maintained under the exclusive control of the Internal Affairs Bureau in conjunction with the Office of the Chief. Access to these files may only be approved by the Chief of Police or the Internal Affairs Bureau commander. The Internal Affairs Bureau will maintain a separate secure file for retention of the following records, with the appropriate schedule; as defined in Policy § 1026.13 (PC § 832.7; Administrative Order 2-14).

### 376.4 RELATED POLICIES

Policy Reference for SB 2 Serious Misconduct Allegations

Serious Misconduct Allegations

Fresno Police Policy

Dishonesty	341.2.5(j), (o), (p), (ad)
Abuse of Power	341.2.5 (a), (j), (q), (r)
Unreasonable Force	300.4, 341.2.5(v)
Sexual Assault	341.2.2 (j), (k)
Bias Based Policing	402.1.1, 341.2.3, 341.2.2(i)
Acts that Violate the Law (egregious/repetitive)	341.2.5 (aa), 341.2.5(x)
Law Enforcement Gang	341.2 (n), 341.2.5(s)
Failure to cooperate with an Investigation	341.2.2(f), 341.2.5 (f)
Failure to Intercede	300.3.1

## Fresno Police Department Policy Manual

# Civil Search Warrants / Pre-Planned Safety Operations

### **377 Civil Search Warrants / Pre-Planned Safety Operations**

#### **377.1 POLICY**

Officers shall take the necessary steps to plan all civil search warrant services and pre-planned safety operations carefully to prevent injury to the citizens and members. Civil search warrants are only to be executed by sworn personnel. Civil search warrants shall follow all protocols set forth within Policy §323 Search Warrants / Pre-Planned Tactical Operations (e.g., search warrant plan, tactical operations plan, risk assessment matrix, etc.).

##### **377.1.1 PURPOSE AND SCOPE**

A pre-planned safety operation is any operation where officers plan on taking some sort of enforcement action. An example of a pre-planned safety operation would consist of assisting code enforcement with a civil inspection warrant. The primary purpose is to serve as the safety element to secure and clear the requested location for the safety of the requesting agency.

#### **377.2 CIVIL INSPECTION WARRANTS**

California Code of Civil Procedure Sec. §1822.50 states an inspection warrant is an order, in writing, in the name of the people, signed by a judge of a court of record, directed to a state or local official, commanding them to conduct any inspection required or authorized by state or local law or regulation relating to building, fire, safety, plumbing, electrical, health, labor, or zoning.

In all instances when assistance is requested for a civil inspection warrant, (e.g., Code Enforcement Warrant) members shall follow the search warrant protocols set forth within Policy §323. A member of the department shall be designated to act as a liaison and case agent between the agencies. The primary function is to serve as the safety element to secure and clear the residence, commercial building, or other structure, RVs, and/or other curtilage associated with the property as specified in the warrant for the safety of the requesting agency. These structures may be occupied by property owners, tenants, or unauthorized persons.

#### **377.3 ENTRY INTO THE LOCATION / PROPERTY**

Once the decision to make entry is made the following announcement should be made inside the property and recorded on a body worn camera:

“This is the Fresno Police Department, no one inside or on the property is under arrest. This is a civil inspection warrant only and Code Enforcement needs to inspect the property. We need all occupants to make themselves known and exit the property.”

Several announcements should be made if practical into the property to allow all occupants to exit. Once the property is secure the scene will be turned over to the requesting agency. Scene security should be provided if requested.

If a crime is committed or observed during the execution of the civil inspection warrant, officers should establish containment and control over the scene. If necessary, a criminal search warrant shall be authored to make forced entry into the location or to seize evidence of a crime that was located in plain view.

#### **377.4 FORCED ENTRY**

The civil inspection warrant may allow for forced entry. However, any such forced entry for a civil warrant will be conducted by the requesting agency (e.g., a locksmith retained by Code Enforcement). The on-scene police supervisor will determine if the situation allows for forced entry to be made with a locksmith. If the situation is deemed unsafe entry will not be made. Forced entry based solely on the Civil Warrant

shall not be made by the police unless an exigent circumstance presents itself as outlined within Policy §325 Forced Entry.

### **377.5 DISENGAGEMENT FROM A CIVIL WARRANT**

The on-scene supervisor can decide at any time to disengage from a civil warrant. The reading of the disengagement notice is not necessary solely for a civil warrant. The reading of the disengagement notice will be at the discretion of the on-scene supervisor if deemed necessary based on the circumstances (e.g., WIC 5150 making threats, armed subject, etc.). The on-scene supervisor should first consult with their chain of command and if necessary, the legal advisor prior to disengagement.

### **377.6 SECURING IMMINENTLY DANGEROUS BUILDINGS / FINAL ORDER POSTING**

The protocols set forth within this specific policy do not apply to Code Enforcement patrol requests to clear buildings that are in such condition as to make it immediately dangerous to the life, limb, property, or safety of the public or the occupants. Such buildings may be ordered to be immediately vacated and secured, pursuant to FMC 11-332. Prior to making entry upon a Code Enforcement patrol request, officers should consult with a supervisor before clearing any location or property, absent any exigent circumstance to life. The supervisor will consider the circumstances, legal authority, and the immediate need to clear the location or property rather than Code Enforcement securing a civil inspection warrant.

If the location has previously been cleared and posted pursuant to FMC 11-333 (e.g., Boarded Up / Secured Against Entry) a person's failure to comply is guilty of a misdemeanor. Officers can use discretion when clearing such locations or property.



**Fresno Police Department  
Policy Manual**

**Chapter 4: Field Operations**

#### **400.1 POLICY**

It is the policy of the patrol division to serve the citizens of Fresno and the interests of the Department.

##### **400.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to define the functions of patrol to ensure intra-department cooperation and information sharing.

#### **400.2 FUNCTION**

Officers will generally patrol in clearly marked vehicles, patrol assigned jurisdictional areas of Fresno, respond to calls for assistance, act as a deterrent to crime, enforce state and local laws and respond to emergencies 24 hours per day seven days per week.

Patrol will generally provide the following services within the limits of available resources:

- (a) Patrol that is directed at the prevention of criminal acts, traffic violations and collisions, the maintenance of public order, and the discovery of hazardous situations or conditions;
- (b) Crime prevention activities such as residential inspections, business inspections, community presentations, etc.;
- (c) Calls for service, both routine and emergency in nature;
- (d) Investigation of both criminal and noncriminal acts;
- (e) The apprehension of criminal offenders;
- (f) Community Oriented Policing and Problem Solving activities such as citizen assists and individual citizen contacts of a positive nature;
- (g) The sharing of information between the Patrol and other divisions within the Department, as well as other outside governmental agencies; and
- (h) The application of resources to specific problems or situations within the community, which may be improved or resolved by Community Oriented Policing and problem solving strategies.
- (i) Traffic direction and control

#### **400.3 GENERAL GUIDELINES**

Members who handle CFS should be in service within five minutes after the end of briefing.

- (a) Supervisors shall limit briefings to 15 minutes unless the supervisor has specific training needs and the ComCen supervisor is notified prior to briefing.
- (b) Members shall take care of their equipment and personal concerns prior to the start of briefing.
- (c) After log-on members are to respond directly to their sector assignments or their dispatched location.
- (d) When no vehicles are available, members shall log on by voice and wait for the next available vehicle and go into service as soon as possible.

Supervisors shall ensure all members under their supervision are logged on within five minutes after the conclusion of briefing.

District commanders shall ensure that appropriate action is taken to ensure compliance with this order.

Supervisors shall ensure that members who respond to CFS do not log-off or go out of service earlier than five minutes prior to the end of their shift. Members are subject to dispatch to priority "0" and "1" calls up to this time.

Members who handle CFS shall not initiate any discretionary administrative events (any administrative duties except those necessary to get the unit in service and keep the unit in service with the necessary operable equipment) at any time when priority "0" and "1" calls are holding in their area.

Members are responsible for making contact with their supervisor any time they are on a call that exceeds two hours, or has the likelihood of exceeding two hours, to advise them of the nature of the call and the anticipated clearance time of the call. The supervisor should see if they can assist in expediting the delay and returning the member to service.

On occasion, some guidelines of this policy may be temporarily modified by the Division Commander to address operational matters.

- (a) This modification shall be provided by memorandum to all Patrol members and shall specify the duration of the modification.

#### **400.4 PATROL INFORMATION SHARING PROCEDURES**

The following guidelines are intended to develop and maintain intra-department cooperation and information flow between the various divisions of the Fresno Police Department.

##### **400.4.1 CRIME VIEW BUREAU**

The Crime View Bureau is the central bureau for information exchange. Criminal information and intelligence reports can be submitted to the Records Bureau for distribution to all divisions within the Department through daily and special bulletins.

##### **400.4.2 CRIME REPORTS**

A crime report may be completed by any patrol member who receives criminal information. The report will be processed and forwarded to the appropriate bureau for retention or follow-up investigation.

##### **400.4.3 PATROL BRIEFINGS**

Patrol supervisors, detective sergeants, and special unit sergeants are encouraged to share information as much as possible. All supervisors and/or officers will be provided an opportunity to share information at the daily patrol briefings as time permits.

##### **400.4.4 INFORMATION CLIPBOARDS**

Several information clipboards will be maintained in the briefing room and will be available for review by officers from all divisions within the Department. These will include, but not be limited to, the patrol check clipboard, the wanted persons clipboard, and the written directive clipboard.

##### **400.4.5 BULLETIN BOARDS**

A bulletin board will be kept in the briefing room and the Investigation Bureau for display of suspect information, intelligence reports and photographs. New Provisional Orders will be made available for patrol supervisors and will be discussed at briefings and shift meetings. A copy of the Provisional Order will be placed on the briefing room clipboard.

#### 402.1 POLICY

The Fresno 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. All members shall interact with the public in a professional, impartial, fair, respectful and nondiscriminatory manner.

Race, ethnicity or nationality, religion, sex, sexual orientation, gender identity or expression, 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.

##### 402.1.1 PURPOSE AND SCOPE

This policy provides guidance to department members and establishes appropriate controls to ensure that members of the Fresno Police Department do not engage in racial or bias-based profiling or violate any related laws while serving the community. All personnel should treat all members of the public with courtesy, professionalism, and respect. Department members should not use harassing, intimidating, derogatory, or prejudiced language, particularly when related to an individual's actual or perceived protected characteristics.

#### 402.2 DEFINITION

**Racial- or Bias-Based Profiling** - An inappropriate reliance on actual or perceived characteristics such as race, ethnicity, color, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, affiliation with any non-criminal group (protected characteristics), or other similar identifiable group as the basis for providing differing law enforcement service or enforcement (Penal Code §13519.4).

#### 402.3 GUIDELINES

Racial or bias-based profiling is strictly prohibited.. However, nothing in this procedure 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).

- (a) It is the responsibility of all members to prevent, report, and respond appropriately to identify discriminatory or biased practices.
- (b) Members engaging in a non-consensual contact shall be prepared to articulate sufficient reasonable suspicion to justify the contact, independent of the individual's protected class, including but not limited to, traffic stops, field contacts, detentions, as well as asset seizure and forfeiture proceedings.
  - 1) Nothing in this procedure requires any prepared documentation of a contact that would not otherwise require reporting.
  - 2) To the extent that written documentation is completed (e.g., arrest report, F.I. card, etc.), members should include those facts giving rise to reasonable suspicion or probable cause for the contact.
  - 3) While the practice of racial profiling is strictly prohibited, it is recognized that race or ethnicity may be legitimately considered by an officer in combination with other legitimate factors to establish reasonable suspicion or probable cause (e.g., suspect description is limited to a specific race or group).

#### **402.4 STOP DATA COLLECTION SYSTEM**

The Stop Data Collection System (SDCS) is a web based demographic data collection system for lawful detentions, administered by the State of California. Participation in the SDCS is required under Assembly Bill 953 for certain law enforcement agencies, including the Fresno Police Department. The data collected is similar to what the Department has been collecting for over 17 years, however there will be some changes as to when stop data will be collected and transmitted;

- (a) If multiple agencies are involved in a stop and the Department is the primary agency, a Department officer shall collect the data elements and prepare the stop data report.
- (b) When multiple officers conduct a stop, the officer with the highest level of engagement with the person detained shall collect the data elements and prepare the report.
- (c) A SDCS entry shall be completed when a passenger in a vehicle stopped becomes detained independent of the traffic stop.

Enforcement operations, including DUI checkpoints, which stop vehicles at regular intervals are exempt from this requirement, unless the officer develops individualized suspicion regarding an occupant in the vehicle, i.e., driver appears to be under the influence of alcohol/drugs, passenger is wanted.

An officer shall complete all stop reports for stops made during their shift by the end of that shift, unless exigent circumstances preclude doing so. In such circumstances, the data shall be completed as soon as practicable. In the event a stop report is to be completed during an encounter resulting in an Officer Involved Shooting or In-Custody death, the homicide unit supervisor, or their designee, shall complete the stop data report for the involved officer.

#### **402.5 TRAINING**

- (a) Sworn members will attend POST approved training on the subject of racial profiling.
- (b) Pending participation in such POST approved training and at all times, members are encouraged to familiarize themselves with and consider racial and cultural differences among members of our community.
- (c) Members 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 [PC §13519.4(i)].

#### **402.6 ANNUAL ADMINISTRATIVE REVIEW**

The Policy and Procedures Unit will conduct a documented annual administrative review of agency practices including public concerns and complaints regarding bias-based profiling.

- (a) This will include an IA database search for any inquiries or complaints alleging bias-based police practices and review of monthly minutes regarding complaints received at Chief's Advisory Board (CAB) committee meetings.
- (b) This information will be included in the Annual Bias-Based Policing Report with recommendations regarding training issues, policies and procedures, and any changes to Federal or State mandates.

#### **403.1 POLICY**

The reintroduction training process will be completed at the discretion of the district commander for any absence less than twelve months in duration.

##### **403.1.1 PURPOSE AND SCOPE**

Members leave patrol for different assignments and other reasons. Policies and procedures change frequently, as do legal requirements and laws. In order to re-acclimate the member who is returning to patrol as a regular assignment, a reintroduction training process will be completed when the member has been away from patrol in excess of twelve months.

#### **403.2 DISTRICT COMMANDER ROLE**

When a member returns to patrol, the district commander of the assigned district shall notify the FTO Coordinator of the need to re-acclimate the returning member to patrol.

- (a) The FTO Coordinator shall be responsible for assigning the returning officer/CSO to a Corporal/FTO and for monitoring the re-entry process.

When a sergeant returns to patrol, the district commander shall assign the returning sergeant to shadow an existing patrol sergeant for up to one week.

- (b) The district commander is responsible for monitoring the returning sergeant's re-acclimation process.
- (c) The district commander is responsible for ensuring that the returning sergeant promptly receives Axon Records training or update training.

#### **403.3 CORPORAL/FIELD TRAINING OFFICER (FTO) ROLE**

The Corporal/FTO will review a reintroduction package of materials that are developed by the FTO Coordinator, with the member and ensure that the member understands the material.

- (a) The Corporal/FTO and the returning officer/CSO must sign the check-off sheet indicating the information was covered.
- (b) The re-introduction process is generally two weeks long but may be completed sooner or extended when necessary.
- (c) Should the re-introduction process uncover performance problems, the Corporal/FTO shall notify their immediate supervisor along with the FTO Coordinator to implement remedial instruction/training to correct the performance issue.

##### **403.3.1 RELEASE PROCEDURES**

The re-introduction process is an extension of the Field Training Program.

- (a) The returning officer/CSO will not be tested on the material.
- (b) The check off package, signed off by district command staff as having been completed, will be sent to the Training Bureau for inclusion in the returning officer's/CSO's training file.

#### **403.4 SERGEANT REENTRY PROGRAM**

The same purpose for reentry training for officers/CSOs applies to sergeants.

#### **403.5 SERGEANT'S ROLE**

The sergeant being shadowed is responsible for exposing the returning sergeant to:

- (a) Any new field sergeant responsibilities,
- (b) Axon Records updates;
- (c) Patrol car computer functions;
- (d) Report reviewing functions;

- (e) Updates to the pursuit and accident investigation procedures;
- (f) Identifying the pursuit and accident critique officers; and
- (g) Other tasks as identified.

The returning sergeant is responsible for identifying any additional areas where they believe they need assistance with acclimating back to patrol. The returning sergeant shall advise the sergeant being shadowed, or their commander, when necessary, of the identified areas needing assistance.

#### 403.5.1 RELEASE PROCEDURES

The district commander determines when the re-acclimation process is complete.

- (a) It should be based on the sergeant's demonstrated ability to perform effectively in their new assignment.

#### **404.1 POLICY**

The Department shall use “briefings” as a means of communication and information sharing.

##### **404.1.1 PURPOSE AND SCOPE**

Briefing is generally conducted at the beginning of the member’s assigned shift. Briefing provides an opportunity for important information exchange between members and supervisors. A supervisor generally will conduct briefing; however, subordinate members may with supervisor approval.

#### **404.2 BRIEFING**

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

- (a) Briefing officers with information regarding daily patrol activity, with particular attention given to unusual situations and changes in the status of wanted persons, stolen vehicles, and major investigations;
- (b) Notifying officers of changes in schedules and assignments;
- (c) Notifying officers of new Policy & Procedural updates;
- (d) Reviewing recent incidents for training purposes; and
- (e) Providing training on a variety of subjects.

Members who wish to address members of a particular bureau, section, unit, or who wish a notice read to all members of a bureau, section, or unit must first obtain the permission of the affected bureau, section, or unit commander/supervisor.

#### **404.3 SUPERVISOR RESPONSIBILITY**

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 their absence or for training purposes.

Supervisors not assigned to patrol shall have at least one meeting each week where the weekly briefing training is shared with all members of their unit or bureau.

Any supervisor receiving a notice for reading at briefing or other general dissemination shall first ensure that it has been cleared through the proper commanding member. Certain documents such as missing person broadcasts, wanted subjects, etc. do not require prior approval.



#### **406.1 POLICY**

The protection and integrity of a scene is of the utmost importance for the successful apprehension and prosecution of criminals. The integrity of a disaster scene is equally as critical for the protection of life and property and investigation by proper authorities.

##### **406.1.1 PURPOSE AND SCOPE**

This policy provides an overview of the first responding officer's responsibilities at a crime scene or a major incident.

#### **406.2 CRIME SCENE RESPONSIBILITY**

The first responding officer at the scene of a crime is responsible for:

- (a) Preservation of the crime scene;
- (b) Officer and public safety; and
- (c) Rendering medical aid for any injured party.

##### **406.2.1 MAJOR INCIDENT RESPONSIBILITIES**

The first responding officer at the scene of a major incident is responsible for observation of all conditions, events and additional information relevant to the incident.

#### **406.3 INITIAL RESPONSE**

The following list describes the first responder's function at a crime or disaster scene. This list is not intended to be all-inclusive and is not necessarily in this order:

- (a) Ensure no subjects are still within 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) Secure the inner perimeter with crime scene tape;
- (e) Protect items of apparent evidently value; and
- (f) Start chronological crime scene log noting all times and personnel allowed access.

#### **406.4 FIRST ARRIVING OFFICERS DUTIES**

- (a) Record exact time of arrival.
- (b) If ambulance crew is not present, determine if possibility of life exists.
- (c) Enter immediate crime scene to view the victim (preferably one officer, use one path).
- (d) If any possibility of life exists, apply appropriate rescue and first aid techniques and summon ambulance to scene.
- (e) Record any alterations to crime scene that were necessary (lights, body moved) if entry into the crime scene is necessary to ascertain victim's condition.
- (f) Protect the crime scene.
- (g) If victim is removed from scene by ambulance crew, ensure that one officer accompanies victim to hospital. If death is imminent, attempt to elicit a dying declaration.
- (h) If victim's clothing is removed at the hospital, the accompanying officer shall maintain control of clothing and turn them over to the Crime Scene Investigations (CSI).
- (i) Attempt to record names, addresses, DOB's, and telephone numbers of all persons at crime scene. Remove them from immediate area and maintain control.
- (j) If ambulance crew is present, record names, work addresses and phone numbers.
- (k) Determine if ambulance crew or any other person moved the body or any items within crime scene. If any alterations were made, record:

- 1) What alterations were made and when;
  - 2) Purpose for making alteration; and
  - 3) Responsible party.
- (l) Initiate and maintain crime scene log, recording names, badge numbers of personnel at scene; time arrived and departed. Include in follow-up report under heading "Personnel Log."
- (m) If RP is present, obtain valid identification, record identity and knowledge of crime.
- (n) If suspect has just fled the crime scene prior to officer's arrival, initiate crime broadcast if information is available.
- (o) Supplemental broadcasts as necessary.

## **406.5 REQUESTING & DIRECTING CRIME SCENE ASSISTANCE**

### **406.5.1 ASSISTING FIELD PERSONNEL**

Primary investigating officers may direct other field personnel to assist them at a crime scene with the collection of evidence, preservation of the scene, or other needed activities. The primary field officer is ultimately responsible for the proper handling and reporting of crime scene investigations. They should, therefore, ensure that the direction given to assisting personnel was complied with.

### **406.5.2 PROCESSING FOR EVIDENCE**

Primary investigating members have responsibility for the processing of most crime scenes for latent prints and other evidence. The exceptions are those crime scenes which require special expertise and/or equipment. In the absence of a CSI technician or other evidence technician, the primary member is responsible for properly processing, collecting, and booking evidence. Members shall exercise good judgment when processing crime scenes, devoting sufficient time and effort to each scene as warranted by the circumstances.

### **406.5.3 LATENT PRINT EVIDENCE**

- (a) All surfaces which a suspect may have reasonably touched should be processed unless they are absolutely unsuitable (e.g., wet, burned, cloth, etc.).
- (b) A low probability of success alone is not an acceptable reason not to process for prints.
- (c) When a crime scene is not dusted for prints, the member's narrative in the report will reflect the specific reasoning.
- (d) When available, a CSO, Cadet, or other member shall be dispatched to process latent prints.
- (e) Each finger print lifted will be marked with all required information, including:
  - 1) Location from which the print was lifted; and
  - 2) General description of the areas processed.
- (f) Latent print evidence will be placed in a latent print envelop, properly marked, and sealed by the member at the scene.
- (g) The evidence will be placed in a latent print locker.

### **406.5.4 CRIME SCENE INVESTIGATIONS (CSI) RESPONSE**

Scenes that should be processed by a CSI Technician include but are not limited to:

- (a) Homicides and attempt homicides and suspicious deaths;
- (b) Officer involved shooting;
- (c) Rapes; ADW's; robberies; gun violence
- (d) Kidnapping (where a possibility of evidence exist);
- (e) Bombing;
- (f) Fatal or probable fatal vehicle accidents;
- (g) Aircraft accidents; and
- (h) Incidents where there is a probability of future litigation against the City.

CSI should also be used for processing crime scenes under the following circumstances:

- (a) When officers have used force against an individual (injuries or lack of injuries);
- (b) Crimes of violence involving weapons, including ADW, PC 246, etc. (e.g. for collection of shell casings, expended rounds, or edged weapons containing blood evidence);
- (c) Crimes resulting in significant injury or hospitalization;

- (d) Sexual assault with visible injury;
- (e) Child abuse with visible injury;
- (f) Injuries of a sensitive nature;
- (g) Commercial or home invasion robbery;
- (h) Situations in which a personnel complaint has been made or appears likely to be made;
- (i) City vehicle involved collisions; and
- (j) When requested by a sergeant.

Circumstances under which CSI shall respond for photographs include:

- (a) Incidents of domestic violence involving strangulation; and
- (b) Child neglect cases resulting from unsanitary conditions in the household.

Investigating members who request a CSI technician for the purpose of taking photographs in incidents not listed above shall retain the responsibility for the latent print processing as well as the collection and booking of any other evidence at the scene.

When a CSI technician is called upon to process a scene, an officer will remain at the scene under all circumstances which pose a threat to the safety of the Tech. When a Tech feels the need for an officer to respond to a scene to stand by, the ComCen will dispatch an officer to the scene without delay.

#### **406.6 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 detailed search until proper authority for the search is obtained.

#### **406.7 ENTRY INTO CRIME SCENES OR MAJOR INCIDENTS**

##### **406.7.1 MEMBERS ENTERING CRIME SCENES**

The primary member is responsible for maintaining strict control over all other persons entering the crime scene. No member shall enter the scene of a crime without good reason and the knowledge and consent of the primary investigating member except when necessary to protect lives or property.

##### **406.7.2 PUBLIC ENTRY**

No member of the public shall be allowed entry to a crime scene without good reason and legal right. All such entries shall be approved by the primary investigating member and any affected private property owner before they are allowed.

Any person(s) may be excluded from a crime scene when their presence may cause destruction or disruption of evidence.

The access to crime scenes by the media is explained in Policy §346.

#### **406.8 TEMPORARY FLIGHT RESTRICTIONS**

Crime and disaster scenes can sometimes attract news helicopters and other sightseeing aircraft. Whenever such aircraft pose a threat to public safety due to congestion or when the noise levels caused by loitering aircraft hamper incident operations, the field supervisor should consider requesting Temporary Flight Restrictions (TFR) through the Federal Aviation Administration (Federal Aviation Regulations §91.137). All requests for TFR should be routed through the Field Commander.

#### **406.9 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 (HS §120155).

#### **407.1 POLICY**

The Fresno Police Department has developed the following policy in order to address pre-planned events/incidents where mass arrests may occur.

##### **407.1.1 PURPOSE AND SCOPE**

This policy provides guidance for the coordination, deployment, and handling of a mass arrest incident as defined within this policy.

#### **407.2 DEFINITION**

**Mass Arrest** – Is defined as the arrest of persons during an event in which the number exceeds our Department's ability to:

- (a) Transport by normal means (e.g. patrol vehicles, wagons/vans); and
- (b) Is beyond the processing and temporary holding capabilities of Crime Scene Investigation Bureau.

#### **407.3 EVENT / INCIDENT RESPONSIBILITIES**

##### **407.3.1 PRE-PLANNED EVENT**

The Chief of Police and/or a division commander will designate a staff officer or supervisor as the Incident Commander.

The Incident Commander will make an assessment of the number of potential arrests and whether they may be peaceful or violent. Based on that assessment, the Incident Commander will configure arrest teams to safely manage multiple arrests.

In addition to planning for the number of arrests, the Incident Commander will have identified a staging location for transport vehicles and the area to process mass arrests.

After the event has been declared an unlawful assembly and dispersal order procedures have been followed as set forth in Policy §409, pre-designated arrest teams will take the prisoners from the place of demonstrating to the designated processing / holding area.

##### **407.3.2 SPONTANEOUS INCIDENTS**

Incidents may arise in the field which requires mass arrests to be made. When this occurs, the on-scene Incident Commander, for purposes of this order, will be the highest ranking member present until they are properly relieved.

#### **407.4 ARREST PROCEDURES**

After the persons identified for arrest have been isolated and contained, the designated arresting officers will take those persons into custody and deliver them to the processing personnel.

- (a) If the arrested persons are not to be released from the scene, they will be detained at a pre-determined area until such time as they can be transported to the designated holding area.
- (b) The receiving officer shall ensure that sufficient information is listed on the Arrest Report/ Citation to identify the arresting officer and the charges for which the person was arrested.

#### **407.5 PROCESSING PROCEDURES**

The following provisions for carrying out mass arrests will be handled in the prescribed manner:

- (a) Arrest;
- (b) Processing;
- (c) Confinement/holding; and
- (d) Booking or Cite and Release as applicable.

Once the prisoner has been processed, they will be detained at a designated holding area until such time that they can be transported for booking.

When booking is required, the transporting member will deliver the prisoner along with their booking paperwork and personal property to FCJ/FCJH.

#### **407.6 JUVENILE OFFENDERS**

Juvenile prisoners will be segregated from adult prisoners.

Disposition of juvenile prisoners shall be consistent with Policy §324.

Juveniles who are accompanied by an adult or parent who is arrested, if possible, will be released to a non-custodial adult who may lawfully take custody of the juvenile. If they cannot be released to an adult and are not arrested, they will be processed as a Welfare & Institutions Code §300.

#### **407.7 IDENTIFICATION OF PRISONERS**

The identity of all prisoners shall be verified by means of a valid photo ID, such as a California Driver's License or California ID card issued by the Department of Motor Vehicles, prior to release in the field.

- (a) A picture of the prisoner, along with the arresting officer will be taken.
- (b) The prisoner will hold a placard containing their name, date of arrest and other pertinent information.

Those prisoners whose identity cannot be verified in the field shall be transported to the Crime Scene Investigation Bureau.

- (a) Members shall make every attempt to ensure the prisoner's proper identity consistent with Policy §§324 and 355 prior to cite and release or booking.

#### **407.8 TRANSPORTATION**

Prisoner transportation shall be accomplished by means of available city vehicles. Transportation vehicles should be located in close proximity to the designated holding area.

Unless called upon to assume another role, transportation officers/personnel should remain with their assigned vehicle, both for transport availability and security reasons.

#### **407.9 EVIDENCE**

Items taken as evidence at the scene will be processed in accordance with the guidelines set forth in Policy §804.

#### **407.10 SECURITY**

Security shall be maintained at the staging area of vehicles and equipment. Officers will be assigned at the processing and holding area to protect against escape attempts or the destruction of property.

#### **407.11 INTERAGENCY AGREEMENTS**

Interagency agreements are pre-planned and in place prior to the large scale event if assistance from specific outside agencies is anticipated. In cases where a request is made for mutual aid it shall be handled consistent with the National Emergency Management System (NEMS) plan.

#### **407.12 DEFENSE COUNSEL VISITS**

Visits from counsel generally are not allowed during the booking process.

#### **407.13 COURT AND PROSECUTORIAL LIAISON**

In the pre-planning stages where mass arrests are anticipated, the City Attorney's Office and/or District Attorney's office should be consulted to ensure the proper charging of prisoners.

**407.14 MEDIA RELATIONS**

Media relations will be handled consistent with Policy §346.

**407.15 FOOD, WATER, AND SANITATION**

Appropriate steps will be taken to ensure that the basic necessities of food, water, and sanitation facilities are provided when it is anticipated that prisoners will be detained in the field for prolonged periods of time.

**407.16 MEDICAL TREATMENT**

If available, arrangements should be made to have emergency medical services (EMS) personnel on scene throughout the event. As part of the booking process at FCJ/FCJH, the on-duty medical personnel will conduct a medical screening.

Prisoners requiring medical attention will be transported to the appropriate medical facility as soon as practical. Prisoners requiring immediate emergency medical treatment will be transported by EMS.

#### **408.1 POLICY**

The Department has established the Special Weapons and Tactics (SWAT) Team to provide specialized support in handling critical field operations where intense negotiations and special tactical deployment methods are required.

##### **408.1.1 PURPOSE AND SCOPE**

The SWAT Team is a support element of the Department and should be utilized when the situation requires the use of their specialized capabilities. The SWAT Team has as a supporting element, the Crisis Negotiation Team (CNT).

##### **408.1.2 OPERATIONAL AND ADMINISTRATIVE POLICY**

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 members allowing for appropriate on-the-scene decision-making as required. The administrative procedures, however, are more restrictive and few exceptions should be taken.

#### **408.2 MANAGEMENT / SUPERVISION OF SWAT**

The Commander of the SWAT Team shall be selected by the Chief of Police or designee upon recommendation of staff.

##### **408.2.1 PRIMARY UNIT COMMANDER**

Under the direction of the Chief of Police or designee, the CNT and SWAT Team shall each be managed by a lieutenant.

##### **408.2.2 TEAM SUPERVISORS**

The CNT and each SWAT Team will be supervised by a sergeant.

The team supervisors shall be selected by the Chief of Police or designee, upon specific recommendation by staff and the SWAT Commander.

The following represent the supervisor responsibilities for each team:

- (a) The CNT supervisor's primary responsibility is to supervise the operations of the Crisis Negotiation Team which will include deployment, training, first line participation, and other duties as directed by the CNT Commander; and
- (b) The SWAT 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 SWAT Commander.

#### **408.3 SWAT TEAM**

The SWAT Team was established to provide a skilled and trained team to be deployed during events requiring specialized tactics; for example, in such situations as cases where suspects have taken hostages and/or barricaded themselves. Additionally included are situations in which persons armed or suspected of being armed pose a danger to public safety. The Fresno Police Department SWAT Team is available and prepared to respond to a SWAT activation 24 hours a day and 7 days a week.

##### **408.3.1 TEAM EVALUATION**

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the unit shall be conducted by the SWAT Commander. The performance and efficiency level, as established by the team supervisor, will be met and maintained by all SWAT Team members.

Any member of the SWAT Team who performs or functions at a level less than satisfactory shall be dismissed from the team.

#### **408.4 APPROPRIATE SITUATIONS FOR USE OF SWAT**

The following are incidents that may indicate the need for activation of the SWAT:

- (a) A sniper or suspected sniper;
- (b) Barricaded suspects who refuse an order to surrender;
- (c) Hostage situations;
- (d) Aircraft hijacking when the aircraft is on the ground;
- (e) The need to apply chemical agents;
- (f) High risk search or arrest warrant service; or
- (g) Any situation where a SWAT activation could enhance the ability to preserve life, maintain social order, and ensure the protection of property.

#### **408.5 FIELD UNIT RESPONSIBILITIES**

While waiting for the SWAT Team, field personnel should, if safe and practical:

- (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;
- (e) Be prepared to brief the SWAT Commander on the situation; and
- (f) Preparation of a SWAT Intelligence Report.

#### **408.6 ON-SCENE COMMAND RESPONSIBILITIES**

Upon arrival of SWAT at the scene, the Incident Commander shall brief the SWAT Commander and team supervisors about the situation.

Upon review, it will be the Incident Commander's decision, with input from the SWAT Commander, whether to deploy SWAT.

Once the Incident Commander authorizes deployment, the SWAT 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 SWAT.

#### **408.7 ACTIVATION PROCEDURES FOR SWAT**

When it is determined that SWAT activation is necessary, the Duty Office shall implement the established activation procedure.

[REDACTED]

Unless canceled by the SWAT Commander or designee, the following members will respond to SWAT activations:

- (a) All SWAT Team members;
- (b) SWAT bus personnel;
- (c) The Crisis Negotiation Team;
- (d) Legal Advisor;
- (e) Public Information Officer (PIO); and
- (f) Chaplains.



**408.8 COMMUNICATION WITH SWAT PERSONNEL**

Members who are not part of SWAT should refrain from any 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 Negotiation Team personnel directly.

All such communications shall be channeled through the Negotiation Team Sergeant or designee.

**408.9 SWAT MEMBER AVAILABILITY**

SWAT members accept the responsibility of being available twenty-four hours a day and seven days a week, to respond for immediate deployment during SWAT activations. It is understood that certain situations may delay or prevent members from deployment and each situation will be evaluated by SWAT supervisors to determine the reasonableness of the delay or absence.

SWAT members with pre-planned unavailability (e.g., vacation, out of town training, etc.) shall notify their respective SWAT supervisor in reasonable time in advance of the event.

**408.10 SWAT SPECIALIZED VEHICLES**

[REDACTED]

**408.11 SWAT MEMBERS ASSIGNED VEHICLES**

SWAT members will be assigned either a marked or an unmarked Department vehicle equipped with a kill switch or factory installed anti-theft device, depending on the member’s full time assignment and vehicle availability.

SWAT members will adhere to Policy 703, with the following exemptions and restrictions:

- (a) SWAT members are allowed increased flexibility to utilize their assigned Department vehicle when they are off duty. To better protect and serve the citizens of Fresno, SWAT members must be available to immediately respond to life threatening incidents with all their equipment. SWAT members may use their assigned Department vehicles for personal use, in situations that would otherwise create an extensive delayed response to SWAT activation, by having to retrieve their Department vehicle and equipment. Family members and non-Department members shall not be transported in a Department vehicle.
- (b) SWAT members shall not use their Department vehicle should there be a detectable amount of alcohol or narcotics in their system. SWAT members shall not use their Department vehicle to frequent any bar, casino, or establishment that would reflect a negative image on the Department. SWAT members shall not use their Department vehicle for child custody exchanges, any civil action the member is personally involved in, any outside employment, self-employed business, or other use that would reasonably appear to be a conflict of interest. SWAT members shall use discretion when using their assigned vehicle outside the scope of their duties, with a priority placed on the benefit to the Department over that of the member.
- (c) SWAT members parking their Department vehicle at home shall remove all SWAT equipment, unless the vehicle is stored in an enclosed locked garage. SWAT members should not leave their Department vehicle containing SWAT equipment in areas with limited security for extended periods, in order to minimize the possibility of theft of the vehicle and/or equipment.

[REDACTED]

**408.12 SWAT MEMBERS ASSIGNED WEAPONS**

SWAT members shall be assigned their Department issued SWAT rifles. The issuance of SWAT rifles is contingent on whether the security measures listed below are achieved by the SWAT member. When a member does not achieve the required weapon security measures, [REDACTED]

When SWAT members are off duty, SWAT rifles shall be stored unloaded, with the safety on, and the magazine removed. SWAT rifles shall be either:

- (a) In a member’s personally owned gun safe that is commercially manufactured and meets CA DOJ requirements or approved by a SWAT supervisor when the gun safe is of custom manufacturing; or

[REDACTED]

**408.13 CRISIS NEGOTIATION TEAM**

The CNT has been established to provide skilled verbal communicators to de-escalate and effect surrender in critical situations where suspects have taken hostages, barricaded themselves, or have suicidal tendencies.

The Crisis Negotiation Team shall be called to respond to incidents where reasonable resolution attempts by other members have been unsuccessful, as a result of incidents involving:

- (a) Suicidal persons; and
- (b) SWAT calls.

The decision to request the Crisis Negotiation Team will most often be at the discretion of the Commander on-duty.

In their absence, a field supervisor will determine whether a Crisis Negotiation Team response is required.

As soon as it is determined that a Crisis Negotiation Team call-up is necessary, the Duty Office shall implement the established call-up procedure.

The Incident Commander, SWAT Unit Commander, Assistant Unit Commander, or a Team Leader in the Commander's absence, shall be notified of all requests for the Crisis Negotiation Team, whether or not a SWAT call-up has been initiated.

## Fresno Police Department Policy Manual Demonstrations/Special Events/ First Amendment Operations

### 409.1 POLICY

The primary duty of the Fresno Police Department during special events/operations, demonstrations, and First Amendment Operations is to preserve the peace. Officers should make arrests only in serious matters and should leave open several avenues of escape so that the crowd may disperse easily. The goal of our department's involvement is to preserve the peace, prevent criminal activity, control traffic, and facilitate the safe exercise of an individual or group's First Amendment rights. In furtherance of these rights, and to facilitate the safe and peaceful exercise of an individual or group's First Amendment rights, the Department will take action to protect human life, property, and maintain peace when confronted with violence, threats of violence, assaults, or other criminal acts.

#### 409.1.1 PURPOSE AND SCOPE

The Fresno Police Department supports the public's fundamental right to peaceably assemble and their right to freedom of speech and expression. This Department policy establishes guidelines for the coordination, facilitation, and management of all First Amendment Activities.

### 409.2 DEFINITIONS

**Special Event or Operation** – Any anticipated or planned event including parades, entertainment/sports events, funerals, motorcades, or other events that require a coordinated law enforcement response to ensure the safety of the public.

**Incident Commander** - The Incident Commander is responsible for all incident/event activities. The Incident Commander should be of the rank appropriate for the event. The Incident Commander may change throughout an evolving incident.

**Lawful Assembly** - A First Amendment Activity, involving two or more persons, which abides by relevant statutory laws and does not involve violence or criminal acts.

**Unlawful Assembly** - Whenever two or more persons assemble to do an unlawful act or do a lawful act in a violent, boisterous, or tumultuous manner, such assembly is an Unlawful Assembly. (407 PC)

**Riot** - Any use of force or violence, disturbing the public peace, or any threat to use force or violence, if accompanied by the immediate power of execution, by two or more persons acting together, and without the authority of law, is a Riot. (404 PC)

**Crowd Management** - Techniques used to manage public assemblies before, during, and after an event, to maintain public safety, preserve the peace, prevent criminal activity, and facilitate the event's lawful status.

**Crowd Control** - Crowd control is defined as those techniques used to address unlawful public assemblies, including crowd containment or movement, dispersal tactics, and arrests.

**First Amendment Activity/Activities** - First Amendment Activities include all forms of speech and expressive conduct used to convey ideas or information, express grievances, or otherwise communicate with others, including verbal and non-verbal expression. Common First Amendment Activities include, but are not limited to, speeches, demonstrations, vigils, picketing, distribution of literature, displaying banners or signs, using puppets to convey a message, and other artistic forms of expression. marches, protests, student walk-outs, assemblies, and sit-ins. Such events and activities

usually attract a crowd of persons, including participants, onlookers, observers, media, and other persons who may agree or disagree with the activity's point of view.

**Reasonable Time (Dispersal Orders)** - The time given to disperse a declared Unlawful Assembly. This time is contingent on many factors that need to be considered including crowd size, physical geography of the area occupied by the crowd, and limited avenues of egress. It is not unusual to give 30 minutes for a large crowd with limited egress.

### **409.3 AUTHORITY ON STATE / FEDERAL PROPERTY**

Members have the authority to take action and make arrests for State offenses committed on local, State (e.g., college campuses) and Federal Government property. Accordingly, procedures for dealing with demonstrations on those premises will be similar or identical to those used for similar problems occurring elsewhere within the Department's jurisdiction.

#### **409.3.1 COORDINATION OF EVENTS**

Anticipated events on premises which are state or federally owned/operated shall be communicated to the appropriate district or field commander as soon as possible. The commander is responsible for the coordination of efforts to develop a plan for the Department's participation in the event. During a spontaneous incident, the on-scene Incident Commander should coordinate with the authority responsible for the property.

### **409.4 DEMONSTRATIONS/SPECIAL EVENTS AND FIRST AMENDMENT EVENTS**

In dealing with all First amendment events officers should familiarize themselves with Penal Code §§148, 302, 402, 403 through 410, 415 through 418, 647c, 726 and 727.

#### **409.4.1 PRE-PLANNED EVENTS**

When appropriate, and consistent with this Policy, the Incident Commander, or their designee, shall be responsible for developing a written operations plan, consistent with the Department's goals and objectives to minimize harm, honor constitutional rights, communicate with the event participants, and facilitate First Amendment Activity. When knowledge exists that a First Amendment Activity may occur, the Incident Commander or designee shall proactively make reasonable attempts to establish and maintain communication and cooperation with representatives or the First Amendment Activity leaders. In planning for First Amendment Activity, Incident Commanders, or their designees, should consider the following factors in determining the appropriate resources and level of preparation necessary:

- a. When will the First Amendment Activity occur? (Day of the week, holiday, time of day/traffic patterns, daytime/nighttime, conflict with other events at the same time.)
- b. What is the goal of the First Amendment Activity? (Raise awareness, disrupt a target location, counter another demonstration, engage in criminal activity, etc.)
- c. What type of First Amendment Activity is expected to occur? (Press conference, demonstration, protests, static event, labor strike, picket line, march, caravan, sit-in/dine-in, etc.)
- d. Where will the First Amendment Activity likely occur? Will the event affect critical infrastructure like police stations, jails, courthouses, freeways, government buildings, etc.? Will the effect be deliberate or collateral?
- e. If the group intends to be mobile, what will the predicted or planned route(s) be? (First Amendment Activity participants may not provide their own traffic control.)
- f. What will be the projected size of the First Amendment Activity event?
- g. What will the composition of the group be? (Juveniles, students, labor unions, known local groups, known groups from outside the area, unified as to a single cause, or diverse causes and points of view within the group, etc.)
- h. Will there be an organizing individual/group, or will this be a crowd without identified leadership?
- i. Has the Department previously worked with the organizers? Have prior First Amendment Activities been lawful?
- j. Will the hosting group provide its own marshals or monitors?
- k. Is there a likelihood of improvised or conventional weapons?
- l. Will an opposing group attend the First Amendment Activity event?

- m. Are arrests likely? Will prisoner processing be necessary?
- n. What is the probability of civil disobedience, unlawful assembly or a riot occurring?
- o. The primary duty of officers is to preserve the peace. Officers shall make de-escalation of the demonstration a priority and adopt a guardian mindset toward the demonstrators.

**At a demonstration or unplanned event:**

- (a) The first unit to arrive shall survey the situation and shall advise the responding supervisor of the approximate size of the crowd, its actions and any possible weapons and will then report to a staging area as directed by the supervisor in charge;
- (b) The supervisor shall determine the need for additional units and will advise the ComCen of the staging area where officers are to meet and immediately notify the Field Commander/District Commander. That commander will then confer with the Traffic commander.
- (c) The vehicles of responding officers shall be parked together, with officers assigned to guard the vehicles;
- (d) The primary duty of officers is to preserve the peace. Officers shall make de-escalation of the demonstration a priority and adopt a guardian mindset toward the demonstrators. Absent the immediate threat to life and property, members should consider allowing the protest or demonstration to continue to include blocking streets and diverting traffic affected by the demonstration. Officers should make arrests only in serious matters and should leave open several avenues of escape so that the crowd may disperse easily;
- (e) Media reporters may access areas shut off by police for a command post or similar during demonstrations, marches, protest, or a rally. It does not apply to a crime scene, traffic accident with road closures, scenes of an officer involved shooting, or an ongoing critical incident such as a barricade, search warrant or SWAT callout. Note: When any of the activities become unruly or violent, media are not granted access [Penal Code §409.7]
- (f) The District, Field Commander or Traffic Safety/Support Services Section Commander is responsible for initiating requests for mutual aid from other agencies, when needed. When the district, field commander or Traffic Safety/Support Services Section Commander determines that all available on duty personnel from the Department and assisting agencies cannot handle the situation, they shall notify the CSU duty officer to initiate emergency call-up procedures.

**409.4.2 ASSEMBLIES**

**UNLAWFUL ASSEMBLY-** An unlawful assembly is defined by California Penal Code 407 as "Whenever two or more persons assemble together to do an unlawful act or do a lawful act in a violent, boisterous, or tumultuous manner, such assembly is an unlawful assembly." When First Amendment Activity results in unlawful acts of violence, the Incident Commander shall consider the following in determining whether to declare the assembly unlawful:

- 1. The threat to people or property.
- 2. The number and nature of unlawful acts within the crowd.
- 3. The number and nature of violent acts within the crowd.
- 4. Whether the unlawful or violent acts result from one or two individuals or the larger crowd in general.
- 5. Whether separate crowds have merged and now the group has internal conflict between participants.
- 6. Whether contact with the police liaisons/event leaders to negotiate a resolution of the situation is appropriate and effective.
- 7. Evaluation of whether arresting individuals will be more appropriate than dispersing the entire crowd.
- 8. Determination if sufficient police resources are available on-scene to manage the incident effectively.

It is important to remember that failure to obtain a permit, such as a parade permit or sound permit, is not a sufficient basis to declare an unlawful assembly. Also, the sole fact that some of the demonstrators or organizing groups have previously engaged in violent or unlawful acts is not grounds for declaring an assembly unlawful.

#### 409.4.3 DECLARATION OF AN UNLAWFUL ASSEMBLY

The incident commander should initiate a layered response to mass demonstrations that prioritize de-escalation and a guardian mindset. All efforts to disperse a crowd or to make arrests should be conducted in appropriate formation. Officers shall remain in the squad formation unless ordered to do otherwise. When a demonstration becomes riotous and the police are unable to restrain attendees or disperse it or after sufficient time is provided to allow dispersal, the ranking officer present shall declare the assembly unlawful and command the rioters to disperse immediately (PC §726). Those who remain may be taken into custody under PC §409.

The order to disperse shall follow the below format and shall be read three times in English and when necessary, an appropriate secondary language, at approximately 30 second intervals:

Officers shall use the following dispersal order:

"I, (name), am a peace officer of the State of California, and a police officer for the City of Fresno. I declare this to be an unlawful assembly in violation of the law, and I command you in the name of the People of the State of California to immediately disperse and leave the area of this unlawful assembly. If you fail to do so, you will be arrested or subject to other police actions. Other police actions may include the use of less lethal impact munitions which could cause significant risk of injury to those who choose to remain. Penal Code 409 prohibits remaining at an unlawful assembly. The following routes of dispersal are available (give dispersal routes). You have (reasonable time) to disperse."

(Spanish)"Yo, (name), soy un oficial de paz del estado de California, y oficial de policia en el departamento de policia de la ciudad de Fresno. Yo les ordeno en el nombre de los habitantes del estado de California, que inmediatamente se dispersen y abandonen este lugar en que se lleva al cabo esta junta ilicita. Si ustedes no abandonan este lugar, ustedes seran arrestados o sujeto a otras acciones policiales. Otras acciones policiales pueden incluir el use de municiones de impacto menos legal que podrian causar un riesgo significativo de lesions a quienes decidan quesarse. Codigo penal 409 prohiebe permanecer en una reunion legal. Las siguientes rutas de dispersion estan disponible (give dispersal routes). Ustedes tiene (reasonable time) para dispersar.

#### 409.4.4 ARREST PROCEDURES

When it is determined that arrests are to be made, officers shall:

- (a) Position a public address system facing the crowd with the volume adjusted so that it can be heard in all areas to which a dispersal order may be directed. Officers shall be stationed at the farthest reaches of the crowd to determine that the system and subsequent announcements can be heard;
- (b) Ensure that video and audio recordings of the activities of the participants of the civil disorder are made during and after the reading of the orders; and
- (c) Read the nuisance declaration and dispersal order and verify with perimeter officers that all readings were audible to all areas. When any part of the dispersal order was inaudible, the order shall be re-read so that all persons in the area are able to hear the order.

When the orders were audible, arrest procedures may be started.

The preferred arrest procedure is for uniformed officers to approach those who were ordered to disperse and make the arrest of individuals. Members should avoid rushing a group unless such a tactic is required for safety considerations.

The individuals arrested should be taken to a waiting bus or holding area. A picture of the arrested individual, along with the arresting officer, shall be taken. The arrestee will hold a placard containing their name, date of arrest and other pertinent information.

#### **409.5 USE OF CHEMICAL AGENTS**

Department members may use issued Oleoresin Capsicum (OC) in crowd control situations to overcome resistance, defend themselves or others from injury, or under direction of the incident commander.

##### **409.5.1 INDIVIDUAL DEPLOYMENT OF O.C.**

Department members may use issued O.C. in crowd control situations to overcome resistance, defend themselves or others from injury, or under direction of the incident commander. Members shall remember that the use of O.C. should be reasonable under the totality of the circumstances.

Before the use of issued O.C., members should consider the:

- (a) Seriousness of the offense/violations of law;
- (b) Officer/Public safety;
- (c) Potential exposure to children, elderly, pregnancy, physical and disabled members and limited English proficiency of the crowd; and
- (d) Effective range of O.C.

##### **409.5.2 SPECIALIZED CROWD CONTROL CHEMICAL AGENTS**

Kinetic energy projectiles and chemical agents shall only be deployed by a peace officer that has received training on their proper use by the Commission on Peace Officer Standards and Training for crowd control if the use is objectively reasonable to defend against a threat of life or serious bodily injury to any individual, including any peace officers, or to bring an objectively dangerous and unlawful situation safely and effectively under control. Except in life threatening situations, the Chief of Police, or designee, shall have the overall authority on the use and deployment of specialized crowd control chemical agents and Kinetic weapons. PC §13652.1.

Before the use of specialized projectile or handheld chemical agents, members should consider issues from the above stated section, as well as:

- (a) Weather conditions;
- (b) Wind direction;
- (c) Avenues of escape for the crowd;
- (d) Protective devices for the crowd; and
- (e) Decontamination of persons exposed.

##### **409.5.3 SPECIALIZED CHEMICAL AGENTS**

The use of specialized chemical agents (e.g. Pepperball projectiles or tear gas) may become necessary to control, disperse or maneuver a crowd. Except in life threatening situations, the Chief of Police, or designee, shall have the overall authority on the use and deployment of specialized chemical agents.

Only members with POST certified training shall use chemical agents in crowd control situations.

#### **409.6 SPECIAL EVENT OR OPERATION**

##### **409.6.1 SPECIAL EVENTS UNIT**

The Special Events Unit under the Traffic Safety/Support Services Section will coordinate large scale events that overwhelm the resources of a Policing District, or that transcend District boundaries.

It is staffed by the Traffic Safety/Support Services Commander and the Special Events Unit Sergeant. Primary resources for special events will come from the Traffic and Support Bureau.

#### 409.6.2 REQUESTS FOR SERVICE

The Chief of Police and/or the Traffic Safety/Support Services Commander will determine whether or not a special event will be coordinated by the Special Events Section. The criteria will be determined by the type and size of event.

All Commanders requesting the Special Events Unit to coordinate the policing of an event will submit a request through their chain of command to their division chief. Once an event has been assigned to the Special Events Unit, the approval of all permits, planning and coordination of services will be directed through the Special Events Unit. District resources will be provided to the Traffic Safety/Support Services Commander to assist with the policing of the events, and those resources will remain under their control until the conclusion of the event.

Reoccurring events (Veterans Day Parade, Mardi Gras, etc.) will require a request to the Traffic Safety/Support Services Commander a minimum of thirty days in advance or will not be considered. Large scale events that develop rapidly (Protests, Presidential escorts, etc.) will not fall under the thirty-day restriction.

#### 409.6.3 EVENT COORDINATION

Events that are not coordinated by the Special Events Unit will be staffed at the District level. The Chief of Police and/or a Division Commander will designate a staff officer or supervisor, depending upon the anticipated size of the event, as the Event Coordinator. The Event Coordinator shall have responsibility and authority for decisions related to the assignment and coordination of resources at the event.

#### 409.6.4 AFTER ACTION REPORT

The Event Coordinator shall prepare an After-Action Report for submission through their chain of command. The report shall identify an overview of the operation, summarize any unusual incidents which occurred during the event, and provide any information that would assist in future operations of a similar nature.

### **409.7 LABOR DISPUTES**

Prior to receipt of a court order, the Department will remain neutral and serve only to preserve the peace and investigate or arrest for crimes committed.

Upon receipt of a valid court order, it shall be read to those assembled in English and, when necessary, in a secondary language (e.g., Spanish, Hmong, Lao, etc.).

- (a) After reading the full order, the ranking officer will declare the assembly unlawful, again in English and appropriate secondary language.
- (b) Officers shall verify the clarity of the reading of the order as provided under pre-arrest procedures below.
- (c) Duplicate copies of the order should be acquired to provide to participants involved in the civil disorder.

A tactical squad should be assigned for the specific purpose of observing leaders, strike captains, and others who appear to be in charge of picketing or striking activity.

- (a) The members of the tactical squad should also attempt to actually serve copies of the court order on the leaders they are assigned to observe, provided they have not been served previously.

The members of the tactical squad will maintain notes and make a police report on their observations of the individuals under surveillance at the conclusion of each day or upon completion of their assignment.



## Fresno Police Department Policy Manual

### Ride-Along Policy

#### 410.1 POLICY

Chief of Police

The Fresno Police Department Ride-Along Program is offered to all those who qualify. Every attempt will be made to accommodate interested persons however any applicant may be disqualified without cause.

##### 410.1.1 PURPOSE AND SCOPE

The Ride-Along Program provides an opportunity for citizens to experience law enforcement, police incidents, and to hopefully have a better understanding of the Fresno Police Department.

#### 410.2 REQUESTING A RIDE-ALONG

Ride alongs will only be approved when there is a demonstrated benefit to the Department and/or the community.

All ride-along applicants are subject to a criminal history check. The criminal history check will 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 (provided that the ride-along is not a member of the Department) (CLETS Policies, Practices and Procedures Manual §1.6.1.F.2.).

Ride-along requests will be scheduled by Patrol Division personnel. All participants will complete a Ride-Along Waiver Form. Information provided will include a valid state, federal or military ID or driver's license, address, and telephone number. Participants will provide the name, address and telephone number for an adult relative or friend to contact in case of emergency. Completed forms turned in to the Records counter will be forwarded to the Duty Office for processing.

Patrol Division personnel will schedule a date for an interview. If the participant is under 18 years of age, a parent/guardian must be present, during the interview and complete the Ride-Along Form. Applicants will report to the Patrol Division where an interview will take place and the "Do's" and "Don'ts" of the ride along will be explained. Only after satisfactorily completing the interview will an applicant will be scheduled for a ride along. When an applicant is denied participation in the Ride-Along Program they will be advised of the denial.

All ride-along applicants are subject to a criminal history check. The criminal history check will 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 (provided that the ride-along is not a member of the Department) (CLETS Policies, Practices and Procedures Manual §1.6.1.F.2.).

A shift supervisor shall deny a ride-along if a liability waiver is not completed and signed prior to the start of the patrol shift.

##### 410.2.1 ASSOCIATES OF DEPARTMENT MEMBERS

Department members scheduling a ride-along for personal associates (friends, relatives or professional associates) are responsible for the following:

- (a) Members will ensure that the ride-along is free from current criminal activity and felony criminal history. If there is any doubt whether the person is eligible for a ride-along, the member will refer the associate to the Patrol Division secretary for a formal interview process and criminal history check;
- (b) Members will contact the Duty Office at least one and one half (1.5) hours prior to the beginning of the patrol shift and provide the first and last name of the ride-along and the desired district and watch. Only one ride-along will be scheduled in each district and watch; and

- (c) Members will ensure that the liability waiver is completed by the ride-along prior to the beginning of the patrol shift. Forms are available at each of the district stations and at the Duty Office. These forms will be forwarded to the Patrol Division when completed.

#### 410.2.2 PEACE OFFICER RIDE-ALONGS

Peace officers from other agencies may participate in the Ride-Along Program. The Ride-Along Form must be completed, signed, and turned into the Patrol Division. An interview will be scheduled consistent with Policy §410.2. When the officer requests to carry a firearm, authorization from the district field supervisor must first be obtained. Ride-along requirements for police cadets are covered in Policy §1048, "Police Cadet Program."

#### 410.3 DISQUALIFICATION

The following factors may be considered in disqualifying an applicant and are not limited to:

- (a) Prior criminal history or conviction;
- (b) Pending criminal action;
- (c) Pending lawsuit against the Department; and
- (d) Denial by any supervisor.

#### 410.3.1 AUTOMATIC DISQUALIFICATION

- (a) Being under 16 years of age; or
- (b) Being on probation or parole.

#### 410.3.2 AVAILABILITY

Ride-Along participants may request a specific shift and area, but will be assigned based on availability.

#### 410.4 CONTROL OF RIDE-ALONG

The assigned Department member shall maintain control over the ride-along participant at all times and instruct them in the conditions that necessarily limit their participation.

#### 410.4.1 RIDE-ALONG WITNESS DOCUMENTATION

Department members assigned a ride-along will record the first and last name of the ride-along in the CAD log on "comments" field at the beginning of the patrol shift. Ride-along participants will follow the directions of the Department member. The ride-along will not become involved in any investigation, handling of evidence, discussions with victims or suspects, or handling any police equipment. In the event a ride-along is witness to a crime in progress or could provide testimony in court for any reason, the ride-along will be listed as a witness in the police report with complete name and contact information.

#### 410.5 GUIDELINES

The following is a list of guidelines for participants:

- (a) No jeans (regardless of color), baggy pants, T-shirts, sweats, hats or caps allowed.
- (b) No skirts, dresses or high heels.
- (c) Present a professional image, otherwise you could be sent home.
- (d) You can ride for 5 hours, or longer at the Department member's discretion.
- (e) The Department member, at their discretion, can end the ride-along at any time.
- (f) You could get injured.
- (g) You are riding along at your own request. Neither the City nor the Department is making you ride-along.
- (h) We do not provide protective equipment, such as ballistic vests or flashlights.
- (i) You cannot bring a camera, tape recorder, or use any device to record any activities that occur while on the ride along. This is for the protection of the rights of the people we contact. Members of the working media are excepted.
- (j) Do not bring tear gas, pepper spray, handcuffs or any sort of weapon, including firearms. This applies to those people with CCW permits.
- (k) If the Department member tells you to stay in the car, do so. This is for your safety.

- (l) You are not to attempt to assist in arresting suspects or become physically involved with suspects unless directed to do so. Do not interrupt officers during an investigation.
- (m) Bring clothing appropriate for the weather.
- (n) Be prepared for the possibility that you will not stop for breaks or meals during the ride-along.
- (o) If you wear a medic-alert bracelet or have a medical condition such as epilepsy or diabetes, let the officer know at the start of the shift.
- (p) Know your location, and know your detail.
- (q) If you cannot make your scheduled appointment, make sure you call to cancel your ride-along. Not calling will prohibit you from riding for a year.
- (r) One ride-along is allowed per year from the date of your ride-along. Supervisors may authorize additional ride-alongs on a case-by-case basis.

#### **410.6 DEPARTMENT MEMBER RESPONSIBILITIES**

- (a) The Department member shall advise the ComGen that a ride-along is present in the vehicle before going into service.
- (b) Department members shall consider the safety of the ride-along at all times.
- (c) Department members 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.
- (d) The ESD 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 assigned Department member shall maintain control over the ride-along participant at all times and instruct them in the conditions that necessarily limit their participation. These instructions should include:

- (a) The ride-along will follow the directions of the Department member;
- (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 or the ride may be terminated by the Department member if the ride-along interferes with the performance of the member's duties. In either case the Department member will return the participant to the district station;
- (d) Ride-Alongs may be allowed to continue riding during the transportation and booking process provided this does not jeopardize their safety;
- (e) Department members 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 person; and
- (f) Under no circumstance shall a civilian ride-along be permitted to enter a private residence with a Department member without the expressed consent of the resident or other authorized person.

**412.1 POLICY**

The Fresno Fire Department (FFD) has primary responsibility for all identified hazardous material spills or incidents involving possible hazardous materials. However all other responsibilities outside the scope of FFD at the scene of an actual spill or incident will remain with this Department.

**412.1.1 PURPOSE AND SCOPE**

Department members will follow, to the best of their ability, established procedures in dealing with any incident involving hazardous material in compliance with Title 8, California Code of Regulations §5194.

**412.2 DEFINITIONS**

**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.

**412.3 HAZARDOUS MATERIAL RESPONSE**

Members may encounter situations involving suspected hazardous materials, such as at the scene of a traffic accident, chemical spill, or fire. Members should take certain steps to protect themselves and citizens.

The following steps should be considered at any scene involving suspected hazardous materials:

- (a) If safe, attempt to identify the type of hazardous substance which may be determined by the placard, driver's manifest or statements from any person transporting the material in question;
- (b) Maintain a safe distance from substance;
- (c) Stay up wind and uphill if possible;
- (d) Do not use flares near substance;
- (e) Do not breathe fumes in attempts to identify its nature;
- (f) Identify any witnesses to the incident and isolate and detain them for interview by FFD personnel;
- (g) Notify ComCen and other arriving emergency services units; of any safety issues (e.g. directions for entry, additional hazards or immediate needs)
- (h) Provide first-aid for injured parties if it can be done safely and without personal contamination;
- (i) Begin evacuation of immediate area (minimum 100 yds) and surrounding areas depending on the involved substance. This evacuation is considered voluntary; however depending on the substance, mandatory evacuation may be necessary under the authority of Penal Code §409.5;
- (j) Close the contaminated area to minimize congestion and maximize freedom of movement by FFD personnel and equipment under the authority of Vehicle Code §§2812 and 21707; and
- (k) When barricades are necessary or beneficial, the employee will advise ComCen of the number needed and the location for the Street Maintenance Division to deliver them.

**412.4 REPORTING EXPOSURE(S)**

Members who believe that they have been exposed to a hazardous material will immediately report this exposure to a supervisor.

- (a) When a supervisor has been informed that a member has been exposed to a hazardous material, they will ensure that immediate medical treatment is obtained and appropriate action is taken to lessen the exposure.
- (b) The supervisor is also responsible for completing all appropriate paperwork for workers comp along with the applicable report of injury form.
- (c) Any injury or illness caused or believed to be caused from exposure to hazardous materials will be reported the same as any other on-duty injury or illness in addition to any crime report or incident report, if required.

#### **412.5 SUPERVISOR RESPONSIBILITY**

A supervisor will be dispatched to direct police activity at the scene of any hazardous material incident.

- (a) In all circumstances, the on scene FFD Incident Commander, has ultimate authority over all fire activity at the scene of any hazardous material incident.
- (b) The on scene supervisor will consult with the FFD incident commander for the purpose of coordinating police and fire response.
- (c) Should the incident require long-term commitment of Departmental resources, the on scene supervisor will brief the field commander.

#### **412.6 POST-INCIDENT SECURITY**

The FFD retains primary responsibility for locating an owner or person responsible for a premise.

When the owner or responsible party cannot be located, FFD personnel are responsible for notifying FPD that security personnel will be required to secure the scene.

- (a) Upon receiving this notification, ComCen will contact a private security firm to secure the scene.
- (b) A party directly associated with the premise (e.g., employee) can be used in lieu of private security until the owner/responsible party can respond.

**413.1 POLICY**

The Department will develop and implement standardized levels of readiness in conjunction with public school administrators to enable quick and effective communication between our Department and public schools during critical situations by using terms common to both agencies.

**413.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to define three levels of readiness of public schools in Fresno, the role and responsibilities of the Student Resource Officer (SRO), and to prevent and react to violent situations on any campus.

The three levels of readiness are Safe School Environment, Shelter-in-Place, and School Lock-Down. These terms and readiness levels have been developed in conjunction with public school administrators. The definitions and criteria for activation as contained in this order are to enable quick and effective communication between our Department and public schools during critical situations by using terms common to both agencies.

These terms and readiness levels have been developed in conjunction with public school administrators.

**413.2 SAFE SCHOOL ENVIRONMENT**

This is the basic, everyday level of operation of the school with features designed to improve the climate of safety. It includes quickly addressing misconduct, encourage compliance with the dress code, controlling campus access, issuing visitor I.D. cards, providing many student activities, adequate student counseling, conflict resolution programs, and encouraging school pride and parent involvement. SROs assist in the development and monitoring of these safety features.

**413.3 SHELTER-IN-PLACE**

This is a heightened state of readiness that is activated when violence threatens to reach a school campus, or a dangerous situation nearby warrants increased safety precautions at a school.

**413.3.1 PERSONS WHO MAY ACTIVATE SHELTER-IN-PLACE**

- (a) An officer may notify, or request Communications to notify, a school to activate shelter-in-place; and/or
- (b) Any member of school staff may also initiate shelter-in-place.

**413.3.2 CONDITIONS IN WHICH TO ACTIVATE SHELTER-IN-PLACE**

Shelter-in-place is appropriate whenever an officer or school staff member determines that a heightened state of alert, not reaching the ultimate stage of a school lock-down as contained in this order, is appropriate to secure the safety of students and staff. Such situations could include, but are not limited to, the following when occurring in close proximity to a school:

- (a) A SWAT action;
- (b) The immediate pursuit of a dangerous suspect;
- (c) The execution of a high-risk search or arrest warrant;
- (d) A large-scale enforcement operation involving potentially dangerous suspects; and
- (e) A violent situation off-campus threatens to involve a school campus (i.e., SWAT action, in-progress violent crime nearby).

[REDACTED]

[REDACTED]

**413.4 SCHOOL LOCK-DOWN**

This is the highest state of readiness that is activated when gun violence is occurring or is imminent on campus, or any other situation deemed by police or school staff to warrant a total lock-down of the campus.

**413.4.1 PERSONS WHO MAY ACTIVATE A SCHOOL LOCK-DOWN**

A School Lock-Down may be activated by:

- (a) An officer, either directly or via a request through ComCen; and/or
- (b) Any member of school staff.

**413.4.2 CONDITIONS IN WHICH TO ACTIVATE A SCHOOL LOCK-DOWN**

Situations in which a School Lock-Down is appropriate include:

- (a) Someone has a gun on campus;
- (b) Someone with a gun is enroute to a campus;
- (c) Shots are heard on campus; and
- (d) An officer or school staff member deems any situation sufficiently dangerous to cause this maximum level of readiness.

[REDACTED]

[REDACTED]

[REDACTED]

**413.5 STUDENT RESOURCE OFFICERS**

SROs are officer positions that are contracted with local school districts. The contracts specifically limit the SRO-services to their assigned school campuses. The SRO should not, without approval from the

SRO supervisor, be dispatched to calls for service away from or not directly related to their assigned schools.

The Department will assign SROs to provide police services at the schools assigned to them. The SRO will work towards improving the quality of life at their assigned schools by utilizing the principles of community policing.

The SRO will primarily focus their efforts on the high schools and middle schools in their district and in maintaining the Police/Probation Team relationships with the Juvenile Probation Department.

#### **413.6 INVESTIGATION OF AND RESPONSE TO SCHOOL THREATS**

Schools may receive threats from a variety of sources including social media, overheard conversations, graffiti on buildings, etc. The investigation of threats to schools shall receive high priority. The Department's goals are to utilize necessary resources to prevent violence and restore a sense of safety to the campus or school event as quickly as possible. Department resources will work collaboratively to achieve these goals.

**413.6.1 WHEN A MEMBER RECEIVES INFORMATION OF A SUSPECTED SCHOOL THREAT** They shall:

- (a) Contact the victim(s), witness, or reporting party to investigate the matter further as circumstances may dictate;
- (b) Notify a supervisor as soon as practical;
- (c) Take all reasonable steps to preserve any evidence that establishes a school threat has occurred; and
- (d) Interview the victim(s), witness(es), and others to determine what circumstances, if any, indicate that a school threat has occurred.

#### **413.6.2 SUPERVISOR RESPONSIBILITY**

Upon notification of a school threat, the field supervisor shall:

- (a) Respond to the scene to determine what additional resources may be needed, if any;
- (b) Ensure that the scene is properly processed, and evidence is collected;
- (c) Visit the victims and assure them that the investigation will be actively pursued;
- (d) Notify the ComGen, the affected District Commander and field commander of the situation;
- (e) When possible, arrange for an immediate increase of patrols throughout the affected area;
- (f) Consider additional assistance, including callouts, from the School Resources Unit officer where the threat originated from, the affected District Investigations Unit, Street Violence Bureau (SVB), MAGEC, VICE and other resources as needed; and
- (g) Ensure that the report of the event is complete.

#### **413.6.3 DISTRICT COMMANDER RESPONSIBILITY**

The affected District Commander shall assume primary investigative responsibility and:

- (a) Ensure sufficient resources are made available for the duration of the incident to re-establish a sense of safety and security (e.g., high visibility Patrol units; Motors; District detectives, etc.);
- (b) Provide regular updates regarding the incident to the Patrol Division Commander;
- (c) Personally meet with the school's principal, or designee, to explain the Department's response; and
- (d) Ensure that victims and other concerned parties are informed of any case clearance. In the event that the threat is received during non-school hours, the field supervisor responsible for the location will notify the affected District Investigations Supervisor or SRO Supervisor. They will determine if there is a need to call in the SRO responsible for the school where the threat is occurring. The District Investigations Supervisor will also make a determination as to whether or not a District Investigator will need to be called in as well. Should there be a call-in, the member(s) called in will assume investigative responsibility of the threat.



#### 413.6.4 SRO SUPERVISOR RESPONSIBILITY

The SRO supervisor shall also:

- (a) Ensure that a Code Red alert is sent out to all staff as soon as practical;
- (b) Coordinate law enforcement efforts with the appropriate school officials; and
- (c) Provide regular updates regarding the incident to the affected District Commander.

#### 413.6.5 LEAD INVESTIGATOR RESPONSIBILITY

The member(s) called in will be the lead investigator and shall:

- (a) Conduct an immediate and thorough investigation of the threat;
- (b) Utilize resources and investigative techniques as necessary in order to identify and arrest the suspect(s);
- (c) Author and coordinate execution of search warrants and provide evidence preservation letters as may be required;
- (d) Collect and preserve all evidence including, when possible, any weapons mentioned or located; and
- (e) Initiate the filing of criminal charges on all identified suspects when a prosecutable case exists.

In the event a threat originates at a facility that is not covered by a SRO, Patrol Division personnel will be responsible for the investigation and utilization of resources as needed.

**414.1 POLICY**

Officers encountering barricaded subject situations should not initiate tactical actions other than those necessary to protect the lives and safety of themselves or others consistent with the Department’s use of force policy.

**414.1.1 PURPOSE AND SCOPE**

Hostage situations and barricaded suspects present unique problems for our agency. The protection of the public and law enforcement personnel is of the utmost importance. Proper planning and training will tend to reduce the risks involved with these incidents. The best course of action when reasonable is to control and contain the situation until the arrival of the SWAT Team and Crisis Negotiation Team.

**414.2 DEFINITIONS**

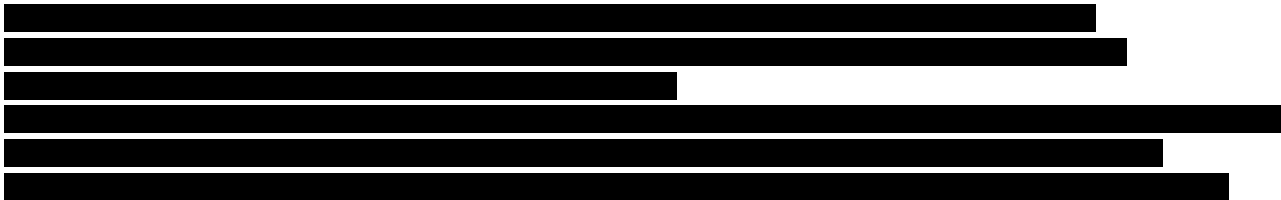
**Barricaded Subject** - Any person who is reasonably believed to be a threat to commit serious bodily injury or death to hostages, officers, or others and who is in a stronghold position.

[REDACTED]

**414.4 NOTIFICATIONS**

- (a) Notification of canine units, air support, and other specialized equipment;
- (b) Requests for EMS should be made when there exists a likelihood that people may be injured; and

[REDACTED]



#### **414.6 COMMAND POST**

A command post location should be established a safe distance from the incident.

The area should provide adequate parking for emergency vehicles, command vehicles and personal vehicles of responding SWAT and other personnel.

#### **414.7 SWAT BRIEFING AND ACTIVATION**

- (a) Refer to Policy §408 for SWAT activation protocol.
- (b) The person with the best information about the incident, when practical, shall respond to the Command Post to brief the SWAT Commander and/or SWAT Supervisors.
- (c) As field personnel are relieved by SWAT team members, field personnel should contact the command post for possible reassignment.
- (d) After the event, the member writing the original should contact a SWAT supervisor or commander to determine whether additional information is to be included in the report.
- (e) A SWAT supervisor is responsible for completing an after-action report of the event.
- (f) A Crisis Negotiations Team supervisor or designated team member is responsible for completing an after-action report of the event.

#### **414.8 EVACUATIONS**

When evacuation of an area is required:

- (a) Bystanders should be evacuated from the immediate area;
- (b) Occupants of nearby residences or businesses should be evacuated if it is reasonably safe to do so. It may be preferable in some instances for occupants to remain inside and take “shelter in place” in a protected area of their residence or business; and
- (c) Injured persons should be evacuated when safe to do so.

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## Fresno Police Department Policy Manual

### Crisis Intervention Incidents

#### 417.1 POLICY

The Fresno Police Department is committed to providing a consistently high level of service to all members of the community and recognizes that persons in crisis may benefit from intervention. The Department will collaborate, where feasible, with mental health professionals to develop an overall intervention strategy to guide its members' interactions with those experiencing a mental health crisis. This is to ensure equitable and safe treatment of all involved.

##### 417.1.1 PURPOSE AND SCOPE

This policy provides guidelines for interacting with those who may be experiencing a mental health or emotional crisis. Interaction with such individuals has the potential for miscommunication and violence. These incidents often require an officer to make difficult judgments about a person's mental state and intent in order to effectively and legally interact with the individual.

#### 417.2 DEFINITIONS

**Person in Crisis** - A person whose level of distress or mental health symptoms have exceeded the person's ability to manage their behavior or emotions. A crisis can be precipitated by any number of things, including an increase in the symptoms of mental illness despite treatment compliance; non-compliance with treatment, including a failure to take prescribed medications appropriately; use of alcohol or street drugs; or any other circumstance or event that causes the person to engage in erratic, disruptive or dangerous behavior that may be accompanied by impaired judgment.

#### 417.3 POSSIBLE INDICATORS OF A PERSON IN CRISIS

Members should be aware that this list is not exhaustive. The presence or absence of any of these should not be treated as proof of the presence or absence of a mental health issue or crisis.

- (a) Threats of or attempted suicide;
- (b) Loss of memory;
- (c) Incoherence, disorientation or slow response;
- (d) Delusions, hallucinations, perceptions unrelated to reality or grandiose ideas;
- (e) Depression, pronounced feelings of hopelessness or uselessness, extreme sadness or guilt;
- (f) Social withdrawal;
- (g) Manic or impulsive behavior, extreme agitation, lack of control;
- (h) Lack of fear, and/or;
- (i) Anxiety, aggression, rigidity, inflexibility or paranoia.

Members should be aware that this list is not exhaustive. The presence or absence of any of these should not be treated as proof of the presence or absence of a mental health issue or crisis.

#### 417.4 COORDINATION WITH MENTAL HEALTH PROFESSIONALS

The Chief of Police shall designate an appropriate Commander from the Patrol Division to collaborate with mental health professionals to develop an education and response protocol. It should include a list of community resources, to guide department interactions with those who may be suffering from mental illness or who appear to be in a mental health crisis.

#### 417.5 OFFICER CONSIDERATIONS AND RESPONSIBILITIES

Safety is a priority for first responders. It is important to recognize that individuals under the influence of alcohol, drugs or both may exhibit symptoms that are similar to those of a person in a mental health crisis. Often a person in mental health crisis has also been using drugs/alcohol. These individuals may still present a serious threat to officers; such a threat should be addressed with reasonable tactics. Nothing in this policy shall be construed to limit an officer's authority to use reasonable force when interacting with a person in crisis.



Officers are reminded that mental health issues, mental health crises and unusual behavior alone are not criminal offenses. Individuals may benefit from treatment as opposed to incarceration

Officers responding to a call involving a person in crisis should:

- (a) Employ tactics to preserve the safety of all participants;
- (b) Promptly assess the situation independent of reported information and make a preliminary determination regarding whether a mental health crisis may be a factor;
- (c) Consider any available information whether the person relies on drugs or medication, or may have failed to take their medication;
- (d) Attempt to obtain mental health history, if available, and any previous law enforcement contacts;
- (e) Request available backup officers and/or a CIT trained officer, MH1/MH2, or other available resources of a similar nature for assistance as deemed necessary and, if it is reasonably believed the person is in a crisis situation; CIT officers and clinicians are a limited resource and may not be able to respond on every mental health call for service.
- (f) Use conflict resolution and de-escalation techniques to stabilize the incident as appropriate;
- (g) If feasible, and without compromising safety, turn off flashing lights, bright lights or sirens;
- (h) Attempt to determine if weapons are present or available, prior to making contact, and whenever possible and reasonable conduct a search of the Department of Justice Automated Firearms System to determine whether the person is the registered owner of a firearm (Penal Code § 11106.4).
- (i) Take into account the person's mental and emotional state and potential inability to understand commands or to appreciate the consequences of their action or inaction, as perceived by the officer;
- (j) Secure the scene and clear the immediate area as necessary;
- (k) Determine the nature and severity of any crime;
- (l) Request a supervisor, as warranted;
- (m) Evaluate any available information that might assist in determining cause or motivation for the person's actions or stated intentions;

[REDACTED]

#### **417.6 DE-ESCALATION TECHNIQUES AND CONSIDERATIONS**

Officers should consider that taking no action or passively monitoring the situation may be the most reasonable response to a mental health crisis.

Once it is determined that a situation is a mental health crisis and immediate safety concerns have been addressed, responding members should be aware of the following considerations and should generally:

- (a) Evaluate safety conditions;
- (b) Introduce themselves and attempt to obtain the person's name;
- (c) Be patient, polite, calm, courteous, and avoid overreacting;
- (d) Speak and move slowly and in a non-threatening manner;
- (e) Moderate the level of direct eye contact;
- (f) Remove distractions or disruptive people from the area;
- (g) Demonstrate active listening skills (e.g., summarize the person's verbal communication);
- (h) Provide for sufficient avenues of retreat or egress should the situation become volatile.

Responding officers generally should not:

- (a) Use stances or tactics that can be interpreted as aggressive.
- (b) Allow others to interrupt or engage the person.
- (c) Corner a person who is not believed to be armed, violent or suicidal.
- (d) Argue, speak with a raised voice or use threats to obtain compliance.

#### **417.7 INCIDENT REPORTING**

Members engaging in any oral or written communication associated with a mental health crisis should be mindful of the sensitive nature of such communications and should exercise appropriate discretion when referring to or describing persons and circumstances.

Members having contact with a person in crisis should keep related information confidential, except to the extent that revealing information is necessary to conform to department reporting procedures or other official mental health or medical proceedings.

##### **417.7.1 DIVERSION**

Individuals who are not arrested should be processed in accordance with the Mental Illness Commitments Policy §418.

#### **417.8 NON-SWORN MEMBERS INTERACTION WITH PERSONS IN CRISIS**

When a non-sworn Department member comes into contact with a person who may be experiencing a mental health or emotional crisis, they should:

- (a) Treat the person with dignity and respect;
- (b) Be aware and understand that the person may make unusual or bizarre claims or requests;
- (c) Proceed patiently and in a calm manner.

If the person's behavior makes the member feel unsafe, if the person is or becomes disruptive or violent, or if the person acts in such a manner as to cause the member to believe that the person may be harmful to themselves or others, the member shall notify ComCen for an officer response.

When the person in crisis is in the HQ Lobby requesting assistance, the member will notify the on-duty Lobby Guard to assist the person as necessary.

#### **417.9 SUPERVISOR RESPONSIBILITY**

A supervisor should respond to the scene of a violent, combative, and/or barricaded person in crisis. Responding supervisors should:

- (a) Attempt to secure appropriate and sufficient resources;
- (b) Closely monitor any use of force, including the use of restraints, and ensure that those subjected to the use of force are provided with timely access to medical care (Refer to Policy §306);
- (c) Consider strategic disengagement. Absent an imminent threat to the public and, as circumstances dictate, this may include removing or reducing law enforcement resources or engaging in passive monitoring;
- (d) Ensure that all reports are completed and that incident documentation uses appropriate terminology and language;



Evaluate whether a critical incident stress management debriefing for involved members is warranted.

#### **417.10 TRAINING**

The Fresno Police Department will provide officers training on interaction with persons with mental health disabilities, welfare checks, de-escalation, tactical communication and crisis intervention (PC §11106.4; PC §13515.25; PC §13515.27; PC §13515.30).

**418.1 POLICY**

It is the policy of the Fresno Police Department to protect the public and individuals through legal and appropriate use of the 72-hour treatment and evaluation commitment (Welfare & Institutions Code §5150) process.

**418.1.1 PURPOSE AND SCOPE**

This policy provides guidelines for when officers may take a person into custody for psychiatric evaluation and treatment (WIC §5150).

**418.2 AUTHORITY**

An officer having probable cause may take a person into custody and place the person in an approved mental health facility for 72-hour treatment and evaluation when the officer believes that, as a result of a mental disorder, the person is a danger to themselves or others or the person is gravely disabled (WIC §5150; WIC §5585.50).

When determining whether to take a person into custody, officers are not limited to determining the person is an imminent danger and shall consider reasonably available information about the historical course of the person's mental disorder, which may include evidence presented from any of the following (WIC §5150; WIC §5150.05):

- (a) An individual who is providing or has provided mental health treatment or related support services to the person;
- (b) A family member; or
- (c) The person subject to the determination or anyone designated by the person.

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 they know to be false.

**418.3 OFFICER CONSIDERATIONS AND RESPONSIBILITIES**

Any officer responding to or handling a call involving a person who may have a mental disability or qualify for a "5150" commitment should carefully consider the following:

- (a) Any available information which might assist in determining the cause and nature of the mental health disability or intellectual/developmental disabilities;
- (b) Conflict resolution and de-escalation techniques specific to dangerous situations involving persons with a mental health disability;
- (c) Request a Crisis Intervention Team (CIT) trained officer, Department of Behavioral Health (DBH) clinician (MH1, MH2, MH3 or MH4), or other available resources of a similar nature for assistance, when safe and appropriate;
- (d) Appropriate language usage;
- (e) If circumstances permit, alternatives to lethal force;
- (f) Community resources that may be readily available to assist person(s) with a mental health disability or intellectual/developmental disability;
- (g) Officers shall attempt to obtain mental health history, if readily available, and any previous law enforcement contacts that influenced the placement of a WIC §5150 hold; (Refer to RCTB 23-12)
- (h) Officers shall not be limited to consideration of the danger of imminent harm; and
- (i) When possible, officers should collect and book for safekeeping, any item used in an attempted suicide call for service. (Firearms, rope, knife, etc.)

When responding to a “check the welfare” call where the subject is possibly a danger to themselves or others, officers should, whenever possible and reasonable, conduct a search in CLETS to determine whether the person is a registered owner of a firearm. [Penal Code §11106.4(a)]

Officers will not be dispatched to initiate a WIC §5150 hold, or to perform patient re-evaluations for a 72-hour WIC §5150 hold about to expire at medical facilities or locations where duly qualified persons are present to initiate the placement. In these situations, the local medical facility will be advised to follow procedures established by WIC §§5150 and 5250 respectively.

#### **418.4 EVALUATION ASSISTANCE**

When assistance is needed to determine whether a subject should be committed under WIC §5150, officers may contact a member of the department’s Crisis Intervention Team (CIT) or the Crisis Services Division of the Fresno County Department of Health for evaluation assistance. Crisis Services may either send a worker to the officer’s location or render assistance via telephone.

#### **418.5 CRISIS INTERVENTION TEAM (CIT)**

The mission of the FPD Crisis Intervention Team (CIT) is to assist / support patrol officers during mental health related crisis calls for service (CFS) and to reduce the potential for violence during these calls. CIT will simultaneously assess the mental health services available to assist persons in a mental health related crisis. The goal of the CIT is to;

- (a) Prevent a violent confrontation between emergency service personnel and individuals suffering from a mental health related crisis;
- (b) Prevent unnecessary incarceration and / or hospitalization of mentally ill persons;
- (c) Provide alternate care in the least restrictive and most appropriate environment through a coordinated / comprehensive system-wide approach;
- (d) Prevent the duplication of mental health services;
- (e) Facilitate the expeditious return of patrol officers to patrol activities; and
- (f) Reduce mental health related police calls for service.

CIT officers (8B units) and Department of Behavioral Health (DBH) clinicians (MH 1, 2, 3 and 4) are available for crisis field response / patrol support, although high risk factor calls will take priority for response. CIT shall be requested or advised of all high-risk factor calls relating to mental health and suicide, or as patrol deems appropriate. CIT officers and DBH clinicians are a limited resource. The intent of CIT is to be a resource and to support patrol during mental health related crisis calls for service. CIT will not respond to and take over every mental health related call for service.

Kings View clinicians (MH52, 54, 55, and 56) are available to assist patrol during low-risk mental health related calls for service and/or to conduct low risk follow-up / community outreach. Kings View clinicians can be dispatched to high risk calls for service if an FPD CIT officer or DBH clinician is unavailable at the time of the call. Kings View clinicians can also assist patrol with evaluating in-custody suspects who have been rejected by FCJ medical intake staff for suicidal statements.

##### **418.5.1 HIGH RISK FACTOR MENTAL HEALTH CALLS**

CIT’s primary focus is patrol support during mental health related crisis calls for service. CIT will give priority response to calls posing a high-risk factor to officers, clinicians, and the public. CIT may conduct follow-up on high risk factor mental health / suicide related cases. This follow-up will assist in officer / public safety, a reduction in patrol calls for service and linkage to appropriate services. The high priority risk factor cases CIT will be focusing on are, but not limited to:

- (a) Suicide by cop;
- (b) School violence, including active violence;
- (c) Suicidal ideation with a weapon / firearm;
- (d) Walk away / disengagement from suicidal subject;
- (e) Veterans with PTSD;
- (f) Jumpers;

- (g) High utilizers / high CFS;
- (h) Increasing high risk behavior;
- (i) Expressed murder / suicide ideation; and / or
- (j) Follow-up deemed necessary by patrol / staff.

#### 418.5.2 LOW RISK FACTOR MENTAL HEALTH CALLS

Low risk factor mental health calls are calls that do not meet the above criteria yet have a mental health component.

#### 418.5.3 CIT NOTIFICATION PROCEDURE

- (a) Patrol shall request a CIT officer / DBH clinician (8B or MH 1, 2, 3 or 4) to respond to the high-risk factor calls.
- (b) If CIT / DBH are not available at the time of the high-risk call, patrol may request a Kings View clinician to assist.
- (c) If CIT / DBH are not available at the time of a high-risk call, the primary patrol officer shall notify the CIT of the call via email at [Cit@fresno.gov](mailto:Cit@fresno.gov). The officer shall include the event and/or case number and the name of the subject on the call.

**Note:** Kings View clinicians shall not be dispatched to calls for service unless they are accompanied by a patrol officer.

#### 418.6 TRANSPORTATION

Persons who are detained pursuant to WIC §5150 shall be transported in an ambulance to the nearest hospital designated as an evaluation center. The location to which the subject is transported will be determined by EMS personnel and according to Fresno County EMS Protocol.

Individuals that do not have obvious signs of trauma or other medical complaints should be taken directly to the nearest evaluation center.

Individuals who are intoxicated or require medical treatment shall be taken to the nearest hospital designated as an evaluation center. Once care of the subject has been assumed by EMS, the officer's responsibility for the subject is terminated.

Violent patients or those who are mentally unstable shall be restrained during transport by ambulance personnel. Upon the paramedics' request, the officer will escort the ambulance to the facility and place that person in a designated treatment room as directed by a hospital staff member. Hospital security will take possession of the individual after arrival at the designated evaluation center, if the patient is not in custody.

#### 418.7 RESTRAINTS

If the patient is violent or potentially violent, the officer will notify both EMS personnel and hospital staff of this concern. Once at the facility the staff member in charge will have discretion as to whether restraints will be used.

If restraints are used, the officer will wait while they are being applied to help provide physical control of the patient, if needed.

#### 418.8 CONFISCATION OF FIREARMS AND OTHER WEAPONS

When a person has been detained or apprehended for examination pursuant to WIC §5150, a hold has been placed, and is found to own, have in their possession or under their control, any firearm or any other deadly weapon, the officer shall:

- (a) Check the patient in AFS for firearms. Firearms belonging to or connected with them shall be taken into temporary custody and booked into property.
- (b) Request that any firearms or ammunition be immediately surrendered.

- (c) Take into temporary custody any firearm or other deadly weapon belonging to or connected with the patient, discovered in plain view or pursuant to consent, other lawful search, or search warrant.
- (d) Issue a Receipt and Notice of Rights for Confiscated Firearms / Other Deadly Weapons form and book the firearm / deadly weapon into evidence. Pursuant to WIC §5150, the person detained must sign the form acknowledging receipt of it. If the person refused to sign, the officer shall note "refused to sign" on the "Signature of Person Notified" line. When the detainee is unable to sign, the officer shall note that the detainee is unable to sign and the reason why (e.g., "Unable to sign-hospitalized"). The officer shall then mail the detainee's copy of the form to their last known address of record.
- (e) Parents / guardians of a juvenile placed on a WIC §5150 hold shall be checked in AFS. If firearms are stored in the household of a juvenile placed on a WIC §5150 hold, officers shall request the parent / guardian voluntarily turn over the firearms for safekeeping.
  - 1) If the parents / guardian do not voluntarily turn the firearms over to officers for safekeeping, officers shall complete a "Release of Firearm Advisement" form and request a signature from the parent / guardian. (attached)
- (f) If a person is found to meet the criteria of WIC §5150 and is found to be in possession / control of firearms which will be confiscated, the hold shall be written by an officer, CIT officer or DBH clinician. WIC §5150 holds involving the confiscation of firearms shall not be written by Kings View clinicians. The Kings View clinicians can support patrol with evaluation and assessment verbiage, but the actual WIC §5150 hold / application must be written by an officer, CIT officer or DBH clinician.
- (g) Advise the person of the procedure for the return of any firearm or other deadly weapon as described on the form [WIC §8102(b)].

For purposes of this section, deadly weapon means any weapon that the possession of or carrying while concealed is prohibited by PC §§16590 and 25400.

#### **418.9 PETITION FOR RETURN OF FIREARMS AND OTHER WEAPONS**

Whenever the handling officer has cause to believe that the future return of any confiscated weapon might endanger the person or others, the officer shall detail those facts and circumstances in the narrative of their WIC §5150 report. The report shall be forwarded to the Gun Clerk, which shall be responsible for initiating a petition to the Superior Court for a hearing in accordance with WIC §8102(c), to determine whether the weapon will be returned.

The petition to the Superior Court shall be initiated within 30 days of the release of the individual from whom such weapon has been confiscated, unless the Department makes an ex parte application to the court to extend the time to file such a petition, up to a maximum of 60 days. At the time any such petition is initiated, the Department shall send written notice to the individual informing them of their right to a hearing on the issue, that they have 30 days to confirm with the court clerk their desire for a hearing and that the failure to do so will result in the forfeiture of any confiscated weapon.

#### **418.10 SECURING WEAPONS**

If a receiving and secured facility prohibits weapons or if an extraordinary event occurs in the treatment facility and officers determine a need to secure their firearms, the firearm shall be secured in the appropriate gun locker at the facility.

#### **418.11 PATIENTS PERSONAL PROPERTY**

When a person is taken into custody for evaluation, or within a reasonable time thereafter, and unless a responsible relative, guardian or conservator is in possession of the person's personal property, the officer shall take reasonable precautions to safeguard the individual's personal property in their possession or on the premises occupied by the person (WIC §5150).

The officer taking the person into custody shall provide a report to the court that describes the person's property and its disposition in the format provided in WIC §5211, unless a responsible person took

possession of the property, in which case the officer shall only include the name of the responsible person in their report and the location of the property [WIC §5150(e)].

#### **418.12 MENTAL HEALTH DOCUMENTATION**

The officer shall complete an Application for 72-Hour Detention for Evaluation and Treatment form (Application) stating the circumstances under which the person's condition was called to the attention of the officer, or other individual authorized by statute who has probable cause to believe that the person is, as a result of mental disorder, a danger to others, or themselves, or gravely disabled. The officer shall additionally complete a Synoptical Report, to include sufficient information in the narrative establishing the basis for the WIC §5150 detention.

When using the Application form to document a WIC §5150 detention or self-commitment, members shall complete the form in its entirety, ensuring a case number is assigned. When additional space is needed to adequately document the incident, a supplemental report form shall be utilized.

Whenever a firearm or other dangerous weapon is involved, taken into temporary custody and booked, a full investigative report shall be completed by the officer. A full report is needed by the courts to permanently seize firearms owned by a person who has been detained for examination of their mental condition.

The officer shall also provide a verbal summary to EMS personnel or hospital staff members regarding the circumstances leading to the involuntary detention and provide them with the first page of the Application.

The officer shall retain the second page of the Application, submitting it to Records by the completion of their shift.

When utilizing a DBH (MH 1, 2, 3 or 4) or a Kings View clinician (MH 52, 54, 55 or 56) and a person is placed on a WIC §5150 hold by the clinician, the primary patrol officer shall draw a case number and complete a synoptical report. This synoptical report shall include a description of the incident, the criteria that were met for the hold, name / call sign of the clinician placing the hold, and the receiving facility.

#### **418.13 TARASOFF NOTIFICATIONS**

Mental health professionals have a duty to warn in circumstances where the patient has communicated to the psychotherapist a serious threat of physical violence against a reasonably identifiable victim(s). In these situations, the psychotherapist's duty is to make a reasonable effort to communicate the threat to the victim(s) and to a law enforcement agency where the victim(s) reside [Tarasoff v. Regents of the University of California, 17 Cal. 3d 425, 551 P.2d 334, 131 Cal. Rptr. 14 (Cal. 1976)].

Upon receipt of a Tarasoff notification, the receiving member will document the threats and make reasonable efforts to notify the intended victim(s). The member will complete the required 'Law Enforcement Report of Firearms Prohibition' form (attached pg. 9) and submit a copy to the address listed at the bottom of the form. The fact that the form was completed, and all efforts made to notify the intended victim(s) shall be documented in a police report along with a copy of the completed form.

#### **418.14 CRIMINAL OFFENSES**

Any person charged with a crime who may have a mental health disability but does not meet the criteria for a WIC §5150 commitment, should be taken to FCJ and booked without seeking a crisis evaluation. If the person is rejected by FCJ, due to meeting the WIC §5150 criteria, an Application shall be completed in addition to the crime report of the incident, and the subject should be transported to an authorized facility for evaluation. In the event a person is rejected by FCJ due to meeting the WIC §5150 criteria, and the officer believes the person is using that as a ruse to delay booking, a Kings View clinician can be called to the sally port to evaluate the subject. If the Kings View clinician feels the subject is not suicidal, they will provide the officer a sealed, confidential form stating the subject is not

suicidal. The officer will in turn give the sealed form to the jail nurse. Kings View clinicians are the only clinicians that can do this.

If the person has obvious injuries or some other medical condition, they may be taken directly to the hospital.

#### 418.14.1 EXODUS CRISIS STABILIZATION CENTER

In the event the arrestee is transported for evaluation to Exodus, located at 4411 E. Kings Canyon, an officer shall follow EMS to the facility. On arrival, the officer should contact their supervisor to determine if a stand-by is appropriate. When the arrestee is in custody for a non-violent felony that will likely result in an "own recognizance" (OR) release from FCJ, the officer will check the "Notifications To Be Provided To Law Enforcement Agency" box on the Application. The arrestee can be left at Exodus, a "secure" facility pending release. The arresting officer will complete and submit a NIC ePCD. Exodus staff will contact FPD when the evaluation of the arrestee is complete, and they are ready for transportation to jail. The responding officer will retrieve, complete, and submit the ePCD for judicial review/approval at the time of booking.

When the arrestee to be evaluated is in custody for a violent felony in which booking and retention in FCJ is likely, the officer will again check the "Notifications To Be Provided To Law Enforcement Agency" box on the Application. The officer will remain outside the Exodus facility, in a location that best allows monitoring, which could prevent escape, until Exodus staff notify the arrestee has been evaluated and can be booked at FCJ. If the arrestee cannot be booked into FCJ for an extended period (i.e., admitted into inpatient facility etc.), the officer shall notify their immediate supervisor. The supervisor shall assess the factors surrounding the arrestee and, if necessary, contact the Field Commander to determine the final disposition of the arrestee. Officers should not disarm or cover their uniform with an outer garment prior to entering Exodus or any other medical facility for stand-by or a call for service.

#### 418.14.2 CRMC SPECIALTY CARE UNIT

In the event the arrestee is transported for evaluation to the Specialty Care Unit (SCU), located within the CRMC emergency department, an officer shall follow EMS to the hospital. On arrival, the officer should contact their supervisor to determine if a stand-by is appropriate. When the arrestee is in custody for a non-violent felony that will likely result in an "own recognizance" (OR) release from FCJ, the officer will check the "Notifications To Be Provided To Law Enforcement Agency" box on the Application. The arrestee can be left at the SCU, a "secure" facility pending release. The arresting officer will complete and submit a NIC ePCD. SCU staff will contact FPD when the evaluation of the arrestee is complete, and they are ready for transportation to jail. The responding officer will retrieve, complete, and submit the ePCD for judicial review/approval at the time of booking.

When the arrestee to be evaluated is in custody for a violent felony in which booking and retention in FCJ is likely, the officer will standby with the arrestee. The officer will stand by until SCU staff notify the arrestee has been evaluated and can be booked at FCJ. If the arrestee cannot be booked into FCJ for an extended period (i.e., admitted into hospital etc.), the officer shall notify their immediate supervisor. The supervisor shall assess the factors surrounding the arrestee and, if necessary, contact the Field Commander to determine the final disposition of the arrestee. Officers should not disarm or cover their uniform with an outer garment prior to entering the SCU or any other medical facility for stand-by or a call for service.

### **418.15 SELF-COMMITMENTS OR PERSON NOT MEETING THE CRITERIA FOR A HOLD**

A self-commitment is defined as a person who voluntary seeks evaluation by a mental health professional without meeting the criteria for a WIC §5150 hold.

Calls from individuals for self-committals will be turned over to American Ambulance when there are no known threats of violence, possession or display of weapons, assaultive behavior, or information leading the Department to believe the person presents a danger to themselves or others.

Officers should arrange for an ambulance to transport the person to a medical facility for examination.



Officers shall add supplemental information to the narrative of the Synoptical Report to include the reason the person did not meet the criteria for WIC §5150 (e.g., person voluntarily went to the hospital, etc.) and the disposition of the event. Members shall complete a Synoptical report that includes a description of the incident and the circumstances surrounding the self-commitment.

#### **418.16 ATTEMPTED SUICIDES**

When any person has attempted suicide, the person shall be transported to the nearest hospital designated as an evaluation center for medical treatment and evaluation by a Crisis Worker for WIC §5150 admission unless medical personnel determine it is in the patient's best interest, due to medical necessity, to be transported to the closest medical facility.

#### **418.17 WALKAWAYS FROM MENTAL HEALTH FACILITIES**

Certain members of the Fresno County Mental Health Department and certain private mental health practitioners on contract to the County, may pre-designate a patient as being subject to detention under WIC §5150 based on the patient's history, regardless of the patient's outward behavior when located.

Members taking a report of a person missing from a mental health facility shall ask the RP if he or she is empowered to make this pre-designation for WIC §5150 commitment for the missing person. When this designation is to be applied, it shall be noted in the "requested disposition" blank on the face sheet with explanation in the narrative. The requested disposition shall also be noted in all broadcast sheets, teletypes and computer entries.

When a missing patient is not subject to a pre-designated WIC §5150 commitment but was placed at the mental health facility under conservatorship, members shall determine where the RP would like the person taken when located. This information shall be included in the report, broadcast sheets, teletypes, and computer entries.

When taking a report of a missing person, members shall inquire about the person's mental health status, and shall consider implementing the procedures identified under Policy §332 (Missing Person Reporting), when the person seems to be in danger due to their mental health disability.

#### **418.18 NON-SWORN MEMBERS**

When a non-sworn Department member comes into contact with a person who may be experiencing a mental health or emotional crisis, they should:

- (a) Treat the person with dignity and respect;
- (b) Be aware and understand that the person may make unusual or bizarre claims or requests; and
- (c) Proceed patiently and in a calm manner.

If the person's behavior makes the member feel unsafe, if the person is or becomes disruptive or violent, or if the person acts in such a manner as to cause the member to believe that the person may be harmful to themselves or others, the member shall notify ComCen for an officer response.

When the person in crisis is in the HQ Lobby requesting assistance, the member will notify the on-duty Lobby Guard to assist the person when necessary.

#### **418.19 TRAINING**

The Fresno Police Department will provide officers training on interaction with persons with mental health disabilities, welfare checks, 5150 commitments, de-escalation, tactical communication, and crisis intervention (PC §11106.4; PC §13515.25; PC §13515.27; PC §13515.30).

CASE NUMBER: \_\_\_\_\_

**FRESNO POLICE DEPARTMENT  
RELEASE OF FIREARM ADVISEMENT**

You are hereby notified that the California Department of Justice records indicate that Name: \_\_\_\_\_ DOB: \_\_\_\_\_ is a person not eligible to own, possess or have access to a firearm or other deadly weapon. They are a person described in California Penal Code Section 29800(a)(1) or 29805 (a), or as a person described in Welfare and Institutions Code (WIC) Section 8100 or 8103, or as a person described in Section 922 of Chapter 44 of Title 18 of the United States Code.

\*\*\*\*\*

**California Welfare and Institutions Code 8101**

(a) Any person who shall knowingly supply, sell, give, or allow possession or control of a deadly weapon to any person described in Section 8100 or 8103 shall be punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail for a period of not exceeding one year, by a fine of not exceeding one thousand dollars (\$1,000), or by both the fine and imprisonment.

(b) Any person who shall knowingly supply, sell, give, or allow possession or control of a firearm to any person described in Section 8100 or 8103 shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for two, three, or four years.

(c) "Deadly weapon," as used in this section has the meaning prescribed by Section 8100.

\*\*\*\*\*

By signing this document you are acknowledging that you reside with (and/or) are a caretaker for the person named above. You understand the prohibitions imposed on the person named above and your responsibilities pursuant to the above code.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_



CALIFORNIA DEPARTMENT OF JUSTICE

BUREAU OF FIREARMS

LAW ENFORCEMENT REPORT OF FIREARMS PROHIBITION

(Welfare and Institutions Code (WIC) 8100(b)(1) & 8105(c))



\* Required Information

CONFIDENTIAL

LAST NAME*		FIRST NAME*		MIDDLE NAME	
ALIAS LAST NAME (If Any)		ALIAS FIRST NAME		ALIAS MIDDLE NAME	
SUBJECT'S MAILING ADDRESS*		CITY*		STATE*	ZIP*
DATE OF BIRTH*	APPROX. AGE*	SOCIAL SECURITY NUMBER		DRIVER'S LICENSE/ID NUMBER	
Mo	Day	Yr			
SEX	RACE	HEIGHT	WEIGHT	EYE COLOR	HAIR COLOR
DATE THREAT REPORTED TO LAW ENFORCEMENT*		LAW ENFORCEMENT REPORT NUMBER*		LAW ENFORCEMENT AGENCY ORI NUMBER	
Mo	Day	Yr			
LAW ENFORCEMENT AGENCY*			AGENCY TELEPHONE NUMBER*		
			( )		
LAW ENFORCEMENT AGENCY CONTACT PERSON*		TITLE		DATE*	
				Mo	Day
					Yr

INSTRUCTIONS

REPORTING REQUIREMENTS PURSUANT TO SECTIONS 8100(b)(1) and 8105(c) WIC

Pursuant to section 8100(b)(1) WIC, any person who communicates to a licensed psychotherapist, a serious threat of physical violence against a reasonably identifiable victim or victims, is prohibited from possessing, having under custody or control, purchasing, receiving, or attempting to purchase or receive any firearms or other deadly weapon for six months. Pursuant to section 8105(c) WIC, licensed psychotherapists shall immediately report the identity of persons subject to this prohibition to local law enforcement. The firearms prohibition begins on the date the licensed psychotherapist reports the identity of the prohibited person to the local law enforcement agency. **Upon receipt of the report from the licensed psychotherapist, the local law enforcement agency must immediately complete and submit this report to the Department of Justice (DOJ), Bureau of Firearms.**

ATTENTION

Name, date of birth or approximate age, sex, race, subject's complete address, date threat reported to law enforcement, law enforcement report number, law enforcement agency, law enforcement agency contact person, agency telephone number, and the date are required.

**DOJ is required to notify the individual of the firearms prohibition by certified mail. This form must include the subject's complete mailing address.**

If you have any questions regarding the firearms prohibition or reporting requirements pursuant to section 8100(b)(1) and 8105(c) WIC or to order more forms, contact the DOJ, Bureau of Firearms at (916) 263-4887.

SUBMIT COMPLETED FORM TO:

Department of Justice  
 Bureau of Firearms - Prohibition Reporting Unit  
 P.O. Box 168048  
 Sacramento, CA 95816-8048

PLEASE RETAIN A COPY FOR YOUR RECORDS

#### **420.1 POLICY**

The Department will comply with the State Legislature's intent to release all persons on misdemeanor citations, if qualified for such release.

##### **420.1.1 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.

#### **420.2 STATUTORY REQUIREMENTS**

Citation releases are authorized by PC §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; or
- (b) A Crime Scene Bureau release is when a violator is released after being transported to the Prisoner Processing Section and processed.

#### **420.3 DEPARTMENT PROCEDURE**

The following procedure will be followed to comply with PC §853.6. Officers are prohibited from issuing citations in lieu of arrest for crimes classified as felonies or wobblers. In such cases, the arrestee shall be booked into the Fresno County Jail (FCJ) or, when applicable, booked by proxy (Policy §355.10 – Guarding Hospitalized Felons).

TERMINOLOGY: A "cite", "citation", "promise to appear", "ticket" and "notice to appear" are synonymous terms. Misdemeanor drug charges include charges such as Health & Safety Code 11350, HS 11377, HS 11364, and HS 11550.

#### **420.4 MANDATORY ADULT CITATION**

Citations will be issued for all:

- (a) Misdemeanor charges (note the below listed exceptions);
- (b) Warrants for failure to appear for vehicle code infractions (except for DUI related charges and jail warrants); or
- (c) Any out-of-county warrant when so directed by the issuing authority.

**Exceptions:** The following misdemeanor violators shall be booked into jail, unless a citation is approved by a supervisor (i.e. hospital standby, rejection by jail, etc.):

- (a) Any misdemeanor involving a gun, to include brandishing a firearm;
- (b) Any domestic violence related offense;
- (c) Petty theft with prior petty theft convictions;
- (d) Any bench warrant; or
- (e) Any misdemeanor arrest warrant.

#### **420.5 DISQUALIFYING CIRCUMSTANCES**

PC §853.6(i) specifies that a person arrested for a misdemeanor will be released on a "Notice to Appear" unless one of following is present:

- (a) The person arrested is so intoxicated that they could be a danger to themselves or others. (NOTE: This person can be "cited" and taken to the Fresno Rescue Mission, nearest hospital, or booked into FCJ);
- (b) The person arrested requires medical examination, medical care or is otherwise unable to care for their own safety;

- (c) The person is arrested for one or more of the offenses listed in Vehicle Code §§40302 and 40303;
  - 1) Officers may cite and release arrestees for Misdemeanor DUI violations pursuant to guidelines set forth in Policy 514.
- (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" and the arresting officer has given them every opportunity to sign. Prior to booking an arrestee for refusal to sign, a field supervisor shall respond to attempt to resolve the matter to eliminate the need for booking;
- (i) There is reason to believe that they would not appear at the time and place specified in the "Notice to Appear" (The basis for this determination will be specifically stated);
- (j) The subject is arrested for a violation of PC §243(e)(1), §646.9 or a protective order involving domestic violence when:
  - 1) The detained person made threats to kill or harm;
  - 2) Has engaged in violence against; or
  - 3) Has gone to the residence or workplace of, the protected party; and
- (k) Any out of county warrant when so directed by the issuing authority

When a person is arrested on a misdemeanor offense and is not released by citation, the reason for non-release will be noted on the booking form.

#### **420.6 JUVENILE CITATIONS**

When a juvenile is to be cited for any traffic offense (infraction or misdemeanor), or any infraction non-traffic offense, members shall utilize the standard Traffic/Misdemeanor Citation Form. When a juvenile is to be cited for any misdemeanor non-traffic offense, the Juvenile Arrest Report (JAR) will serve as the citation (Policy §324).

##### **420.6.1 JUVENILE TRAFFIC OFFENSES**

These matters require a mandatory appearance and the "To Be Notified" box shall be checked on the citation. The Court will notify the parties of their court date. These violations will be cited to the "M" Street Courthouse located at 2317 Tuolumne Street, Fresno, CA 93721, (559) 457-1700.

#### **420.7 SPECIFIC VIOLATORS**

- (a) Elected Officials - All elected officials are subject to the same "rules of the road" as other citizens and have no legislative immunity.
- (b) Non-Residents - Traffic violators who are not residents of the State of California are handled in the same as any other traffic violator.
- (c) Military Personnel - Military personnel are handled in the same as any other traffic violator.
- (d) Public Carriers - Public carriers (e.g. buses, taxis, limos, etc.) are handled in the same manner as any other traffic violator.

#### **420.8 PRISONER PROCESSING SECTION RELEASES**

In certain cases, it may be impractical to issue a citation and release a person in the field. Instead they may be released after they have been processed at the Prisoner Processing Section (unless disqualified for reasons listed below).

## 420.9 DOCUMENTATION

- (a) Most incidents involving a citation release require a case number.
- (b) Traffic violations and some Fresno Municipal Code violations can be documented on the reverse side of the officer's (pink) copy of the citation (see below).
- (c) Penal Code sections will require a case number to document the incident.
- (d) This section does not preclude an officer from requesting a case number if they feel the situation could be documented more thoroughly in a report.

All of the applicable specific instructions for completion of Traffic Citations apply to Adult Misdemeanor Citations. Adult misdemeanants who are to be issued a misdemeanor citation shall have their right thumb print placed in the citation fingerprint box, including drivers cited for VC §12500. When a right thumb print is unobtainable, another acceptable finger print may be used. A notation shall be made next to the fingerprint box as to which print was obtained when the print was anything other than the right thumb print. The Department issued fingerprint pad shall be utilized to obtain the print.

A report will be written for all misdemeanor citations with the exception of warrant service and violations of VC §§12500(a), and Fresno Municipal Code §9-2503, FMC §14-1801(a), FMC §14-1805, FMC §9-2512, FMC §5-507. These will be processed as infractions unless the officer wishes misdemeanor charges filed and indicates so in a report.

## 420.10 PRISONER PROCESSING AT CSIB

- (a) The "Booking Required" box shall be marked on all applicable misdemeanor citations when the person is not processed at the Prisoner Processing Section.
- (b) The person being cited shall be advised that they must be fingerprinted and photographed prior to their court appearance.
- (c) They shall be instructed to appear at the Prisoner Processing Section for this purpose during normal business hours with their copy of the citation.
- (d) If their copy is not available, a duplicate must be obtained from the Records Bureau prior to the processing.

**Exceptions:** Persons cited for: HS §§11357(b) or 11360(b), violations of the FMC or the Business & Professions Code, non-FPD warrants, and traffic misdemeanors are not subject to processing through the Prisoner Processing Section. On citations issued for these charges, the "Booking Required" box shall not be marked, and the person cited shall not be advised to report for processing.

## 420.11 DISTRIBUTION OF CITATIONS

Citations will be distributed as follows:

- (a) The green original is the court's copy. It is submitted to Records;
- (b) The yellow copy is given to the violator;
- (c) The pink copy is retained for four years by the member(except in a private person's / citizen's 's arrest or cancellation); and
- (d) The white "hard" copy is submitted the same as the green original.

## 420.12 CANCELING CITATIONS

### 420.12.1 TO CANCEL WHEN VIOLATOR COPY HAS NOT BEEN DELIVERED

- (a) Write "canceled" across all copies of the citation, initial and date.
- (b) Write an explanation on the back of the hard copy.
- (c) Submit it to a supervisor to review and sign the back of the hard copy.
- (d) Forward to the Records Bureau

### 420.12.2 CANCELING WHEN VIOLATOR IS BOOKED INSTEAD

To cancel when a citation has been started or completed but the suspect is instead booked on the violation:

- (a) The citation will be canceled as above;
- (b) If the arrest is "failure to sign" a citation [VC §40302(b)], the original (green) copy of the citation will be booked as evidence;
- (a) The pink copy will be retained by the officer;
- (b) All remaining copies will be forwarded along with the case number to the supervisor; and
- (c) The supervisor will forward them to PLO.

#### 420.12.3 CANCELING INVALID TRAFFIC CHARGES (VOIDING)

A memo must be written to both the supervisor and PLO supervisor explaining the need and request of them to "void" any issued citation.

#### 420.12.4 CANCELING INVALID NON-TRAFFIC MISDEMEANOR CHARGES

When an arrested person has signed and received a copy of a non-traffic misdemeanor citation and the officer determines that the "notice or citation" should be dismissed, the issuing officer will:

- (a) Prepare a PC §849 release form;
- (b) Deliver the arrestee's copy in person or by mail;
- (c) Forward the remaining copies to Records; and
- (d) The reason for the release and the fact that the forms were completed and distributed will be documented in an Original or a Supplemental Report.

#### 420.13 FIELD RELEASE CITATIONS

Upon obtaining satisfactory identification and verifying that there are no outstanding warrants for the individual, officer(s) may issue citations to all persons 18-years of age or older.

Officers may also issue citations to those taken into custody on a private person arrest for a misdemeanor offense, when appropriate.

#### 420.13.1 FIELD RELEASE OF PERSONS ARRESTED FOR MISDEMEANOR DRUG CHARGES

When an officer arrests an adult for misdemeanor drug charges (Section A above) only, the officer shall give the arrestee the option of being taken to the Fresno Rescue Mission (310 G. St.) drug treatment program in lieu of being released on their promise to appear. Persons on supervised release are not eligible for this option. When an arrestee chooses to be taken to the Fresno Rescue Mission, the officer will:

- (a) Complete the citation normally and have the arrestee sign the citation before release to a staff member whose name will be included in the police report; and
- (b) Not include a court date but will complete a police report and forward to PLO.
  - 1) Should the arrestee complete the six month drug program, CLO/PLO staff will prepare a PC §849b and prepare a follow up report documenting the arrest as a detention; however
  - 2) If the arrestee fails to complete the drug program, PLO will forward the report and citation to the Fresno County District Attorney's Office for review and prosecution.

When the person refuses to be taken to the drug treatment program, the officer will complete the citation per Section 420.16 below.

#### 420.14 PARKING CITATIONS AND VIOLATIONS

Parking violations will be issued using the "City of Fresno Parking Citation" form. No other violations may be cited on this form and parking violations may not be issued using any other form.

The form is self-explanatory, with the following exceptions:

- (a) The month and year that the registration tabs expire will be written next to the vehicle license number;
- (b) The bottom right line with no pre-printed sections is used for parking violations that are not listed on the citation;

- (c) When the pre-printed violations are being charged, a large "X" shall be entered in the corresponding box in the right column;
- (d) The yellow copy will be given to the violator or left on the windshield or other clearly visible location. The green and white copies are put in the HQ "lobby box";
- (e) When there is an error and the violator's copy is available, the citation will be corrected as described above; and
- (f) When there is an error and the violator's copy is not available, the member will write "VOID - ISSUED IN ERROR" across the face of the citation. The member will write an explanation on the back of the hard copy. It will be submitted to their supervisor (who will review and sign the back of the hard copy). (NOTE: Routing is the same as valid citations).

#### **420.15 SIMULTANEOUS CITABLE AND ARRESTABLE VIOLATIONS**

When a suspect is arrested for both an infraction(s) and/or misdemeanor(s), and is being booked on a warrant or parole/probation violation, they will be "cited" for the infraction(s) and/or misdemeanor(s), (except in the case of misdemeanor domestic violence charges [PC §273.6, PC §243(e)(1), or PC §166(c)(1) where booking is necessary].

They will be cited before being transported to the FCJ for booking. All misdemeanors and infractions from the same case can be included on the same citation(s). In the case of a misdemeanor (including domestic violence charges), a PCD is required when booking a suspect who is also being booked for a probation hold, parole hold or warrant. [Except PC §647(f)]

#### **420.16 INSTRUCTIONS TO CITED PERSON**

The citing officer will, at the time they ask the suspect to sign the "Notice to Appear", tell them the time and place for appearance and take any other steps they deem necessary to ensure that the suspect understands the written "Notice to Appear". Unless otherwise noted, all persons cited will be instructed to appear at 0830 hours 90 calendar days following the issuance of the citation. When the 90th day falls on a Thursday, Saturday, Sunday, or holiday, they will be "cited" for the next business day.

##### **420.16.1 ADULT TRAFFIC INFRACTIONS (INCLUDING MISD VC §12500(a)] AND MC VIOLATIONS)**

Persons "cited" for traffic infractions, VC §12500(a), or "citable" Municipal Code violations will be:

- (a) Directed to the "M" Street Courthouse located at 2317 Tuolumne Street, Fresno, CA 93721, telephone number (559) 457-1700. Officers will mark the box next to the corresponding court; and
- (b) Instructed to read the "warning" on the reverse side of the violator's copy.

##### **420.16.2 OPEN MISDEMEANOR CHARGES / CITABLE FRESNO MUNICIPAL COURT WARRANTS**

Persons "cited" for misdemeanor crimes, or "citable" Fresno Municipal Court warrants will be:

- (a) Directed to Room 402 of the Fresno County Courthouse for non-traffic charges (or combination of traffic and non-traffic). Officers will mark the box next to the corresponding court;
- (b) Instructed to read the "warning" on the reverse side of the violator's copy;
- (c) When citing for misdemeanor drug charges only, all persons cited shall be instructed to appear at 0830 hours 30 calendar days following the issuance of the citation. When the 30th day falls on a Saturday, Sunday, or holiday, they will be "cited" for the next business day.; and
- (d) Officers shall list the cited person's phone number on the citation for misdemeanor drug charges, if available.

##### **420.16.3 APPEARANCE DATE & TIME FOR WARRANT CHARGES**

- (a) The schedule for citation dates and times for misdemeanor warrants may be attained from the CAD Info File A Cite – Misd. & Warrants.
- (b) Suspects arrested on warrants originating outside Fresno County may be booked rather than cited.
- (c) Multiple, same court warrants, require the same appearance date and time.
- (d) For warrants other than those originating in Fresno Court, check the other box and print the name and address of the court cited to and use the date/time of appearance given by the out-of-county agency.



#### 420.16.4 LISTING CHARGES

It is permissible to include misdemeanors and infractions as well as violations from different codes (with the exception of FMC violations which require a separate citation) on the same citation.

A "Citation Continuation Form" will be used if more space is needed (Giving more than one citation under the same case number should be avoided).

#### **420.17 ALTERING, MODIFYING AND CORRECTING CITATIONS**

##### 420.17.1 TO CORRECT ERRORS / OMISSIONS IN TRAFFIC CITATIONS

When an error is identified while the violator's copy of the citation is still available, the citing officer will:

- (a) Correct the error on all four copies by drawing a single line through the error;
- (b) Print the correct information as close as possible to the error;
- (c) Initial the correction; and
- (d) Mark the box in the lower right-hand corner, "Violator's Copy Corrected".

##### 420.17.2 NOTICE OF CORRECTION (AMENDMENT FORM)

When an error or omission is discovered, and the violator's copy of the citation is no longer available, members will not correct the error or omission but will:

- (a) Complete a Notice of Correction and Proof of Service Form;
- (b) Mail the yellow copy of the completed form to the violator;
- (c) Attach the original copy (first page) of the Notice of Correction and Proof of Service Form to the court (green) copy of the citation;
- (d) Submit the citation in the normal manner;
- (e) When the court copy of the citation is not available, the Notice of Correction and Proof of Service Form will be submitted in the same manner as if the citation were attached;
- (f) Maintain the pink copy for their records; and
- (g) Send the white copy (second page) to Records.

When the Notice of Correction and Proof of Service Form is issued to correct an error or omission on a citation returned from the Traffic Court, members will:

- (a) Correct the error or omission; and
- (b) Return the Notice of Correction and Proof of Service Form to the Traffic Court with the citation.

##### 420.17.3 TO CORRECT ERRORS / OMISSIONS IN NON-TRAFFIC CITATIONS

When an addition or correction must be made to a non-traffic citation, the same procedure used for correcting traffic citations will be followed (except when the court copy of the citation is not available, the Correction and Proof of Service form will be placed in an envelope and routed to the PLO).

#### **420.18 CITE AND RELEASE AND MISDEMEANOR WARRANTS**

PC §827.1 allows the release by citation of a person designated in a warrant of arrest unless one of the following exists:

- (a) The misdemeanor involves violence;
- (b) The misdemeanor involves a firearm;
- (c) The misdemeanor involves resisting arrest;
- (d) The misdemeanor involves giving false information to a peace officer;
- (e) The person arrested is a danger to themselves or others due to intoxication or being under the influence of drugs or narcotics;
- (f) The person requires medical examination or medical care or is unable to care for their own safety;
- (g) The person has other ineligible charges pending;
- (h) There is reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be immediately endangered by the release of the person;
- (i) The person refuses to sign the notice to appear;
- (j) The person cannot provide satisfactory evidence of personal identification; and
- (k) The warrant of arrest indicates that the person is not eligible to be released on a Notice to Appear.

## **420.19 WARRANT CITATIONS**

Persons arrested for out-of-county warrants will be booked, unless that agency requests citing. (NOTE: When a citation is issued, a copy of the warrant abstract must be attached to the original citation to ensure proper handling.)

### **420.19.1 CITATION COMPLETION**

Each warrant requires its own citation and will contain no other charges, all under the same case number (except FPD warrants which require a supplemental report under that case number). Otherwise, no report is required when the arrest is for warrants only.

When a person is cited for a warrant, the following six items are required to be listed in the charges section of the citation:

- (a) Specific Charge (Code & Section);
- (b) Classification (Infraction, Misdemeanor, or Felony);
- (c) Warrant Number;
- (d) Judicial District;
- (e) Date of Issue; and
- (f) Bail.

#### **421.1 POLICY**

The Department investigates and enforces violations of various local and state statutes.

##### **421.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide general guidelines for the investigation and enforcement of these violations in an effort to improve the overall quality of life to the community.

#### **421.2 SMOKING IN ENCLOSED PLACES OF EMPLOYMENT**

Labor Code Section 6404.5 became effective January 1, 1998, prohibiting smoking in bars, bar areas, and gaming clubs. Consistent with existing law, the prohibition against smoking applies to areas defined as an "enclosed place of employment," but does not apply in areas such as outside patios.

Any employer who knowingly and intentionally permit(s) smoking in an enclosed space at a place of employment is in violation of LC §6404.5. Likewise, any person who smokes in an enclosed space at a place of employment is in violation of LC §6404.5. LC §6404.5 is an infraction.

Officers will not be dispatched to violations of this section unless another crime is involved. Complaints regarding violations of this section can be directed to the Fresno County Department of Health Tobacco Prevention Program at 559-600-6449.

#### **421.3 MEMBER RESPONSIBILITIES**

Officers shall not be dispatched to CFS regarding violations of LC §6404.5. However, officers in the field who observe a violation of this section may cite the violator(s). Officers should only issue a citation when the person is in the act of smoking or has lighted smoking material in their possession. When the owner of the business is present, they may also be cited. The bartender or server at the business shall not be cited. The presence of smoking material alone, in a business, does not constitute a violation; however, officers may document this information on a Synoptical Report and forward a copy to the ABC Coordinator. Documentation should include, but is not limited to: the presence of ashtrays, smoke in the air, the presence of cigarette butts in the enclosed area, documented observations of code enforcement personnel and/or health inspectors or other related personnel.

When an officer is contacted by a citizen who wants to file a complaint regarding a smoking violation the officer shall advise the citizen of the complaint process and refer them to the Fresno County Department of Health Tobacco Prevention Program at 559-600-6449.

#### **421.4 CITATION PROCESS**

The D.A.'s Office will prosecute violations of LC §6404.5. The Notice to Appear shall be used and no other report is required.

## Fresno Police Department Policy Manual

# Arrest or Detention of Foreign Nationals

### 422.1 POLICY

It is the policy of the Fresno Police Department to enforce applicable laws related to the arrest and/or detention of Foreign Nationals.

#### 422.1.1 PURPOSE AND SCOPE

Article 30 of the Vienna Convention on Consular Relations, operative as to the United States on December 24, 1969, 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 our authorities to notify the consulate upon the person's detention, regardless of whether the detained person(s) request that their consulate be notified. The list of specific countries that the United States is obligated to notify is listed in Table 1 (appendix) or the U.S. Department of State website.

### 422.2 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.

### 422.3 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.

When a foreign national or unauthorized person is detained for a significant period of time, (i.e. any period that extends past the time needed to issue a subject a citation at the scene where the subject was contacted) or is arrested and that subject identifies themselves as a foreign national, whether they are in this country lawfully or unlawfully, the arresting officer shall:

- (a) Notify their supervisor of the situation;
- (b) Attempt to verify the claimant's identity (e.g. valid Matricula Consular or Resident Alien Card);
- (c) Determine what country the foreign national is from (from statements or passport);
- (d) Contact the Duty Office to determine if the foreign national is from a country requiring mandatory notification;
  - 1) When the foreign national is from a country requiring mandatory notification, the officer shall obtain a copy of the Translated Mandatory Consular Notification Statement from the Duty Office, and present the statement to the foreign national. The officer shall then

- contact the nearest Consulate for the foreign national's country as soon as reasonable, advising them of the arrest, and where the foreign national will be detained (FCJ, IDS, etc).
- 2) When the foreign national is not from a country requiring mandatory notification, the officer shall obtain a copy of the Translated Optional Consular Notification Statement from the Duty Office and present the statement to the foreign national. When the foreign national requests notification, the officer shall follow the instructions above. When the foreign national does not want notification, the officer shall not make contact with the Consulate.
  - 3) When the officer is unable to make contact with the Consulate, the duty officer shall contact the California State Officer of Emergency Services (OES) to obtain the Consulate emergency contact number; and
- (e) Include in their report all notifications made.

#### **422.4 ARREST OF PERSON CLAIMING IMMUNITY**

A subject placed under arrest who claims diplomatic consular immunity shall not be physically restrained before verification of the claim unless necessary for the officer's protection. In addition to the requirements listed in Section 422.3, officers shall:

- (a) Initiate telephone verification with the Department of State; and
- (b) Include in their report all notifications made.

Diplomatic agents, consular officers and staff and family members with whom the United States has an agreement may NOT be arrested. If release of the violator will not create additional hazard, adequate information for identification will be obtained and they shall be released.

##### **422.4.1 DUTY OFFICE RESPONSIBILITY**

The Duty Office will retain a copy of the Consular Notification and Access booklet distributed by the U.S. Department of State. When requested, the duty officer shall provide requesting officers:

- (a) A copy of a Translated Notification Statement; and
- (b) The telephone number of the nearest Consulate office.

The duty officer will maintain a log of arrested foreign nationals and record consular notifications therein.

#### **422.5 CITABLE OFFENSES**

A citation shall be issued for ALL violations warranting such action, regardless of immunity status.

- (a) Request identification documents.
- (b) Record the title and country represented on the back of the officer's copy of the citation. DO NOT put on face copy.
- (c) Request the claimant to sign the citation. If refused, the identity and immunity status shall be conclusively established.
- (d) Verified Foreign Nationals are not required to sign the citation. The word "Refused" shall be entered in the signature box.
- (e) All other claimants are subject to Vehicle Code §40302(b).
- (f) The violator shall be released with a copy of the citation.

#### **422.6 TRAFFIC COLLISIONS**

- (a) A Traffic Collision Report shall be completed.
- (b) If the foreign national possesses a Department of State OFM Diplomatic Driver License, a "D" shall be coded in the license box on the report.
- (c) The actual driver license class shall be entered in the misc. box on page two of the report.
- (d) If prosecution is anticipated, the following should be recorded:
  - 1) Claimant's title;
  - 2) Country; and
  - 3) Type of identification presented.

#### 422.7 DRIVING UNDER THE INFLUENCE (DUI)

- (a) Field sobriety tests, including Preliminary Alcohol Screening (PAS) and chemical test, should be offered.
- (b) The test cannot be compelled.
- (c) The subject shall not be permitted to drive and alternate transportation will be arranged.
- (d) A supervisor's approval for release must be obtained.
- (e) All facts should be documented in a Driving Under the Influence (DUI) Arrest-Investigation Report, and Administrative Per Se/Officer's Statement Form (DS 367).
- (f) The Department of State will take appropriate action for the offense.

#### 422.8 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.

- (a) **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.

Diplomatic Agents:

- 1) Have the highest level of immunity;
- 2) Are exempt from arrest or detention and are immune from all criminal prosecution by the host state; and
- 3) Family members have the same level of immunity.

- (b) **Consular Officers** (e.g., consul general, consul, and vice consul) 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. This 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.

Consular Officers:

- 1) Are immune from arrest or detention, except pursuant to a felony warrant;
- 2) Are only immune from criminal and civil prosecution arising from official acts; and
- 3) Family members do not have immunity unless an identification card issued by the Department of State (DOS) states otherwise.

- (c) **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.

Honorary Consuls:

- 1) May be arrested and detained;
- 2) Have limited immunity for official acts, but only as a defense; and
- 3) Family members have no immunity.

#### **422.9 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 Governor's Office of Emergency Services (OES), Law Enforcement Division.

- (a) Department of State identification card containing:
  - 1) Photo;
  - 2) Identifying information;
  - 3) Brief description of immunity status on back.
- (b) Driver's license issued by the Department of State Diplomatic Motor Vehicle Office (DMVO); or
- (c) California Credentials issued by the Governor's Office of Emergency Services, Law Enforcement Division

#### **422.10 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.

- (a) Registered with the U.S. Department of State's Office of Foreign Missions (OFM)
  - 1) Red, white, and blue license plate or
  - 2) The word "Diplomat", "Consul", or "Honorary Consul" on license plate
- (b) Should be run through the National Law Enforcement Telecommunications System (NLETS), designating "US" as the state.

#### **422.11 REPORTS AND FORMS**

A photocopy of each traffic collision report or citation shall be forwarded to the office of the Chief of Police within 48 hours.

The copy should be marked with "Immunity Claim" on the front sheet along with:

- (a) Claimant's title;
- (b) Country; and
- (c) Type of identification presented.

A follow-up memo should be submitted if:

- (a) The violation was flagrant;
- (b) If the claimant was uncooperative; and/or
- (c) If any unusual aspects of enforcement contact took place requiring further action.

The District Commander/Supervisor shall also send the Chief's office:

- (a) Copy of all documents;
- (b) Their notes;
- (c) Logs; and
- (d) Reports submitted by the investigating officer.

The Chief's office will insure that the Department of State is notified and all necessary follow-up occurs.

#### **422.12 VEHICLES**

- (a) Vehicles owned by subjects with immunity may NOT, without their permission, be:
  - 1) Searched;
  - 2) Impounded; and/or
  - 3) Stored.
- (b) The vehicle may be towed the necessary distance to remove it from obstructing traffic or creating any other hazard.

#### **422.13 SUPERVISOR RESPONSIBILITY**

The supervisor shall:

- (a) Respond to the scene of any incident where a person contacted claims some form of immunity;
- (b) Ensure all notifications are made to the U.S. State Department;
- (c) Ensure that the incident is documented in the GI or appropriate report; and
- (d) Complete an Administrative Review Memo.

#### **422.14 RESOURCES (DEPARTMENT OF STATE)**

**Office of Foreign Missions:**  
San Francisco, CA  
(415) 744-2910, Ext. 22 or 23  
(415) 744-2913 FAX  
(0800 - 1700 PST)

**Officer of Foreign Missions:**  
Diplomatic Motor Vehicle Officer  
(202) 895-3521 (Driver's License Verification)  
(202) 895-3532 (Registration Verification)  
(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

**Officer of Foreign Missions:**  
Los Angeles, CA  
(310) 235-6292, Ext. 121 or 122  
(310) 235-6297 FAX  
(0800 - 1700 PST)



### **423.1 POLICY**

Any Department member receiving local Homeland Security or terrorism-related information, through any method of communication, shall report it immediately to the Department's Criminal Intelligence Unit supervisor, electronically, by voicemail, or in writing. The Criminal Intelligence Unit supervisor shall review this information so that it may be relayed to the Joint Terrorism Task Force (JTTF), Sacramento Regional Terrorist Threat Assessment Center (SacRTTAC) or agency, when appropriate. The Criminal Intelligence Unit supervisor will be the Department's Terrorism Liaison Officer Coordinator (TLOC). Trained Terrorism Liaison Officers (TLO) will coordinate information and related activities through the Criminal Intelligence Unit supervisor.

#### **423.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide a city-wide reporting mechanism for known or suspected Homeland Security or terrorism-related activity so the information may be investigated and acted upon in a timely manner.

### **423.2 TERRORISM LIAISON OFFICER (TLO)**

The TLO will act as the central contact point between this Department and the Office of Homeland Security and the Department of Homeland Security. Information exchanged by the TLO should facilitate information sharing and multi-jurisdictional preemption of terrorist acts or events.

### **423.3 HOMELAND SECURITY TLO MESSAGE LINE**

This Department maintains a public message line for information related to Homeland Security and/or local terrorist-related activity. Messages can be left by phoning (559) 621-5904 or by calling Crime Stoppers at (559)498 STOP (7467).

### **423.4 REPORTING PROCEDURES**

When a member receives local Homeland Security or terrorism-related information, they shall provide the Criminal Intelligence Unit supervisor with all relevant information. This information should include but is not limited to:

- (a) A brief synopsis of the information obtained;
- (b) All related event and/or case numbers;
- (c) Source of information, including contact info; and
- (d) Any additional info to aid follow-up.

**Note:** When a report is generated involving these issues, the Criminal Intelligence Unit shall be included in the Special Routing box.

Fresno Police Department Policy Manual  
**Reporting Police Activity Outside of Jurisdiction**

**426.1 POLICY**

Any on-duty or off-duty officer, who engages in law enforcement activities of any type outside the immediate jurisdiction of the City of Fresno, shall notify his or her on-duty supervisor or the Field Commander at the earliest possible opportunity.

**426.1.1 PURPOSE AND SCOPE**

This policy provides a general guideline for reporting police activity while on or off-duty and occurring outside the jurisdiction of the City of Fresno.

**426.2 ASSISTANCE TO AGENCIES OUTSIDE THE CITY**

When an officer is on-duty and is requested by an allied agency to participate in any law enforcement activity in another jurisdiction, they shall obtain prior approval from the immediate supervisor or the Field Commander. If the request is of an emergency nature, the officer shall notify ComCen before responding and thereafter notify a supervisor or Field Commander as soon as practical.

**426.3 FORMS OF IDENTIFICATION / DOCUMENTATION**

Any off-duty officer who engages in any law enforcement activities, regardless of jurisdiction shall notify their immediate supervisor or subsequent supervisor within the chain of command as soon as practical. The supervisor will then be responsible for notifying the district or division commander as needed.

The supervisor shall determine if a case report, event commentary, or other documentation of the officer's activity is required. The report, event or other documentation shall be forwarded through the officer's chain of command up to the division commander.

### **428.1 POLICY**

It is the policy of the Fresno Police Department that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this department in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their immigration status. It is the policy of the Department that officers shall not enforce violations of immigration law/status.

#### **428.1.1 PURPOSE AND SCOPE**

Immigration status alone is not a matter for police action. Awareness of this will increase the effectiveness of the Department in protecting and serving the entire community.

### **428.2 VICTIMS AND WITNESSES**

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and without regard to actual or perceived characteristics such as race, sex, sexual orientation, gender, gender identity or expression, age, ethnicity, religion, creed, color, national origin, disability, marital status, military and veteran status, or any other classification or status protected by law in any way that would violate the United States or California Constitutions.

### **428.3 JURISDICTION AND ENFORCEMENT**

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, etc. When assisting ICE at their specific request, this Department may assist in the enforcement of any suspected criminal violations discovered as a result of inquiries or investigations initiated by ICE.

### **428.4 SWEEPS**

The Fresno 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, socioeconomic status, or other group.

The disposition of each contact (e.g., warning, citation, arrest, etc.), while discretionary in each case, should not be affected by such factors as race, ethnicity, sexual orientation, etc.

#### **428.4.1 BASIS FOR CONTACT**

The fact that an individual is suspected of being an undocumented alien shall not be the basis for contact, detention, or arrest.

### **428.5 DETENTIONS**

An officer shall not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant (Government Code §7284.6). Officers are authorized to take action in response to a Judicial Probable Cause Determination or Judicial Warrant.

### **428.6 ARRESTS**

If the officer intends to take enforcement action and the individual is unable to reasonably establish their true identity, the officer may take the person into custody on the suspected criminal violation (see

Vehicle Code §40302a, and Penal Code §836, if pertinent to the circumstances). A field supervisor shall approve the arrest.

#### **428.7 BOOKING**

If the officer is unable to reasonably establish an arrestee's identity, the individual may, upon approval of a supervisor, be booked into FCJ for the suspected criminal violation and held for bail.

If a person is detained pursuant to the authority of VC §40302(a), for an infraction that person may be detained upon approval of a supervisor for a reasonable period not to exceed two hours for the purpose of establishing their true identity. Regardless of the status of that person's identity at the expiration of two hours, the person shall be released on their signature with a promise to appear in court for the vehicle code infraction involved.

#### **428.8 TRANSFERS TO IMMIGRATION AUTHORITIES**

Members shall not transfer an individual to immigration authorities unless one of the following circumstances exists:

- (a) Transfer is authorized by a judicial warrant or judicial probable cause determination;
- (b) The individual is identified by the U.S. Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

#### **428.9 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 keep-the-peace efforts, or in response to officer safety concerns, during the federal operation. Requests for assistance beyond that described above should be directed to a supervisor. The supervisor is responsible for determining whether the requested assistance would be permitted under the California Values Act, GC §7284.2 et seq. Any detention by a member of this Department should be based upon the reasonable belief that an individual is involved in criminal activity.

#### **428.10 INFORMATION SHARING**

No member of this Department will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC §1373; GC §7284.6):

- (a) Sending information to, or requesting or receiving such information from federal immigration officials;
- (b) Maintaining such information in department records; and
- (c) Exchanging such information with any other federal, state or local government entity.

Nothing in this Policy restricts sharing information that is permissible under the California Values Act.

#### **428.11 CALIFORNIA LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM (CLETS)**

Members shall not use information transmitted through CLETS for immigration enforcement purposes except for criminal history information and only when consistent with the California Values Act (GC §15160).

Members shall not use the system to investigate immigration violations of 8 USC §1325 (improper entry) if that violation is the only criminal history in an individual's record (GC §15160).

#### **428.12 CONSIDERATIONS PRIOR TO REPORTING TO ICE**

The Fresno Police Department is concerned for the safety of local citizens and thus detection of criminal behavior is of primary interest in dealing with any subject. Race, gender, religion, sex, sexual orientation, gender expression or identity, age, occupation, or other arbitrary aspects are of no bearing on the decision to arrest.

#### **428.13 VALID IDENTIFICATION CARDS / "MATRICULA CONSULAR"**

The identification card known as the "Matrícula Consular" is issued by the Mexican Consulate to Mexican citizens who have established residency in the United States. This valid form of identification includes the person's photograph, name, address, date of birth, and a serial number. Department members shall familiarize themselves with the card's security features to determine its authenticity. Department members shall recognize this card as a valid form of identification when attempting to establish a person's identity during an investigation and/or while issuing a misdemeanor citation. This identification card is not to be considered as a valid driver's license.

#### **428.14 U VISA AND T VISA NONIMMIGRANT STATUS**

Under certain circumstances, federal law allows temporary immigration benefits, known as a U Visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)). A law enforcement certification for a U Visa may be completed by an officer in order for a U Visa to be issued.

Similar immigration protection, known as a T Visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)). A law enforcement declaration for a T Visa may be completed by an officer in order for a T Visa to be issued.

Any request for assistance in applying for U Visa or T Visa status should be forwarded in a timely fashion to the U Visa Coordinator. The coordinator should do the following:

- (a) Consult with the assigned investigator to determine the current status of any related case and whether an update on the case is warranted;
- (b) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and that whether a certification or declaration is warranted;
- (c) Review the instructions for completing the certification if necessary. Address the request and complete the certification or declaration, if appropriate, in a timely manner. Instructions for completing Form I-918 Supplement B certification and declaration can be found on the DHS website at <http://www.uscis.gov>;
- (d) Forward the completed Form I-918 Supplement B certification or completed Form I-914 declaration B to the victim, family member, or authorized representative (as defined in Penal Code § 679.10 and Penal Code § 679.11) without requiring the victim to provide government-issued identification (Penal Code § 679.10; Penal Code § 679.11);
- (e) Ensure that any decision to complete or not complete the form is documented in the case file and forwarded to the appropriate prosecutor. A copy of any completed certification or declaration shall be included in the case file;
- (f) If Form I-918 Supplement B is not certified, a written explanation of denial shall be provided to the victim or authorized representative. The written denial shall include specific details of any reasonable requests for cooperation and a detailed description of how the victim refused to cooperate (Penal Code § 679.10); and
- (g) Inform the victim liaison of any requests and their status.

#### **428.15 TIME FRAMES FOR COMPLETION**

Members and their supervisors who are assigned to investigate a case of human trafficking as defined by PC §236.1 shall complete the above process and the documents needed for indicating the individual is a victim for a T Visa application within 15 business days of the first encounter with the victim, regardless of whether it is requested by the victim (PC §236.5).

Members and their supervisors shall complete the above process and the documents needed certifying victim cooperation for a U Visa or T Visa application pursuant to PC §679.10 and PC §679.11 within 30 days of a request from the victim, victim's family, or authorized representative (as defined in PC §679.10 and PC §679.11) related to one of their assigned cases. If the victim is in removal proceedings, the certification shall be processed within 7 days of the first business day following the day the request was received.

#### **428.16 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 the ICE has primary jurisdiction for enforcement of Title 8, USC.

#### **428.17 POLICE REPORTS**

Upon the request of a victim, licensed attorney representing the victim, or representative fully accredited by the United States Department of Justice authorized to represent the victim in immigration proceedings, a state or local law enforcement agency with whom the victim had filed a police report shall provide a copy of the police report after it has been completed, within seven (7) days of the request. (PC §679.10).

#### **428.18 REPORTING TO LEGISLATURE**

The U Visa Coordinator Supervisor shall ensure that certification requests are reported to the Legislature in January of each year and include the number of certifications signed and the number denied. The report shall comply with GC §9795 (PC §679.10; PC §679.11).

#### **428.19 TRAINING**

The Training Manager should ensure that all appropriate members receive training on immigration issues. Training should include:

- (a) Identifying civil versus criminal immigration violations;
- (b) Factors that may be considered in determining whether a criminal immigration offense has been committed; and
- (c) Prohibitions contained in the California Values Act (GC §7284 et seq.).

## Fresno Police Department Policy Manual

### Emergency Utility Service

#### 430.1 POLICY

Upon observing a damaged or malfunctioning signal, utility, water line, electrical line or pole, pump, well or other infrastructure, members will advise the Communications Center (ComCen) of the location and problem. ComCen will make the necessary notification to the proper maintenance agency.

##### 430.1.1 PURPOSE AND SCOPE

The Public Works Department has personnel available to handle emergency calls 24 hours per day. Calls for service during non-business hours are frequently directed to the Police Department. Requests for such service received by this Department should be handled in the following manner.

#### 430.2 BROKEN WATER LINES

If a break occurs on the City side of a water meter, public works should be called as soon as practical by the ComCen.

#### 430.3 ELECTRICAL LINES

City Public Works does not maintain electrical lines to street light poles. When a power line poses a hazard, an officer should be dispatched to protect against personal injury or property damage that might be caused by power lines. Pacific Gas & Electric (PG&E) or Public Works (for a damaged pole) should be promptly notified.

#### 430.4 PUMPS, WELLS, ETC.

Public Works maintains public water equipment, as well as several underpass and other street drainage pumps. In the event of flooding or equipment malfunctions, Public Works should be contacted as soon as possible.

#### 430.5 TRAFFIC SIGNAL MAINTENANCE

The City of Fresno maintains all traffic signals within the City, as well as other areas, but not those belonging to the State of California.

#### 430.6 EMERGENCY NUMBERS

A current list of emergency personnel who are to be called for municipal utility emergencies is maintained by ComCen or can be accessed by 621-CITY (2489).

#### 430.7 OFFICER'S RESPONSIBILITY

When a malfunctioning water line, electrical line or pole, pump, well, or traffic signal creates an immediate hazard, members shall arrange for the direction of traffic and the protection of the public when possible, until the proper maintenance agency can respond.

### **432.1 POLICY**

Only patrol rifles and ammunition that meet agency authorized specifications, approved by the Chief of Police, and issued by the Department may be used by officers in their law enforcement responsibilities.

#### **432.1.1 PURPOSE AND SCOPE**

In order to more effectively and accurately address the increasing level of fire power and body armor utilized by criminal suspects, the Fresno Police Department will make patrol rifles available to qualified patrol officers as an additional and more immediate tactical resource.

### **432.2 DEFINITION**

**Patrol Rifle** – Is an authorized weapon that is owned by the Department and which is made available to properly trained and qualified officers as a supplemental resource to their duty handgun or shotgun. The patrol rifle is not an automatic weapon and will fire in a semi-automatic mode only. No personally owned rifles may be carried for patrol duty unless preapproved in writing by the Chief of Police and the Department Armorer.

### **432.3 DEPLOYMENT OF THE PATROL RIFLE**

The patrol rifle should primarily be used in incidents where there is a need to engage a suspect at a greater distance than would generally be effective with issued Department handguns or shotguns. Members authorized to carry and use the patrol rifle should not use it as a primary entry weapon.

### **432.4 DISCHARGE OF THE PATROL RIFLE**

The discharge of the patrol rifle shall be governed by the Department's Use of Force Policy, Policy §300.

### **432.5 PATROL READY**

When the patrol rifle is taken out on duty with the assigned officer, the rifle shall:

- (a) Be placed in a Department approved case or locking mechanism (e.g., inside of the patrol vehicle or trunk mount unit);
- (b) Be unloaded with the magazine detached from the weapon when in the case;
- (c) Be inside of the case within the patrol vehicle trunk; and
- (d) When the rifle is placed within the patrol vehicle or the trunk mount unit, the magazine may be inserted in the weapon, however, the weapon's chamber must remain unloaded (empty) until the weapon is removed and deployed;
- (e) In the event that the rifle is deployed and a round is chambered, upon completion of the call, the rifle shall be cleared and returned to a Patrol Ready state. This will be accomplished by ensuring the rifle is on safe, removing the magazine, clearing the chamber by locking the bolt to the rear. The Officer shall recover the extracted and ejected round that was in the chamber and place it into the provided ammo storage container. A new round will be retrieved from the provided 20 round box of surplus duty .223 ammunition and placed on top of the magazine that was used to ensure that the magazine contains 28 rounds.

### **432.6 RIFLE MAINTENANCE**

Each patrol officer carrying a patrol rifle is required to maintain the rifle in a state of operational readiness and is subjected to inspection at any time. Additionally:

- (a) Officers may, at their own expense, purchase two spare 30-round factory magazines (Colt or Magpul brand, black in color) for use in addition to the two magazines provided with their Department issued patrol rifle. Ammunition loaded into all additional patrol rifle magazines shall be the same manufacturer and product code as the ammunition issued by the Department.



Prior to carrying any spare magazines and ammunition on-duty, the officer will have the equipment inspected by a Department Armorer;

- (b) Each officer carrying a patrol rifle is required to disassemble and clean an assigned patrol rifle every time it is fired;
- (c) Each officer is responsible for promptly reporting any damage to, or malfunction of, a patrol rifle; and
- (d) No modifications shall be made to any patrol rifle;
- (e) Each officer assigned a patrol rifle will also be issued a 20-round capacity storage container and a surplus box of 20 duty .223 ammunition by the Regional Training Center. When an officer chambers a duty round but is not fired, the chambered round shall be removed and placed into the issued ammo storage container. The officer then shall take one duty round from the surplus box and add it to the magazine that was used to ensure 28 rounds are loaded in their magazine. When the officer fills up the issued storage container with 20 rounds of rifle ammunition that have been chambered once, the officer shall report to the Regional Training Center or the Duty Office to swap the once-chambered rounds with a box of new surplus duty ammunition.

### **432.7 RIFLE STORAGE**

At the end of the shift, the officer shall:

- (a) Return the rifle in an unloaded condition with the magazine detached;
  - 1) Any rounds chambered during the shift shall be removed prior to storage and/or redeployment. That chambered round shall be added to and contained within the storage container issued by the Regional Training Center. The officer then shall load the used magazine with duty .223 ammunition from the surplus box of ammunition provided to ensure the magazine is loaded to a capacity of 28 rounds. (When feasible a clearing barrel is encouraged to be used to extract the chambered round. Officers are reminded of safe weapons handling; high index on the receiver with the trigger finger, place the rifle on safe and point the barrel in a safe direction before extracting a round out of the chamber when a clearing barrel is not available).
- (b) Patrol rifles can be secured in department safes or lockers;
- (c) Place it into the Department safe/locker, within the Department facility, and the safe/locker shall be secured; and
- (d) Ensure there are only 28 rounds in the magazine.

### **432.8 TRAINING / QUALIFICATIONS**

Officers must successfully complete training/qualification as scheduled and conducted by the Department Rangemaster. Training/qualification shall occur no less than annually. Any officer who fails to qualify will no longer be authorized to carry the patrol rifle without successfully retaking the initial patrol officer's user's course and qualification.

### **432.9 RED-DOT SIGHTING SYSTEMS**

Officers may purchase a red-dot sighting system to be used on their department issued patrol rifle. Individually purchased red-dot sighting systems will be limited to 1x magnification (no magnifiers). Authorized red-dot sighting systems will be restricted to the following makes/models:

- (a) Aimpoint Carbine Optic (ACO) or Patrol Rifle Optic (PRO);
- (b) Aimpoint Micro Series;
- (c) EO Tech model XPS2 or 552;
- (d) Trijicon MRO

The Armorer/Rangemaster is the only person authorized to mount an individually purchased red-dot sighting system on a department owned patrol rifle. Prior to deploying the red-dot sight, officers are required to "qualify" with the patrol rifle and optic.

Individually purchased red-dot sighting systems will not be replaced by the Department if they are taken as evidence during an investigation.

## Fresno Police Department Policy Manual

### Aircraft Accidents

#### 434.1 POLICY

Any incident involving an aircraft will be handled according to established procedures in cooperation with appropriate investigative agencies.

##### 434.1.1 PURPOSE AND SCOPE

This policy describes situations involving aircraft accidents including responsibilities of members, making proper notification, and documentation.

#### 434.2 AIRCRAFT ACCIDENT RESPONSIBILITIES

**City of Fresno owned / operated airports** - The Director of Airports, through the Airport Public Safety Manager, is charged with the investigative responsibility for aircraft accidents occurring on City owned or operated airports. Members may be called upon to assist in the investigation.

**Non City of Fresno property** - The Department has responsibility for the investigation of aircraft accidents not occurring on a City owned or operated airport. Members shall notify either the FAA or military personnel, depending of the type of aircraft involved in the accident, and shall give the location and condition on the aircraft.

#### 434.3 FIRST RESPONDER

- (a) Consider establishing a perimeter consistent with any potential hazmat spill that may be present;
- (b) Request additional resources as needed;
- (c) Provide first aid for the injured parties until arrival of FFD or EMS;
- (d) Establish an incident scene; and
- (e) Provide crowd control and other assistance as needed.

#### 434.4 SUPERVISOR RESPONSIBILITIES

The supervisor at the scene of an accident not occurring on City owned or operated airports shall notify the district or field commander of the incident.

The supervisor shall provide the Duty Officer with:

- (a) Time and location of accident;
- (b) Number and degree of casualties;
- (c) Extent of damage to aircraft or other property;
- (d) Aircraft identification number;
- (e) Type and class of aircraft (civilian airplane, single-engine or military jet, twin engine, etc.);
- (f) Owner and pilot's name and address;
- (g) Whether or not United States mail was being carried; and
- (h) A description of any hazardous materials on board.

#### 434.5 DUTY OFFICE RESPONSIBILITIES

Upon receipt of the incident details from the supervisor, the CSU duty officer shall contact the following agencies and provide the needed details of the accident:

- (a) The FAA Western Regional Duty Officer;
- (b) City of Fresno, Department of Airports – Duty Captain; and
- (c) U.S. Postal authorities when the aircraft was carrying mail.

#### **434.6 DOCUMENTATION**

Aircraft accidents shall be documented with the following:

- (a) Casualty Report for aircraft accidents involving injuries or fatalities;
- (b) GIR for non-injury aircraft accidents; or
- (c) Traffic Collision Report when a motor vehicle or bicycle in transport on a roadway or highway is involved in a collision with an aircraft.

#### **434.7 UNAUTHORIZED LANDING**

The landing of an aircraft at a location other than a designated airport, not resulting in death, injury, or damage to any property, shall not be classified as an aircraft accident but should be investigated by the Department for possible law violations.

#### **434.8 PHOTOGRAPHS**

When the aircraft accident scene involves civilian aircraft, members shall have photographs taken by the Crime Scene Bureau. Military aircraft will not be photographed.

## Fresno Police Department Policy Manual

### Field Training Program

#### 436 Field Training Officer Program

##### 436.1 POLICY

The Department will assign all new police officers to a structured Field Training Program (FTP) that is designed to prepare them to perform in a patrol assignment, possessing all skills and knowledge required to operate in a safe, skillful, productive and professional manner.

##### 436.1.1 PURPOSE AND SCOPE

The FTP is intended to provide a standardized program to facilitate an officer's transition from the academic setting to their actual performance of general law enforcement duties of the Fresno Police Department.

##### 436.2 DEFINITIONS

**Field Training Officer (Corporal / FTO)** - An experienced officer trained in the art of supervising, training and evaluating entry level and lateral police officers in the application of their acquired knowledge and skills. Corporals/FTOs must also possess extensive knowledge of current Department policy and procedure, penal codes and case law.

**Trainee** – Any recruit or lateral police officer newly appointed to the Fresno Police Department who has successfully completed a POST approved Basic Academy.

##### 436.3 TRAINING REQUIREMENTS

Recruit and lateral officers shall be required to successfully complete the FTP.

The training period for lateral officers may be modified depending on their demonstrated performance and level of experience.

##### 436.4 CORPORAL / FTO SELECTION

A Corporal / FTO will be selected based on the following considerations:

- (a) Desire to be a Corporal/ FTO;
- (b) Applicants must have four years of experience in patrol matrix duties to apply for the position. Corporal candidates may substitute one year of service if they possess a four year degree from an accredited college. Corporal candidates may substitute two years of service if they have completed two or more years of sworn patrol officer service with another CA city police department or CA county sheriff's department;
- (c) Demonstrated ability to serve as a positive role model, based upon written Commander recommendation;
- (d) Successful completion of a written exam with a score of 80%;
- (e) Successful completion of an oral interview with a score of 80%;
- (f) Peer evaluation process;
- (g) Most recent performance evaluation;
- (h) Written Letter of Recommendation by supervisor(s); and
- (i) Internal Affairs discipline history.

An eligibility list of those who successfully pass the selection process will be established. The list will remain valid for two years.

Corporals and FTOs will be required to take and pass a written skills test with a score of 80% every three years to demonstrate retention of knowledge.

### **436.5 FTO TRAINING**

An officer selected as a Corporal/FTO shall successfully complete a POST certified (40 hour) Field Training Officer's Course prior to being assigned as a Corporal/FTO.

All Corporals/FTOs must complete a 24-hour Field Training Officer update course every three years while assigned to the position of Corporal/FTO (11 California Code of Regulations 1004). All Corporals/FTOs must also complete a CIT training course certified by POST (Penal Code §13515.28).

### **436.6 FTO TRAINING MANUAL**

The FTO manual shall govern the operations of the FTP and its various components. This includes program timetables, documentation (e.g., DORs (Daily Observation Reports), written examinations, summary evaluations, BOEs (Board of Evaluations), remedial components, etc.)

Each new officer will be issued a FTP Officer Training Guide at the beginning of their Primary Training Phase. This manual is an outline of the subject matter and/or skills necessary to properly function as an officer with the California State Master Police Department. The officer shall become knowledgeable of the subject matter as outlined. They shall also become proficient with those skills as set forth in the manual.

### **436.7 FIELD TRAINING PROGRAM SUPERVISOR**

The Field Training Program supervisor will be selected from the rank of sergeant by the Personnel Bureau Commander or their designee and should possess, or be eligible to receive, a POST Supervisory Certificate.

The responsibilities of the FTP supervisor include the following:

- (a) Assignment of trainees to Corporals/FTOs;
- (b) Conduct Corporal/FTO meetings;
- (c) Maintain and ensure FTO/trainee performance evaluations are completed;
- (d) Maintain, update and issue the FTP Officer Training Guide to each trainee;
- (e) Monitor individual Corporal/FTO performance;
- (f) Monitor overall FTP;
- (g) Maintain liaison with Corporal/FTO coordinators of other agencies;
- (h) Maintain liaison with academy staff on recruit performance during the academy;  
and
- (i) Develop ongoing training for Corporals/FTOs.

### **436.8 TRAINEE EVALUATIONS**

Evaluations are an important component of the training process and shall be completed as outlined below.

#### **436.8.1 CORPORAL/FTO RESPONSIBILITIES**

The Corporal/FTO will be responsible for the following:

- (a) Complete and submit a written evaluation on the performance of their assigned trainee to the FTO Coordinator on a daily basis;
- (b) Review the DOR with the trainee each day;
- (c) Complete a detailed end-of-phase performance evaluation on their assigned trainee at the end of each phase of training; and
- (d) Sign off all completed topics contained in the FTP Officer Training Guide.

#### **436.8.2 IMMEDIATE SUPERVISOR**

The immediate supervisor shall review and approve the DORs and forward them to the Field Training Administrator.

#### 436.8.3 FIELD TRAINING ADMINISTRATOR

The Field Training Administrator will review and approve the DORs submitted by the Corporal/FTO through their immediate supervisor.

#### 436.8.4 TRAINEE

At the completion of the Field Training Program, the trainee shall complete an exit evaluation process.

#### **436.9 DOCUMENTATION**

All documentation of the Field Training Program will be retained in the officer's training files and will consist of the following:

- (a) Daily Observation Reports;
- (b) End of phase evaluations; and
- (c) A Certificate of Completion certifying that the trainee has successfully completed the required number of hours of field training

## Air Support

### 438.1 POLICY

Department members may request air support in order to maximize officer safety and facilitate the goals of the department.

#### 438.1.1 PURPOSE AND SCOPE

The use of a police helicopter or airplane can be invaluable in certain situations. These general rules/guidelines specify potential situations where the use of air support may be requested.

### 438.2 REQUEST FOR AIR SUPPORT

When a member determines that the assistance of air support would be beneficial, a request can be made through ComCen.

### 438.3 CIRCUMSTANCES UNDER WHICH AID MAY BE REQUESTED

Air support may be requested under any of the following conditions:

- (a) When air support is activated under existing mutual aid agreements;
- (b) When the safety of law enforcement personnel are in jeopardy and the presence of air support may reduce such hazard;
- (c) When the use of air support can aid in the capture of a suspected fleeing felon whose continued freedom represents an ongoing threat to the community;
- (d) When air support is needed to locate a person who is lost and whose continued absence constitutes a serious health or safety hazard;
- (e) Vehicle pursuits; or
- (f) Any other situation deemed appropriate and approved by a commander or their designee.

### 438.4 REQUEST FOR AIR SUPPORT FROM ANOTHER AGENCY

Members can request the assistance of air support from neighboring agencies which shall be coordinated through ComCen.

These requests should include the reasons for requesting their assistance and the type of assistance needed (helicopter, airplane, etc.).

### 438.5 REQUEST FOR FIXED WING AIRCRAFT

Members needing the services of the fixed wing aircraft should make a request in advance through the supervisor of Skywatch Air Support Unit or designee.

Requests when possible should be made in writing and should include the reason for the request, including the type of investigation, dates needed, and the amount of time anticipated each day.

Requests received less than 48 hours in advance may not be considered.

## Fresno Police Department Policy Manual

# small Unmanned Aerial Systems (sUAS)

### 439 Small Unmanned Aerial Systems (sUAS)

#### 439.1 POLICY

Unmanned aerial systems may be utilized to enhance the Department's mission of protecting lives and property when other means and resources are not available or are less effective. Any use of a small unmanned aerial system (sUAS) will be in strict accordance with Constitutional and privacy rights and Federal Aviation Administration (FAA) regulations. Department members may request a sUAS for assistance in order to maximize officer safety and facilitate the goals of the Department.

##### 439.1.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of a sUAS and for the storage, retrieval and dissemination of images and data captured by the sUAS.

#### 439.2 DEFINITIONS

**Certificate of Waiver or Authorization (COA)** - Authorization issued by the FAA for gaining approval when there is a need to operate a sUAS outside of the provisions of FAA Part 107.

**FAA Part 107** - Rules for operating sUAS (other than model airplanes) set by the Federal Aviation Administration (FAA).

**Small Unmanned Aerial System (sUAS)** - An unmanned aircraft of any type that is capable of sustaining directed flight, whether preprogrammed or remotely controlled (commonly referred to as an unmanned aerial vehicle (UAV)), and all of the supporting or attached systems designed for gathering information through imaging, recording or any other means.

#### 439.3 PRIVACY

The use of the sUAS potentially involves privacy considerations. Absent a warrant or exigent circumstances, operators and observers shall adhere to FAA altitude regulations and shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure). Operators and observers shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy. Reasonable precautions can include, for example, deactivating or turning imaging devices away from such areas or persons during sUAS operations.

#### 439.4 PROGRAM COORDINATOR

The Chief of Police will appoint a program coordinator who will be responsible for the management of the sUAS program. The program coordinator will ensure that policies and procedures conform to current laws, regulations and best practices and will have the following additional responsibilities:

- (a) Coordinating the FAA Certificate of Waiver or Authorization (COA) application process and ensuring that the COA is current;
- (b) Ensuring that all authorized operators and required observers have completed all required FAA and Department-approved training in the operation, applicable laws, policies and procedures regarding use of the sUAS;
- (c) Developing uniform protocol for submission and evaluation of requests to deploy a sUAS, including urgent requests made during ongoing or emerging incidents;
- (d) Developing protocol for conducting criminal investigations involving a sUAS, including documentation of time spent monitoring a subject;
- (e) Implementing a system for public notification of sUAS deployment;
- (f) Developing an operations manual governing the deployment and operation of a sUAS including, but not limited to, safety oversight, use of visual observers, establishment of lost link procedures and secure communication with air traffic control facilities;



- (g) Developing a protocol for fully documenting all missions;
- (h) Developing a sUAS inspection, maintenance and record-keeping protocol to ensure continuing airworthiness of a sUAS, up to and including its overhaul or life limits;
- (i) Developing protocols to ensure that all data intended to be used as evidence are accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, authenticity certificates and date and time stamping, shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody;
- (j) Developing protocols that ensure retention and purge periods are maintained in accordance with established records retention schedules;
- (k) Facilitating law enforcement access to images and data captured by the sUAS;
- (l) Recommending program enhancements, particularly regarding safety and information security;
- (m) Ensuring that established protocols are followed by monitoring and providing periodic reports on the program to the Chief of Police; and
- (n) Maintaining familiarity with FAA regulatory standards, state laws and regulations, and local ordinances regarding the operations of a sUAS.

#### **439.5 USE OF sUAS**

Only authorized operators who have completed the required Department training shall be permitted to operate the sUAS.

Use of vision enhancement technology (e.g., thermal, and other imaging equipment not generally available to the public) is permissible for use in viewing areas only where there is no protectable privacy interest, or where exigent circumstances exist, and such use is authorized by this Policy or deemed necessary for public safety purposes.

sUAS operations should only be conducted during daylight hours and a sUAS should not be flown over populated areas, unless operating under an appropriate, valid FAA waiver. Operations should only be conducted consistent with FAA regulations.

#### **439.6 PROHIBITED USE**

The sUAS video surveillance equipment shall not be used:

- (a) To conduct random surveillance activities;
- (b) To target a person based solely on actual or perceived characteristics such as race, sex, sexual orientation, gender, gender identity or expression, age, ethnicity, religion, creed, color, national origin, disability, marital status, military and veteran status, or any other classification or status protected by law;
- (c) To harass, intimidate or discriminate against any individual or group; or
- (d) To conduct personal business of any type.

The sUAS shall not be weaponized.

#### **439.7 RETENTION OF sUAS DATA**

Data collected by the sUAS shall be retained as provided in the established records retention schedule and in accordance with city ordinance or applicable laws. All video and/or images obtained from the sUAS related to a crime report or call for service shall be downloaded as evidence and retained in accordance with Policy §450.9.2. In general operators should activate the recording system upon take off and continue recording until the conclusion of the deployment.

#### **439.8 DOCUMENTATION AND EVIDENCE**

After each deployment, video and aerial photography obtained by the sUAS operation will be uploaded to evidence.com. The sUAS operator is responsible for evidence collection as well as writing any supporting documentation for the incident as required.

#### **440.1 POLICY**

The decision to photograph a detainee in the field shall be left to the discretion of the involved officer based on the totality of the circumstances available to them at the time of the detention.

##### **440.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to establish guidelines for the taking and retention of photographs of persons detained in the field but not arrested.

#### **440.2 FIELD PHOTOGRAPHS**

Field photographs are defined as a photograph taken of a person during a contact, detention, or arrest in the field. Undercover surveillance photographs of an individual are not considered field photographs. Before photographing any field detainee, the officer shall carefully consider, among other things, the factors listed below.

##### **440.2.1 PHOTOS TAKEN WITH CONSENT**

Field photographs may be taken when the subject of the photograph knowingly and voluntarily gives consent. Prior to taking any photograph of a detained subject(s), officers shall attempt to gain consent.

##### **440.2.2 PHOTOS TAKEN WITHOUT CONSENT**

Field photographs may be taken without consent if the photograph is taken during a lawful detention based upon reasonable suspicion of criminal activity, and:

- (a) The photograph should serve some legitimate law enforcement purpose related to the detention. Knowledge or suspicion of gang membership or affiliation, without more, is not a sufficient justification for a photograph to be taken without consent. If the detention or contact was to investigate a person's gang membership or affiliation, the contact and photograph should take only as much time as required to document an FI card and photograph; and
- (b) The detention shall not be prolonged for the sole purpose of taking a photograph.

#### **440.3 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.

#### **440.4 DISPOSITION OF PHOTOGRAPHS**

Individual members shall not maintain personal intelligence files containing photographs. If authorized by law, the unit or bureau, will maintain the files/photos according to their operations manual. Any access to field photographs should go through the appropriate unit or bureau and is strictly limited to law enforcement purposes.

All detainee photographs must be:

- (a) Adequately labeled and submitted to the appropriate unit or bureau;
- (b) Have an attached field interview card, report, or other memorandum explaining the nature of the contact; and
- (c) If an individual is photographed as a suspect in a particular crime, any associated report numbers should be noted on the photograph.

After reviewing the photograph and related material, the member shall:

- (a) Enter it into the applicable database; or
- (b) Store it in a secured file.

When a photograph is taken in association with a particular case, the investigator may use the photograph as part of their investigation. Thereafter, the individual photograph should be retained as a part of the case file. All other photographs should be kept in the investigators secured work file.

#### **440.5 PURGING THE FIELD PHOTO FILE**

This shall be done in accordance with the procedures outlined in the applicable operations manual.

#### **442.1 POLICY**

The Department will 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 186.33 of the "Street Terrorism Enforcement and Prevention Act."

##### **442.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to establish a process that will be used for enhancing criminal prosecution of criminal street gang participants.

The Multi Agency Gang Enforcement Consortium (M.A.G.E.C.) shall be responsible for validating gangs and gang members.

#### **442.2 DEFINITIONS**

**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 paragraphs (1) to (25), inclusive, or (31) to (33), inclusive, of subdivision (e) of PC §186.22, having a common name or common identifying sign or symbol, and whose members individually or collectively engage in or have engaged in a pattern of criminal 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.

**Pattern of Criminal Gang Activity** - The commission of, attempted commission of, conspiracy to commit, or solicitation of, sustained juvenile petition for, or conviction of two or more of the offenses listed in PC §186.22(e)(1-33), provided at least one of these offenses occurred after the effective date of this chapter and the last of those offenses occurred within three years after a prior offense, and the offenses were committed on separate occasions, or by two or more persons.

#### **442.3 IDENTIFICATION OF CRIMINAL STREET GANGS / PARTICIPANTS**

M.A.G.E.C. 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.

#### **442.4 FIELD CONTACTS**

Officers who contact individuals who are, or may be participants in criminal street gang activity should complete an 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.

Photographing known or suspected criminal street gang participants should be done in the field when possible consistent with Policy §440.

#### **442.5 POSSIBLE GANG RELATED CRIMES**

- (a) Assault with a deadly weapon or by means of force likely to produce Great Bodily Injury, PC §245;
- (b) Robbery, PC §211;
- (c) Unlawful homicide or manslaughter, PC §187;
- (d) The sale, possession for sale, transportation, manufacture, offer for sale, or offer to manufacture controlled substances in Health & Safety Code §§11054, 11055, 11056, 11057, and 11058;
- (e) Shooting at an inhabited dwelling or occupied motor vehicle, PC §246;

- (f) Discharging or permitting the discharge of a firearm from a motor vehicle, subsections (a) and (b) of PC §12034;
- (g) Arson, PC §450;
- (h) The intimidation of witnesses and victims, PC §136.1;
- (i) Grand theft, subdivision (a) or (c) of PC §487;
- (j) Grand theft of any firearm, vehicle, trailer, or vessel;
- (k) Burglary, PC §459;
- (l) Rape, PC §261;
- (m) Looting, PC §463;
- (n) Money laundering, PC §186.10;
- (o) Kidnapping, PC §207;
- (p) Mayhem, PC §203;
- (q) Aggravated mayhem, PC § 205;
- (r) Torture, PC §206;
- (s) Felony extortion, PC §§518 and 520;
- (t) Felony vandalism, PC §594;
- (u) Carjacking, PC §215;
- (v) The sale, delivery, or transfer of a firearm, PC §12072;
- (w) Possession of a pistol, revolver, or other firearm capable of being concealed upon the person in violation of paragraph (1) of subdivision (a) of PC §12101;
- (x) Threats to commit crimes resulting in death or great bodily injury, PC §422;
- (y) Theft and unlawful taking or driving of a vehicle, Vehicle Code §10851;
- (z) Felony theft of an access card or account information, PC §484e;
- (aa) Felony fraudulent use of an access card or account information, PC §484g;
- (bb) Unlawful use of personal identifying information to obtain credit, goods, services, or medical information, PC §530.5;
- (cc) Wrongfully obtaining Department of Motor Vehicles documentation, PC §53;
- (dd) Counterfeiting, designing, using, attempting to use an access card, PC §484f;
- (ee) Prohibited possession of a firearm PC §29800;
- (ff) Carrying a concealed firearm in violation of PC §25400; and
- (gg) Carrying a loaded firearm in violation of PC §25850.

**442.6 IDENTIFICATION OF CRIMINAL STREET GANGS / PARTICIPANTS**

An individual can be validated as a member in a criminal street gang, when three or more of the following elements have been verified by a member of M.A.G.E.C.

- (a) An individual admits membership in a criminal street gang;
- (b) A reliable informant or known gang member identifies an individual as a participant in a criminal street gang;
- (c) An individual has gang related tattoos, i.e. gang name, moniker, symbol, or numbers. Officers should inquire as to the meaning of the tattoo both to the individual and on the street;
- (d) An individual is known to associate with criminal street gang members;
- (e) A person has been arrested in the company of identified criminal street gang members;
- (f) An individual is identified as a gang member in a criminal street gang document, list or graffiti;
- (g) An individual is observed wearing attire to include clothing or jewelry that is related to a criminal street gang. This is to include personal possessions such as book bags, back packs, wallets, etc.;
- (h) An individual is observed in a photograph with a criminal street gang member or is making a gang hand sign in photograph(s);
- (i) An individual corresponds with a known criminal gang member. This is to include correspondence either written or received;
- (j) An individual is known to have written criminal street gang related graffiti. This is to include graffiti written on personal possessions as well.

An individual may be designated as a gang affiliate when they meet one or two of the above ten criteria.

## Fresno Police Department Policy Manual

# District Command Staff Responsibilities

### 444.1 POLICY

Members are to be familiar with the district command structure of the Department, as well as the staff responsibilities, to ensure a viable chain-of-command is maintained.

#### 444.1.1 PURPOSE AND SCOPE

The purpose of this order is to address the responsibilities of district command staff.

### 444.2 DISTRICT COMMAND STAFF

Each district is assigned a District Commander.

Field Commanders are assigned citywide responsibilities (Policy §444.5).

### 444.3 DISTRICT COMMANDER RESPONSIBILITIES

District Commander responsibilities include, but are not limited to:

- (a) Direction and operational control of Patrol Division personnel within their district;
- (b) Maintenance of discipline and morale within their district;
- (c) Operational activities and the operational needs of their district;
- (d) Involvement in any major operations and/or critical incidents within their district;
- (e) On-going review and coordination of all assigned personnel in their district (patrol, investigators, POP, etc.);
- (f) Providing coordinated management of enforcement needs between districts and/or jurisdictional boundaries;
- (g) Monitoring of planned multi-district/jurisdictional field responses;
- (h) Management of emergency response to multi-district/jurisdictional events;
- (i) Monitoring the utilization of Patrol Division resources and redirecting personnel as needed to include cross-district dispatching of resources;
- (j) Assigning the investigation of citizen complaints when the complaint is of the type that can be handled at the district level;
- (k) Staff review of certain specified investigative reports after supervisor approval. These reports include:
  - 1) Citizen complaints investigated at the district level;
  - 2) Officer-involved collisions;
  - 3) Incidents involving injured prisoners;
  - 4) Any reported officer injury;
  - 5) Officer involved as a suspect;
  - 6) Any unusual involvement of members of this Department in any police investigations;
  - 7) Police investigations involving potential City liability; and
  - 8) Any unusual involvement of personnel of other governmental agencies in a police investigation.
- (l) Maintaining the continuance of routine police services during emergencies;
- (m) Conducting periodic inspections of personnel and equipment under their command;
- (n) Promotion and stimulation of supervision in their district;
- (o) Maintenance of Problem Oriented Policing (POP) within guidelines established by Department policy and directives;
- (p) Periodic meetings with supervisors to discuss problems, community needs, and progress;
- (q) Disposition of all citizen inquires brought to their attention;
- (r) Ensuring response to public service requests; and
- (s) Personnel problems arising in their district.

#### **444.4 ASSISTANT DISTRICT COMMANDER RESPONSIBILITIES**

Assistant District Commanders responsibilities include, but are not limited to:

- (a) Operational control of all district personnel during the assistant district commander's work hours;
- (b) Involvement in any major operations within their district;
- (c) On-going review and coordination of watch one and two patrol personnel, district investigators, POP, traffic, crime analysis, and crime prevention in their district;
- (d) Providing coordinated management of enforcement needs between districts and/or jurisdictional boundaries;
- (e) Monitoring of planned multi-district/jurisdictional field responses;
- (f) Management of emergency response to multi-district/jurisdictional events;
- (g) Monitoring the utilization of Patrol Division resources and redirecting personnel as needed to include cross-district dispatching of resources;
- (h) Staff review of certain specified investigative reports after supervisor approval. These reports include:
  - 1) Officer-involved collisions;
  - 2) Incidents involving injured prisoners;
  - 3) Any reported officer injury;
  - 4) Officer involved as a suspect;
  - 5) Any unusual involvement of members of this Department in any police investigations;
  - 6) Police investigations involving potential City liability; and
  - 7) Any unusual involvement of personnel of other governmental agencies in a police investigation.
- (i) Maintaining the continuance of routine police services during emergencies;
- (j) Handling of all personnel matters requiring immediate attention;
- (k) Operational activities and the operational needs of their district;
- (l) Keeping the district commander informed of problems, needs and progress;
- (m) Conducting periodic inspections of personnel and equipment under their command;
- (n) Promotion and stimulation of supervision in their district;
- (o) Investigation of citizen complaints when the complaint is of the type that can be handled at the divisional level;
- (p) Advising the district commander in advance of any special details or planned activities; and
- (q) Serving as PIO as assigned.

#### **444.5 FIELD COMMANDER RESPONSIBILITIES**

Field commanders have city-wide responsibility during their shift and work under the direction of the district commander they are assigned to. The hours and responsibilities of assistant district commanders and field commanders may overlap. The field commander position is a uniformed assignment with base hours of 1900-0500 hours.

The Field Commanders are assigned citywide responsibilities which include, but are not limited to:

- (a) Being the official representative of the Chief of Police during the absence of higher authority and assuming the administrative duties of the Chief of Police;
- (b) Ongoing review and coordination of watch two and three patrol personnel;
- (c) Involvement in any major operation during their shift;
- (d) Providing coordinated management of enforcement needs between districts and/or jurisdictional boundaries;
- (e) Monitoring of planned multi-district/jurisdictional field responses;
- (f) Management of emergency response to multi-district/jurisdictional events;
- (g) Monitoring the utilization of Patrol Division resources and redirecting personnel as needed to include cross-district dispatching of resources;
- (h) Maintaining the continuance of routine police services during emergencies;
- (i) Handling of all personnel matters requiring immediate attention;
- (j) Keeping the district commanders informed of problems, needs and progress; and
- (k) Coordinating information exchange with media in the absence of the P.I.O.

## Fresno Police Department Policy Manual Radio & Mobile Data System (MDS) Use

### 448.1 POLICY

Members will comply with all appropriate Federal, State and Department rules and regulations regarding the transmission and receipt of any information whether confidential or not, via radio or Mobile Data System (MDS). Members shall utilize the radio and MDS in a professional manner and for Department business purposes only.

#### 448.1.1 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 MDS accesses confidential records from various databases through Department's ECOMM System.

#### 448.2 DEFINITIONS

**Response Codes** - "Code One" shall not be used. "Code Two" designates an immediate response, obeying all traffic laws, without the use of emergency equipment. "Code Three" designates an emergency response, including the use of emergency lights and siren. "Code Four" designates that a situation is secure and no further assistance is required. [REDACTED]

**Emergency Traffic** - The Emergency Services Dispatcher (ESD) or field unit will declare "emergency traffic" when a call for "officer needs help" is made, during a pursuit in progress, felony calls in progress, and similar emergency circumstances. Members involved in the emergency traffic incident shall restrict their radio traffic to the information which is necessary for the other involved units and the ESD. Uninvolved members should not transmit on a channel with emergency traffic except for another emergency. Members with routine traffic may use the remaining primary channels. When the emergency is over, a field unit should advise immediately and the ESD will declare the channel "secure from emergency traffic."

**"Officer Needs Help"** - Shall be used when immediate, emergency aid is required by a member. The requesting member shall include their location followed, if possible, by their unit identification and other pertinent information. A specific unit(s) shall be dispatched Code Three and other available units in the vicinity shall respond Code Two, as needed. An "Officer Needs Help" call shall not be broadcast when "assistance", as defined below, is needed. The Department will provide assistance and respond to "Officer Needs Help" calls when requested by officers of other agencies when in close proximity to the City.

**"Officer Needs Assistance"** - Shall be used when additional non-emergency aid is required by a member. The requesting member shall include the location, followed by their unit identification and other pertinent information. The requested unit(s) shall be dispatched consistent with the relative priority of the request.

**"Fireman/Paramedic Needs Help"** - Shall be used when immediate emergency police assistance is required because firemen are being attacked, attack is imminent, or another emergency exists. A specific unit(s) shall be dispatched Code Three and other available units in the vicinity shall respond Code Two, as needed.

**"Fireman/Paramedic Needs Assistance"** - Shall be used when non-emergency police assistance is required. The requested unit(s) shall be dispatched consistent with the relative priority of the request.



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**448.3 FCC COMPLIANCE**

Fresno Police Department radio operations and MDS use shall be conducted in accordance with Federal Communications Commission (FCC) procedures and guidelines.

**448.4 OPERATIONAL READINESS**

All members assigned/issued portable radios are responsible for their security and maintenance. Members shall maintain all portable radios in a state of operational readiness.

**448.5 MDS USE**

The MDS shall be used for official police communications only. Messages that are of a sexual, racist, or offensive nature, or critical of any member of the Department are strictly forbidden. Supervisors at any time without prior notification may review messages.

**448.5.1 DATABASE INQUIRIES**

Whenever possible, an MDS will be used to conduct inquiries into CLETS, RMS, and other databases which are accessible from an MDS.

**448.5.2 USE WHILE DRIVING**

Members shall not attempt to enter data into an MDS, nor shall they direct their attention to the contents of the MDS screen until it is safe to do so.

**448.6 RADIO USE**

Members who are on duty and in the field shall monitor their radios at all times and shall promptly answer when called.

**Exception:** When dictating reports or interviewing victims, members may turn their radio off after advising the dispatcher they will be off the air.

#### **448.7 LOGGING ON / OFF**

Members who are on duty shall log on when they enter the field and shall remain logged on until they leave the field (e.g., follow-up investigators, Crime Scene Bureau Techs, etc.) or their tour of duty ends (e.g., Patrol Division officers and CSO's).

Members assigned to vehicles equipped with an MDS, or any department issued tablet that can be used to log on, shall log on no later than five minutes from the end of briefing and shall not log off sooner than five minutes before the end of their shift. Members assigned to vehicles with an MDS, or tablet, may log on via radio, only when deemed necessary to respond to emergency calls and after notifying their supervisor. Members who logged on by voice shall log on via MDS as soon as practical. Members not equipped with an MDS or tablet, may log on via radio or by calling the dispatch.

When a member scheduled to enter the field is delayed in reporting for field duty they shall log on and on-view to reflect their status. When they cannot log on, the ComCen shall be promptly notified of the member's status pending log on. AVL shall be activated at all times when the MDS is logged on

Members shall log off when they go off duty. Members in vehicles equipped with an MDS should log off via the MDS. All other members should log off by radio or telephone. This provision applies to all members who are required to log on.

When a member remains logged on after their shift was to end, and they cannot be raised by radio, the ESD shall notify a supervisor responsible for the district of assignment of the involved member. The supervisor shall take all necessary action to locate the member and to properly update their duty status and, when necessary, take appropriate corrective action.

#### **448.8 NON-FUNCTIONING MDS**

When possible, officers will not use units with malfunctioning MDS's. When officers must drive a unit in which the MDS is not working, they shall notify the ComCen. It shall be responsibility of the ComCen to record all information that will then be transmitted verbally over the police radio. Members shall not attempt to repair the MDS or radio equipment themselves.

#### **448.9 PORTABLE RADIOS**

##### **448.9.1 SECURITY OF RADIOS**

Members are responsible for the security and care of portable radios assigned to and/or used by them. Members shall not leave portable radios unattended under circumstances where they could be removed or damaged.

##### **448.9.2 RADIO REPAIRS**

When transmitting or receiving difficulties are encountered with portable radios, the following procedures should be followed:

- (a) The radio should be given a test count. When the reception or transmission is faulty, the radio should be taken to the Area dressing station or the Duty Office and tested with a new battery before being tagged for repair. Members shall not leave their portable radios at the radio shop for repairs. When the radio does not work properly or when a repair is needed which is unrelated to functionality, a repair slip (available at Area dressing stations or the Duty Office) should be attached to the radio and it should be taken to the Duty Office where a temporary radio may be signed out;
- (b) When transmitting or receiving problems are encountered with a vehicle radio, the vehicle should be tagged for radio repair.

##### **448.9.3 UNAVAILABILITY BY RADIO**

When a member is unable to monitor the radio as required, they shall immediately advise the ComCen of their location, the reason for being unable to monitor radio traffic, and alternative methods of contact (e.g., phone, pager, etc.). All such details shall be included in an event record of the member's activity at the time of such unavailability. The member shall immediately inform the ComCen when their ability to monitor the radio is restored.

## **448.10 HANDLING CALLS FOR SERVICE**

Upon receipt of a voice transmission from an ESD, members will promptly acknowledge by repeating their unit number followed by "copy" or "check." All units who are logged on will promptly and accurately provide enroute, arrival, and clearance information during responses to CFS and other on-duty activities.

## **448.11 RADIO BROADCASTS**

### **448.11.1 PERMISSIBLE RADIO BROADCASTS**

The broadcasts described in this order shall be made in conformance with the following guidelines.

- (a) Unless broadcasts are urgent, members should telephone the details to the ComCen to permit broadcast at a convenient time. When broadcasts are urgent, members shall request clearance from the ESD over the radio. The ESD will either give clearance, tell the member to stand by for clearance, or tell the member to telephone;
- (b) Broadcasts shall be preceded with the broadcasting unit's identification, the type of broadcast being made, and identify the area to which the broadcast applies when only certain areas are affected (e.g., "3A21 broadcasting wanted persons in a PC 211, attention Southeast...", or "3A21 to all units, broadcasting an attempt to locate...", etc.);
- (c) Broadcasts should be ended with the broadcasting unit's identification and the word "clear". The ESD shall acknowledge that the broadcast information has been "copied" or will tell the broadcasting member to telephone ComCen. It will be the broadcasting member's responsibility to call ComCen to complete the final written broadcast sheet;
- (d) The text of the broadcast should include all available information pertinent to the broadcast, such as case number, times, locations, weapons used, suspect descriptions, vehicles, license numbers, etc.; and
- (e) Broadcasts that are very lengthy should be broken into parts to allow other units to access the radio. These breaks are only a few seconds long and should be preceded by a phrase such as "3A21 break for traffic", and should be followed by a phrase such as "3A21 continuing attempt to locate broadcast".



### **448.11.2 WANTED PERSONS BROADCASTS**

When a crime has been committed and the suspect or suspect vehicle can be identified and sufficient grounds for arrest are present, a "wanted persons broadcast" may be made. These broadcasts shall include the authority for arrest and sufficient information to locate the case or warrant referenced.

### **448.11.3 ATTEMPT TO LOCATE BROADCASTS**

An "attempt to locate" broadcast may be made whenever a member wishes a person or vehicle located and there is sufficient information to do so. The broadcast shall specifically state the course of action to be taken if the person or vehicle is located. These broadcasts shall not indicate that the person or vehicle is to be stopped and/or detained unless there is legal justification to do so. These broadcasts shall not indicate the person or vehicle is to be "held" specifically for another unit or member.

### **448.11.4 INFORMATIONAL BROADCASTS**

When a member obtains information that is of potential interest to field units, (e.g., armed persons, pending disturbances, pending 10851's, etc.), a broadcast may be made.

### **448.11.5 UNAUTHORIZED RADIO BROADCASTS (RADIO BANDIT)**

An unauthorized radio broadcast, more commonly known and referred to as a "Radio Bandit," is defined as any person intentionally broadcasting on any radio frequency (channel) licensed by the FCC for use by the City of Fresno, without permission to broadcast on those frequencies.

A common example of this type of incident would be an unknown person broadcasting a distress call, followed by no further broadcasts. Occasionally, only the department field-units within proximity to this unknown person will hear this type of unauthorized radio traffic.

#### **448.11.6 PROCEDURE FOR FIELD UNITS**

When any department member witnesses what they believe to be an unauthorized radio transmission, they shall immediately notify the ESD on the channel that the unauthorized broadcast occurred. Whenever possible, this should be done via Administrative Message (AM) or phone call to ComGen. However, depending on the circumstances and information broadcasted, this may need to be confirmed and coordinated with ComGen and other units over the radio.

The on-duty field supervisor shall notify the on-duty field commander of the unauthorized radio broadcast. The field supervisor should work with the field units who witnessed the unauthorized radio broadcast, to determine which department member has the best information and recollection of the incident. A case number shall be pulled under that department member's badge number and written as a PC 636.5 misdemeanor case in AXON Records with the City of Fresno listed as the victim. If an audio recording of the unauthorized broadcast was captured in ComGen, the field supervisor shall request a copy of that recording from the ComGen supervisor. The field supervisor shall provide the recording to the department member writing the report so they can attach the recording as evidence under that case number in AXON Records.

If an audio recording of the unauthorized broadcast was captured on Body Cam video, that video should be tagged under that case number and categorized as "05 –Misd. Investigation or Evidence Collection" unless that body camera video is already associated with a different case number. In that case, the department member should refer to that video and separate case number in their report, documenting that the video also contains evidence related to this case number as well.

#### **448.11.7 DOCUMENTATION**

Department Members who author this type of case should also consider documenting the following information if it is known:

- What did you hear the suspect say during the broadcast?
- What was your location when you heard the unauthorized broadcast?
- Did you hear the unauthorized broadcast on your portable, hard mount, or both?
- Was the unauthorized broadcast clear or did it have static/interference?
- Was the unauthorized broadcast heard by other units? If so, who?
- Did the unknown suspect sound like a male or female voice?
- Did the unknown suspect sound like a child or adult voice?
- Did the unknown suspect have any accent or speech impediment?
- Did you check the surrounding area for any related to what the unknown suspect said? If so, what was the result?
- Do you have any other details that may assist in this investigation?

**448.11.8 PROCEDURE FOR ESD**

The ESD shall notify the on-duty field supervisor. The ESD should attempt to check the playback feature on their radio console to determine if the unauthorized radio transmission was captured and if the radio displayed a radio identifier (ANI) associated with the unauthorized broadcast. The ESD shall create a separate event labeled 4N3 – UNAUTHORIZED RADIO BROADCAST and notify the on-duty ComCen supervisor of the incident.

NOTE: Depending on the nature of comments made during the unauthorized radio broadcast, the ESD should consider conducting a roll call on the affected channel to determine if all field units are safe. The ESD can also consider contacting any allied agencies to notify them of the incident if that agency was mentioned in the comments made during the unauthorized radio broadcast.

**448.12 DISPOSITION CODES**

Members shall clear all calls with the most applicable and accurate disposition code from the most currently published Field Event Classification code sheet.

ESD's are prohibited from creating disposition codes for events assigned to or created by members outside of ComCen. Any member clearing or creating an event for a miscellaneous case shall provide a complete, accurate code sequence including disposition, unit, classification, and location codes. This applies whether the call is cleared by voice, MDS, or PC terminal. ComCen personnel shall not create clearance codes for units who do not have a clearance sheet. ESD personnel shall not accept any incomplete disposition codes.

**448.13 CONFLICTS / COUNTERMANDING ESD**

Supervisors countermanding the order of the ESD shall contact the ComCen supervisor of the affected shift and discuss the reasons for the countermanded order and reasons for doing so. They will attempt to resolve any issues at this level. If they are unable to do so, the ComCen supervisor shall submit a memo outlining the problem to the ComCen Bureau Commander for review and further staffing through the chain of command for resolution if appropriate.

**448.14 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 MDS.

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 MDS. Members who leave their vehicle for an on-duty meal, or who leave their vehicle for an extended period of time, shall on-view with the applicable 5A Status Code to include accurate completion of the location field.

[REDACTED]

#### **448.16 BOMB CALLS**

When investigating reports of possible bombs, officers will turn off their MDS's. Operating the MDS may cause some devices to detonate.

#### **448.17 IDENTIFICATION OF UNITS**

Before making a transmission, members shall identify themselves by detail number and, when applicable, the type of transmission to follow (e.g., "1A21, stops on a plate").

Except in emergencies, members shall await the acknowledgment of the ESD before proceeding with the radio traffic. All transmissions shall be as brief as possible.

#### **448.18 FAILURE TO ACKNOWLEDGE**

A member's supervisor shall investigate the non-response and any reasons for it and shall take appropriate corrective action.

#### **448.19 USE OF MULTI AGENCY CHANNEL (CLEMARS CHANNEL 8)**

All unit transmissions must be prefaced by agency and unit identifier (e.g., Fresno 2A21 or Sheriff 2Q02.) Control centers will also use agency identifiers (e.g., Fresno 1 (FPD), Fresno 2 (FSO), and Fresno 3 (CHP), etc.)

Termination of any Multi Agency Channel will be the responsibility of the agency originating the request. The request to terminate may be made by radio or telephone.

#### **448.20 TELEPHONING INTO COMCEN**

Members shall not phone a radio channel ESD directly unless instructed to do so by the ESD.

## **450 Body Worn Video Cameras**

### **450.1 POLICY**

Officers who have been issued the AXON body worn video camera system shall wear it at all times the officer may become involved in an enforcement situation.

#### **450.1.1 PURPOSE AND SCOPE**

This policy establishes guidelines for Department members using body worn cameras (BWC) and the preservation of related digital evidence.

### **450.2 DEFINITIONS**

**AXON Body 3 Camera** - Enables control of the AXON camera through simple commands to place the camera in the various operational modes.

**AXON View Application** – A mobile application installed on Department issued pairing devices that allow officers to view, but not alter, video recordings captured by the AXON camera. The application also allows officers to attach meta-data such as a video title, incident case number and a video retention category to the video file.

**Evidence.com** - An on-line web-based media storage facility which stores digitally encrypted files. Accessible to authorized personnel, based upon their security clearance, also maintains an audit trail of user activity.

**Evidence Transfer Manager (ETM)** - A docking station which simultaneously recharges the AXON Controller and uploads all data captured on the AXON Camera to Evidence.com.

**Event Mode** - The mode of operation in which the AXON camera captures the buffered video and is actively recording both audio and video. When the AXON is switched to event mode, it will automatically record the previous 30 seconds of video (without audio).

**Buffering Mode** - The mode of operation in which the AXON camera continuously loops video without an audio component for 30 seconds (Default).

**AXON System Administrator (IA Commander)** – Oversees and manages administrative issues related to AXON camera systems.

**AXON System Coordinator (appointed by Chief of Police)** – Responsible for video camera equipment, video storage, and training related to Evidence.com accounts and AXON cameras.

**Body Camera Officer** – Responsible for day-to-day operations of the system, repairs of equipment, network hardware, troubleshooting, training related to Axon cameras and ensuring digital files are shared with partner agencies.

### **450.3 VIDEO RECORDING**

The Fresno Police Department recognizes that video and audio recording of contacts between Department personnel and the public provides an objective record of these events and that the use of a recording system complements field personnel in the performance of their duties by providing a video record of enforcement and investigative field contacts which can enhance criminal prosecutions and limit civil liability. An audio/video recording of any event or contact also enables the delivery of timely, relevant and appropriate training to maximize safety for FPD personnel and improve the delivery of police services to the community.

While recordings obtained from video recorders provide an objective record of events, it is understood that video recordings do not necessarily reflect the experience or state of mind of the individual member(s) in a given incident. Moreover, the recordings, especially video, have limitations and may depict events differently than the events recalled by the involved member. Specifically, it is understood that the recording device will capture information that may not have been heard and/or observed by the involved member and that the involved member may see and hear information that may not be captured on video.

All video recordings made while working as an employee of the Fresno Police Department in any capacity are property of the Department and subject to review by the Department and its agents. Personally owned video recording devices are prohibited.

#### **450.4 GUIDELINES FOR CAMERA ACTIVATION**

Officers shall record interactions including, but not limited to, the following:

- (a) Arrests and detentions, or situations where an officer reasonably believes they will effect an arrest or detention (to include traffic stops and consensual encounters made with the intent to develop reasonable suspicion to detain);
- (b) Officers assisting in an arrest or detention situation;
- (c) Confrontational interactions with citizens;
- (d) Vehicle and foot pursuits;
- (e) When responding Code-3;
- (f) Forced entries, search warrants and warrantless searches (including vehicles);
  - 1) When entry is made with or without a warrant, all officers should activate their cameras prior to making entry and continue recording until the scene has been secured. The search of the premises and seizure of evidence should also be recorded when it does not compromise officer safety or the identity of undercover units.
- (g) Suspect interrogations (including Miranda advisement).
- (h) Eyewitness identification(s) to comply with Policy §607 and PC §859.7.
- (i) When loading, unloading, or transporting subjects in the transportation wagons/vans.
- (j) During the inventory of any individual's property regardless of the reason (e.g., arrest, medical transport, etc.). When safe and feasible efforts should be made to conduct the inventory in the presence of the individual; and
- (k) Upon arrival at any traffic collision, Policy §502.7.

Officers shall activate their camera system as soon as practical upon encountering the above types of events. When an officer is dispatched to a zero or one priority call, they should activate their camera upon arrival before exiting their vehicle. When an officer is unable to activate their camera at the beginning of the event or contact and a case number is drawn, they shall document the reason in their police report. The documentation should also explain the reason the camera was activated at the time it was.

At no time should an officer jeopardize their safety, or the safety of any other officer, in order to activate a recording device. Officers may use discretion when deciding whether or not to advise a citizen they are being recorded. Generally, officers should not cease recording solely based on the request or demand of a citizen (refer to section 450.14 below).

#### **450.5 INFORMAL COMMUNITY INTERACTIONS (Public Encounters)**

Informal community interactions differ from "consensual encounters" officers may make in an effort to develop reasonable suspicion to detain or probable cause for arrest. To strengthen relationships between police and citizens, officers may use discretion regarding the recording of informal, non-enforcement related interactions with members of the community. In the event a public encounter becomes adversarial, officers should activate their recorders without compromising their safety or the safety of others.



## 450.6 VICTIMS AND WITNESSES

Officers should generally record interviews of crime victims and witnesses. Officers have no obligation to advise a victim or witness that they are being recorded but may do so at their discretion.

When a victim or witness requests, they not be recorded, officers may consider their request (See section 450.18 for provisions of PC §632). In cases where a victim or witness requests, they not be recorded and the officer agrees not to record, officers should record their request prior to turning the camera off. When an officer is already recording, they shall record their explanation for turning the camera off prior to doing so.

- (a) Witnesses - In the event a crime witness or a member of the community wishes to report or discuss criminal activity anonymously, officers have the discretion to not record.
- (b) Victims - Officers should record interviews of crime victims, unless otherwise requested by the victim. Upon request by the victim, officers have the discretion to not record the interview. Officers may offer to avert their camera to capture only audio during the interview, when doing so would facilitate obtaining the victim's recorded statement.
  - 1) Domestic Violence Victims – Officers should record interviews of domestic violence victims to facilitate future prosecution efforts and discourage later recanting of statements. Officers should also record interviews with children who witness domestic violence.
  - 2) Child Abuse and Sexual Assault Victims – Officers should make every effort to record interviews of all victims regardless of age.

Video recording of individuals who are picketing, engaged in peaceful protest or First Amendment protected speech will be avoided unless the officer believes a violation of criminal law is occurring, may occur, or if the officer interacts with a participant or third party to the event.

## 450.7 PROHIBITED RECORDINGS

AXON Cameras shall not be used to record non-work-related personal activity. AXON recorders will not be activated in places where a reasonable expectation of privacy exists, such as workplace locker rooms, dressing rooms, or restrooms. No type of recording device may be intentionally activated to record the conversations of fellow employees or superiors without their knowledge. In addition:

- (a) Officers should not record undercover officers or confidential informants, absent supervisor approval under limited circumstances;
- (b) When possible, officers should avoid recording exposed private areas of the body;
- (c) Officers shall not record patients during any medical or psychological evaluation or treatment by a health professional while inside a medical or psychological facility.
- (d) While inside a medical or psychological facility, officers should not record persons other than the intended subject.

Recordings shall not be used for the purpose of ridiculing or embarrassing any employee.

Employees shall not obtain or convert any Department digital file(s) obtained during the course and scope of their duties for personal use. The following are specifically prohibited:

- (a) Personal copies of Department digital file(s);
- (b) Re-recording of Department digital file(s) with other devices;
- (c) Posting any Department digital file(s) on any website; or
- (d) Posting of any Department digital file(s) on any Department sponsored site without express permission from the Chief of Police or designee (any file(s) posted on a Department sponsored social media or other web site will thereafter be considered public information).

Any file on evidence.com shall not be shared by any process except for official purposes and only by personnel who have been authorized by the system administrator.

AXON cameras should not be used to obtain statements solely intended for civil liability (supervisors use of force review, K9 applications) purposes.

## 450.8 OPERATING PROCEDURES

Officers who have been issued the AXON camera shall wear it at all times the officer may become involved in an enforcement situation. Officers shall position the camera to facilitate optimum recording field of view. Cameras shall be positioned on the outermost garment of an officer's uniform, between the bottom of the sternum and above the waistline, facing forward.

Only officers who have completed approved training will be allowed to operate AXON cameras. Officers will inspect the AXON system for any physical damage and to ensure the device is in working order at the beginning of their shift. Any malfunctions, missing equipment or damage shall be immediately reported to their supervisor and via email to the body camera unit at [axoncamera@fresno.gov](mailto:axoncamera@fresno.gov).

Officers shall drop off their malfunctioning body camera equipment in the drop-off box, outside the Body Camera Unit, before the end of their shift. Officers shall place their camera, controller, and cable, or any other damaged or broken items, in a Department envelope, in the drop off box with a note or email describing the issue(s). Members shall not send any body camera items via Department mail under any circumstances.

Officers shall log into their Evidence.com accounts on a weekly basis and run a search of their own digital file(s) to check for any needed ID's and Categories. It is the responsibility of the officer to ensure their digital file(s) are properly identified so they can be located for submission to the District Attorney's Office or other authorized search.

If the AXON camera is in use during an enforcement situation and it becomes necessary to discuss issues or concerns with another officer or supervisor in private, the AXON camera may be turned off or entered into mute mode. The intention to stop the recording or enter into mute mode will be noted by the officer verbally before switching the device off or muting the audio. When the private conversation has ended, the AXON camera recording and/or audio recording may resume.

In general, once the AXON recorder is activated, officers should continue recording until the incident has concluded, recording is no longer relevant, or there is no apparent value in continuing to record.

Should an arrestee indicate they want to complain about an officer's actions, claim injury or become confrontational during transport, during processing or booking, officers shall reactivate their camera, if they are able to do so without compromising their safety or the safety of others. When an officer resumes recording under these circumstances, the recorder should remain on until the officer no longer has contact with the subject.

### 450.8.1 USE OF BIOMETRIC SURVEILLANCE SYSTEM

The installation, activation, or use of biometric surveillance systems, including facial recognition, in connection with AXON recorders is prohibited (Penal Code § 832.19).

## 450.9 DOCUMENTATION OF RECORDINGS

Before any file is uploaded to evidence.com they shall be individually identified by an **ID** (mandatory) and **Category** (mandatory), without exception. This identifying information may be entered utilizing a Department issued pairing device or desktop computer.

### 450.9.1 ID DESCRIPTION BOX

In the following order, a case number, citation number, or event ID, shall be used to identify the recording by placing this information in the **ID** description box. Officers shall no longer utilize a custom **ID** to identify any recordings.

The identifying information must be entered using the following format:

Case – 2209151163 (ten-digit case number, no dashes, e.g., 2302104567, 2303160358, etc.) or for cases before February 28, 2022, 15001234 (eight-digit case number, e.g., 15000732, 15000032, etc.).

Note: Within the system, ID refers to the incident related number, not the officers badge number.

#### 450.9.2 CATEGORY

In addition to attaching an event or case number to digital file(s), members must assign a **Category** to facilitate proper retention of the digital file(s). Categories are selected based on the statutory retention requirements for the incident and range from one year to an indefinite period of time. The below Category list is a representative sample and may not reflect the current Categories or Retention. Current Categories are available at Evidence.com.

<u>CATEGORY</u>	<u>RETENTION DURATION</u>
Uncategorized	15 Years
01 - Call for Service, No Crime (including 5150's)	15 Years
02 - Citizen Contact and/or Infraction	15 Years
03 - Traffic Stop	15 Years
04 - Misdemeanor Cite/Arrest (except Sex Crimes)	15 Years
05 - Misd. Investigation or Evidence Collection	15 Years
06 - Felony Arrest (except Homicide/Sex Crimes)	15 years
07 - Felony Investigation	15 Years
08 - Sex Crimes	Until manually deleted
09 - Homicide	Until manually deleted
10 - Training	15 Year
11 - IA Investigation	Until manually deleted
12 - Critical Incident	Until manually deleted
13 - Auto Retention	15 Years
14 -Fatal Collision	Until manually deleted
Camera Test	15 Years
City Involved Traffic Collision (Non-Fatal)	15 Years
Court Order Restricted	Until manually deleted
Pending Review	Until manually deleted
RMS Attachment	Until manually deleted
Traffic Collision (Non-Fatal)	15 Years

#### 450.9.3 TITLE DESCRIPTION BOX

Officers may provide a **Title** to facilitate simplified searching of files [i.e. – by location (First and Tulare) or by subject (arrest of suspect John Doe), etc.].

Note: When no title is entered, the system automatically generates the title as the date and time of the recording.

#### 450.9.4 DOCUMENTATION

Officers shall check the appropriate box on the Axon Records “case factor” page to indicate a recording related to the incident was uploaded to the system. Officers should also document in the disposition section of their written reports that a recording was made. AXON recordings will not be used in lieu of Crime Scene Investigation Bureau photographic or video-graphic documentation.

#### 450.10 REVIEW AND USE OF RECORDINGS

Officers should review recordings to assist with their investigation, prior to the completion of their report. Recorded statements shall be summarized and documented within the narrative of the applicable report. Only official Department devices should be used to review AXON recordings.

Once uploaded to evidence.com, sworn personnel may view their own recordings by logging onto evidence.com and documenting the reason for access in the "NOTES" section (e.g., noting specific time markers, reviewing for court, reviewing for report, etc.). After 24 hours from upload time patrol officers shall not add clips, markers, or comments to their Axon recordings without the approval from their chain of command and/or from the assigned investigative supervisor.

Access to digital file(s) uploaded to evidence.com is controlled by the system administrator. An audit trail of individuals accessing, viewing or downloading digital file(s) via evidence.com will be automatically generated by the system and is accessible by logging into evidence.com.

#### **450.10.1 REVIEW OF USE OF FORCE RECORDINGS**

Officers who are directly involved in a reportable use of force incident shall review their BWC recordings prior to the completion of their report. Officers shall also include the following in their use of force reports;

- a) A statement that the recordings were reviewed prior to the submission of the report;
- b) If the recording was not reviewed, a statement to that effect and the reason the recording(s) were not reviewed;
- c) A statement that the BWC was functioning properly and activated at the time of the use of force. If not, then a description of the malfunction if known and/or why the BWC was not activated;
- d) If the recording begins during the use of force incident, officers will note that in their report and document the portion of the use of force that was not recorded.

#### **450.11 CRITICAL INCIDENTS**

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

Officers involved in critical incidents shall notify the responding supervisor of any related recordings. In the event a critical incident is recorded, and immediate retrieval of a recording is required, a supervisor shall secure the recording device as soon as possible and maintain chain of custody. The detectives investigating the case shall coordinate the download or electronic transfer, minimizing those involved with the chain of custody.

Officers, either as a subject or witness, who are involved in any significant use of force incident or collision causing injuries will be permitted to review their recordings prior to providing a statement or written report.

In such cases where the involved officer(s) will view a video recording of the incident, they shall be provided the following admonishment:

"In this case, there is video evidence that you will have an opportunity to view before you have given your initial statement. Video evidence has limitations and may depict the events differently than you recall and may not depict all of the events as seen or heard by you. Video has a limited field of view and may not capture events normally seen by the human eye. The "frame rate" of video may limit the camera's ability to capture movements normally seen by the human eye. Lighting as seen on the video may be different than what is seen by the human eye. Videos are a two dimensional medium and may not capture depth, distance or positional orientation as well as the human eye. Remember, the video evidence is intended to assist your memory and ensure that your initial statement explains your state of mind at the time of the incident."

#### **450.12 CIRCUMSTANCES FOR ADMINISTRATIVE REVIEW**

AXON recordings will be administratively reviewed and may be used during investigations related to use of force, officer involved shootings, complaints, and pursuits. When recordings are administratively

reviewed, use of profanity by officers will be considered within the overall context of the incident, as well as accepted training and practices. However, officers remain prohibited from engaging in discourteous, disrespectful or discriminatory treatment of the public per Policy 341- Performance Standards.

While handling an inquiry or complaint in the field, a supervisor may review an officer's body worn camera video. In instances where the alleged misconduct did not occur and allowing the complainant to view the video may facilitate resolution of the inquiry or complaint, the supervisor may allow the involved party to view the video. Third parties who are complaining about the force used against another individual should not be shown body camera video.

When the inquiry or complaint involves use of force and the video shows any force being used by a(n) officer(s), a Receipt of Complaint will still be required, consistent with Policy 1020. If the complainant rescinds their initial complaint after viewing the video, it shall be noted in the Receipt of Complaint. If the video clearly demonstrates no force was used by officers, the complaint may be documented on an Inquiry or Complaint Form and entered into Blue Team, subject to review by the Internal Affairs (IA) commander. The IA commander will make a determination as to whether or not further investigation is warranted.

When a supervisor shows a portion of a video to the involved complainant, they must place "markers" on the video in evidence.com, showing the beginning and end of the portion viewed by the complainant. A notation in the "notes" section of the video shall be made, indicating the starting and ending times of the portion of the video viewed.

Re-recording of any video or audio by the complainant (e.g. via cell phone camera) is not allowed under any circumstance.

After the conclusion of an administrative investigation supervisors shall not add any clips, markers, or comments to any Axon recording and/or digital evidence once submitted through the chain of command, unless changes are requested. Any further changes will require approval through the chain of command after submission.

#### **450.12.1 USE IN TRAINING**

Any video used for official training purposes requires approval by the Chief or designee. In no event will video recordings be used for training, or be otherwise used or shown, if it would result in ridicule or embarrassment of an officer(s), except when required as part of a formal investigation or legal proceeding. In the event that videos are intended to be used for training purposes, the involved officer(s) will first be consulted. If they object to the use of the video, such objection shall be submitted to the Training Section Commander. The Training Section Commander shall weigh the value of the video for training against the officer(s) objections and basis for the objection. When the Training Section Commander refuses to grant the request of the involved officer(s), the matter shall be heard by the Chief of Police or designee, prior to utilizing the video.

#### **450.12.2 FIELD DEBRIEFINGS**

Supervisors intending to use a recording as part of an informal debriefing or critique session shall first consult with the recorded officer(s). When the officer(s) objects to use of the recording under these circumstances, it will not be used or shown.

Corporals and/or FTOs may use a recording as part of an informal debriefing, training opportunity, and/or critique session with their trainee.

#### **450.13 REQUESTS FOR DELETION OF ACCIDENTAL AXON RECORDING**

In the event of an accidental or sensitive personal recording using the AXON system, where the resulting recording is of no investigative or evidentiary value, the recording employee may request that the file be deleted by submitting an email request to the Department's body camera unit coordinator at [axoncamera@fresno.gov](mailto:axoncamera@fresno.gov). The system coordinator will send authorized deletion requests to the system administrator. The administrator will review the file and recommend approval or denial of the request. In

cases where the administrator denies the request to delete, an appeal may be submitted to the Chief of Police, or designee, for deletion authorization. In all cases of deletion requests, a determination should be made within 7 calendar days.

#### **450.14 UPLOADING TO EVIDENCE.COM**

At the end of their shift, officers shall place the AXON Body 3 camera into the designated docking station for charging and uploading of recordings. Officers should not remove the camera from the docking station until the video files are completely uploaded and the internal battery is fully charged. Officers who have been assigned a take-home dock shall follow the same procedures, with the exception of docking their Body 3 camera into their assigned take-home docking station.

#### **450.15 SYSTEM ADMINISTRATOR AND COORDINATOR**

The system administrator will be the Internal Affairs Commander. A sergeant will be assigned to report to the system administrator as the system coordinator. The system administrator and coordinator have oversight responsibilities including, but not limited to, the following:

- (a) Ensure the system is operational and functioning properly;
- (b) Ensure files are maintained in accordance with the Department's retention schedule;
- (c) Operation and user administration of the AXON system and Evidence.com;
- (d) Ongoing System evaluation;
- (e) Ongoing review of related Department policies and procedures;
- (f) Assessment and recommendations for modification of policies, procedures and practices associated with video recording;
- (g) Training;
- (h) Coordination with IT regarding system related issues; and
- (i) Conduct periodic, random audits to ensure the AXON camera system is operating properly and the camera is being utilized in accordance with this procedure. An FPOA representative may be appointed to monitor such random audits.

On an annual basis, or as needed, the system administrator and coordinator will meet with FPOA leadership, and the Chief of Police or designee, to evaluate the effectiveness of Department recording procedures and equipment.

#### **450.16 RELEASE OF OFFICIAL VIDEO TO THIRD PARTIES**

Video captured by the AXON camera is evidence. The release of video captured by the AXON camera to any third party will be processed in a manner consistent applicable law, current discovery request practices and the provisions of Policy §810. In general, video captured by the AXON camera shall not be released to third parties unless expressly authorized by the Chief of Police, or designee. In rare circumstances, the Chief of Police may elect to release video when the public interest served by the disclosure of the video outweighs the public interest served by the non-disclosure of the video.

When considering whether disclosure is warranted, the Chief of Police should also consider the privacy rights and impacts of the disclosure on the involved individual member(s). Should the Chief of Police determine that disclosure is necessary, they should provide as much advance notice as practical to those involved member(s).

When criminal charges are being sought in a case, all related recordings will be provided to the District Attorney's (DA's) office. Members should be mindful that uploaded video and/or digital files are evidence and shall not be altered after being submitted to the District Attorney's Office as part of a criminal case, (e.g., any clips, markers, or comments). If changes are requested or needed the appropriate investigations supervisor shall be notified prior to making any changes.

#### **450.18 KNOWLEDGE OF RECORDING**

PC §632 prohibits any individual from surreptitiously recording any conversation in which any party to the conversation has a reasonable belief that the conversation was private or confidential, however PC §633 expressly exempts law enforcement from this prohibition during the course of a criminal investigation.

Any sworn member may surreptitiously record conversations during the normal course of duty for a criminal investigation in which the sworn member reasonably believes that such a recording will be beneficial to the investigation.

- (a) Any sworn member 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 sworn members conducted solely for administrative purposes;
- (b) Any individual contacted by a sworn Department member wearing a conspicuously mounted recording device will be deemed to have knowledge that such a contact is being recorded.

#### **450.19 RECORDING PREPARATION**

When an interview is to be recorded and time and opportunity permit, the recording officer should include the following information:

- (a) The location of the interview or recording;
- (b) The identities of all parties involved in or present at the interview or recording;
- (c) Any other pertinent identifying information, such as phone numbers called during recorded phone conversations; informant numbers when name identities cannot be used, etc.;
- (d) Describe the time of and reason for any temporary stoppage of the recording and include the fact all parties had knowledge of the stoppage.

When circumstances do not permit compliance with the above guidelines (i.e., spontaneous recordings), as much of the information as possible should be included at the end of the recording to identify the conversation.

Whenever possible, members should ensure the device recorded properly before the interviewed person leaves.

#### **450.20 DETECTIVE RESPONSIBILITIES**

Detectives will be provided with an evidence.com account so that they may access recordings related to their specific investigations. Detectives can add clips, markers, or comments to Axon recordings and/or digital evidence for investigative purposes as needed. Unless a reasonable purpose exists, detectives shall not access recordings that are not related to their specific investigations. Detective responsibilities include, but are not limited to the following:

- (a) When criminal charges are being filed in a case and related digital file(s) exist, the follow-up detective should review the digital file(s) prior to providing them to the DA's office;
  - 1) All digital file(s) related to a case must be submitted to the DA's office for filing, regardless of apparent relevance.
  - 2) After filing, additional searches shall be performed for any other digital files(s) added to Evidence.com. Upon the discovery of additional file(s), they shall be submitted to the DA's office immediately.
- (b) When a detective determines the digital file(s) is likely to have evidentiary value to either the prosecution or defense in a specific case, they shall ensure the digital file(s) is properly classified for retention in compliance with Policy;
- (c) When a detective discovers a digital file(s) has been entered into the system with a missing, improper, wrong, etc., ID and or/category, they shall make the appropriate changes upon the discovery of the error.
  - 1) The detective should notify the officer and/or their supervisor of the mistake to prevent future errors.
- (d) The detective will ensure the recording(s) are submitted to the DA's office in a timely manner;
- (e) All Department digital file(s) in evidence.com shall be retained pursuant to the Department's retention schedule;
- (f) When the status of a case changes, detectives will review and extend retention categories as needed to match retention required by the court;
- (g) When reviewing digital file(s), the detective may make an entry in the evidence.com NOTES section documenting the reason for their review;

- (h) When an officer is directly involved in a critical incident, a detective or assigned officer will secure the officer's camera from the supervisor on scene, take it to a docking location, and upload the video from the camera. They will write a supplemental report documenting their actions. Once a camera has been uploaded, it retains no information and is then returned to the officer.

#### **450.21 SWAT Operations**

The purpose of the BWC on a SWAT call is to record and document the contact and general enforcement action(s) with the suspect(s). Tactical operations involving SWAT are unique and present circumstances that can endure over extended periods of time that preclude continuous recording. Therefore, SWAT personnel shall record interactions including, but not limited to, the following when responding to a tactical SWAT incident:

- (a) Arrests and detentions, or situations where an officer reasonably believes they will effect an arrest or detention;
- (b) Officers assisting in an arrest or detention situation;
- (c) Confrontational interactions with citizens;
- (d) Vehicle and foot pursuits;
- (e) Open area searches;
- (f) Forced entries, search warrants and warrantless searches (including vehicles);
  - 1) When entry is made with or without a warrant, all officers should activate their cameras prior to making entry and continue recording until the scene has been secured. Once the location is secure, and no other circumstances warrant recording, officers may deactivate their cameras.
- (g) Suspect interrogations (including Miranda advisement) and generally, interviews of victims and witnesses.

SWAT Team members who are participating in an active tactical event should be mindful of recording potentially sensitive situations. Members should consider not using BWC's to record the below limited situations:

- (a) The deployment of specialized tools or tactics that do not pertain to members coming into contact with the suspect(s) and taking enforcement action should not be recorded on BWC; or
- (b) Discussion by team members during an incident regarding planning, specific tactics, placement of resources, use of specialized tools and equipment and strategies to be used generally should not be recorded.

The SWAT commander in charge of the operation may direct recordings to occur in any instance where they deem it necessary for the benefit of the Department and for documentation purposes.

Department members assigned to SWAT are issued a BWC specifically for use during SWAT operations. SWAT members are responsible for maintaining their assigned BWC to include function, maintenance and charging. SWAT members must maintain a level of readiness and the use of their assigned SWAT BWC does not require daily use; members are allowed to dock their BWC during bi-weekly trainings. At the conclusion of a SWAT deployment, members will ensure their assigned BWC is placed in a Department docking station at the end of the deployment.



**451.1 POLICY**

Allowed use of any audio/video recording device by members of this Department will be limited to an official law enforcement purpose only and not to surreptitiously record any conversation between members.

**451.1.1 PURPOSE AND SCOPE**

The Fresno Police Department has allowed its members to carry audio recording devices while on-duty. These devices include but are not limited to audio recorders (e.g. micro cassettes, standard cassettes, digital recorders, etc.) Their allowed use is intended to assist members in the performance of their duties. Members may only utilize Department approved video equipment to record interviews and/or interrogations.

**451.2 RECORDING**

Officers are prohibited from utilizing Department issued audio recorders for personal use. Personally owned video recording devices are also prohibited. Members will notify their supervisors of the existence of an audio recorder and shall make the recordings and/or recording device available upon supervisor request.

All audio recordings made while working as an employee of the Fresno Police Department in any capacity are property of the Department and subject to review by the Department and its agents. Recordings shall not be used for the purpose of ridiculing or embarrassing any employee.

Employees shall not obtain or convert any recordings obtained during the course and scope of their duties for personal use. The following are specifically prohibited:

- (a) Personal copies of official recordings;
- (b) Re-recording of official audio and/or video files with personal devices;
- (c) Posting of official audio and/or video to any non-Department sponsored social networking or other web site; and
- (d) Posting of audio/video file recordings on any Department sponsored site without express permission from the Chief of Police or designee. (Note: Any audio/video file posted on a Department sponsored social media or other web site will thereafter be considered public information.)

**451.3 ACTIVATION OF THE AUDIO RECORDER**

Officers are encouraged to activate their Department issued recorders at any time that the officer reasonably believes that a recording of an on-duty contact with a member of the public may be of future benefit. However, at no time should an officer jeopardize their safety, or the safety of any other officer, to activate a recorder or change the recording media.

[Redacted content]

#### **451.4 RECORDING PREPARATION**

When an interview is to be audio recorded and time and opportunity permit, the recording member shall:

- (a) Test the recording device/equipment to ensure it is functioning and ready to record prior to commencing the interview or recording;
- (b) Make a statement at the beginning of the recording to identify:
  - 1) The date and time of the commencement of the interview or recording;
  - 2) The exact location of the interview or recording, including room numbers, car numbers, etc;
  - 3) The identities of all parties involved in or present at the interview or recording; and
  - 4) Any other pertinent identifying information, such as phone numbers called during recorded phone conversations; informant numbers when name identities cannot be used, etc.
- (c) Describe the time of and reason for any temporary stoppage of the recording and include the fact all parties had knowledge of the stoppage;
- (d) Record the date and time at the beginning of each new side of each tape used and indicate when it is a continuation of a previous recording; and
- (e) Record the date and time the recording was ended at the conclusion of each interview.

When circumstances do not permit compliance with the above guidelines (i.e., spontaneous recordings) as much of the information as possible shall be included at the end of the recording to identify the conversation.

Whenever possible, members should ensure the device recorded properly before the interviewed person leaves.

#### **451.5 REVIEW AND REPORTING OF RECORDED MEDIA FILES**

Officers should review recordings to assist with their investigation, prior to the completion of their report. Recorded statements shall be summarized and documented within the narrative of the applicable report. Members shall document in the disposition section of their written reports that a recording was made and booked into evidence.

Recorded media files or storage devices booked as evidence or for safe keeping, 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 member who originally recorded the incident; and
- (d) Pursuant to lawful process or by court personnel otherwise authorized to review evidence in a related case.

#### **451.6 RETENTION OF RECORDING MEDIA**

Members recording any portion of a contact that the member reasonably believes constitutes evidence in a criminal case, shall book the recording media or storage device (e.g., thumb drive, tape, CD, floppy disk, etc.) into evidence.

##### **451.6.1 NON-CRIMINAL MATTER**

At any time that a member reasonably believes that a recorded contact may be of benefit in a non-criminal matter (e.g., a hostile contact), the member may book the recording media into safekeeping or download the file in accordance with current procedure for storing digital files. Under such circumstances, the member shall notify a supervisor of the existence of the recording as soon as practicable



The original recording shall not be released to the custody of persons outside of the Department unless there is a legal requirement to do so.

#### **451.11 SUPERVISOR RESPONSIBILITIES**

When supervisors utilize a digital recorder for a Use of Force civil liability statement, the recording supervisor shall upload the recording into the database established by the Information Services Bureau. (See Policy §349 – Reportable Force)

#### **451.12 ISSUANCE OF DIGITAL RECORDERS**

Digital recorders shall be issued to K-9 officers and field supervisors whose assigned members have frequent public contact. Digital recorders may be issued to detectives upon their request for use during investigations. Digital recorders shall be personally assigned to K-9 officers, supervisors, and detectives through the Equipment and Supply Unit (ESU).

#### **451.13 REPAIRS OF DIGITAL RECORDERS**

When supervisors experience problems with issued digital recorders, they shall return the recorder to the Equipment and Supply Unit (ESU). ESU personnel shall return the device to the manufacturer for repairs (if still under warranty) and issue a replacement recorder.

#### **451.14 OBTAINING AUDIO RECORDINGS FROM COMCEN**

When members need to review the audio recording of a call coming in to ComCen, or obtain an audio copy of the call for later use, they can:

- (a) Request an audio recording by leaving a telephone message at 621-2254 or by sending an e-mail to [FPDAudio@fresno.gov](mailto:FPDAudio@fresno.gov);
- (b) Request the recording by contacting the ComCen Supervisor at 621-2250; or
- (c) Respond to the ComCen Supervisor's office to listen to the recording.
  - 1) When a copy is needed after reviewing the recording, the supervisor will provide a copy of the recording by e-mail, or CD when required for booking as evidence in a case.

Information needed to process the request includes the case number, event number, specific instructions on what you need, the reason for the request, and the deadline for the recordings. With the exception of investigators, officers need approval from their supervisor to obtain an audio recording.

### **452.1 POLICY**

Officers will use discretion and the guidelines provided by the Department to distinguish between claims of medical and criminal use of marijuana, as provided for in California's Compassionate Use Act (Health & Safety Code §11362.5).

#### **452.1.1 PURPOSE AND SCOPE**

To provide guidelines for handling incidents where the claim of medical marijuana is present.

### **452.2 ENFORCEMENT**

Although federal law does not currently permit possession of marijuana for medical use, California has created a limited defense for certain qualified individuals possessing small quantities of marijuana for medical use under strict conditions.

- (a) California does not provide any exception for individuals driving under the influence of marijuana and all such cases should be handled with appropriate enforcement action (e.g., Vehicle Code §23152, et seq.).
- (b) Possession, cultivation and sales of marijuana in quantities beyond that which might reasonably be construed for personal use should be handled as criminal cases with appropriate enforcement action taken pursuant to HS §§11357, 11358 and 11359.
  - 1) Unless a doctor has expressly prescribed a greater amount, no qualified patient or primary caregiver may possess more than eight ounces of dried marijuana per individual HS §11362.77(a).
  - 2) A qualified patient or primary caregiver may also maintain no more than six mature or 12 immature marijuana plants per individual.

If a claim of medicinal use is made, the officer should proceed as outlined below.

### **452.3 MEDICINAL USE CLAIMS**

In order to qualify for a medicinal marijuana defense, the individual(s) making such a claim must affirmatively establish the following information. If the individual(s) cannot or will not provide all of the required information, the officer should note such in any related report and proceed with appropriate enforcement action.

#### **452.3.1 PATIENTS**

- (a) An individual may establish their status as a qualified patient by presenting a current and valid identification card issued by the Department of Health (HS §11362.735). Such identification cards shall contain the following information:
  - 1) A unique serial number;
  - 2) An expiration date;
  - 3) The name and telephone number of the county health department approving the application;
  - 4) A 24hour toll-free number for law enforcement to verify the validity of the card; and
  - 5) A photograph of the cardholder;

No officer shall refuse to accept a properly issued identification card unless the officer has reasonable cause to believe that the information contained in the card is false or that the card is being used fraudulently (HS §11362.78).

- (b) If the individual does not possess a valid identification card, the individual claiming status as a "qualified patient" must minimally provide the following information:

- 1) Satisfactory identification establishing current residency in California;
- 2) A current and valid recommendation for marijuana from a California licensed physician; and
- 3) In the absence of a valid identification card, the handling officer should also obtain a written waiver from the involved individual(s) authorizing the release of all related medical records.

#### 452.3.2 PRIMARY CAREGIVERS

A primary caregiver is not authorized to use, sell, or possess marijuana for sale.

Additionally, a primary caregiver:

- (a) Must provide sufficient proof that they are responsible for the patient's housing, health and/or safety.
- (b) Must provide sufficient proof of personal knowledge of the patient's medical needs and the details of the attending physician's recommendation.

#### 452.4 CLAIM REQUIREMENTS MET

Once the handling officer is satisfied that the individual(s) making a medicinal marijuana use claim meets the above requirements, the officer should proceed as follows:

- (a) A sample of the involved marijuana should be seized and booked into evidence;
- (b) Any small amount of marijuana left in possession of a qualified individual for the limited purpose of medicinal use should be described and noted in the related report;
- (c) If the handling officer has already taken the individual(s) into custody (vs. detention only) prior to establishing qualification for a potential medicinal use defense and there are no other criminal charges pending or being investigated, the individual(s) should be released pursuant to Penal Code § 849(b);
- (d) If the individual remains in custody on any charge(s), the individual will not be permitted to use marijuana while being detained or held in jail or other law enforcement facility (HS § 11362.785(c)); and
- (e) The handling officer shall complete a report, which will be submitted to the District Attorney with all of the aforementioned documentation for a determination of whether or not the medicinal marijuana defense will apply.

#### 452.5 RETURN OF MARIJUANA

Regardless of the prosecution status or disposition of any related criminal case, this Department will not be responsible for the return of any marijuana seized as evidence unless presented with a valid court order requiring same. (HS §11362.785(d))

#### 452.6 MEDICAL MARIJUANA DISPENSARY

Members should contact an SIB supervisor before initiating actions / investigations regarding locations claiming to be medical marijuana dispensaries listed in Fresno Municipal Code §12-306 N (19).

## Fresno Police Department Policy Manual Automated License Plate Readers (ALPRs)

### 453.1 POLICY

The policy of the Fresno Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

#### 453.1.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Fresno Police Department to convert data associated with vehicle license plates for official law enforcement purposes.

### 453.2 ALPR ADMINISTRATION

The Patrol Administration Commander shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code §1798.90.5 et seq. This includes, but is not limited to (Civil Code §1798.90.51; Civil Code §1798.90.53):

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information;
- (b) Training requirements for authorized users;
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws;
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52;
- (e) The title and name of the current designee in overseeing the ALPR operation;
- (f) The retention and destruction of ALPR data; and
- (g) Ensuring this policy is conspicuously posted on the department's website.

The Patrol Administration Commander will assign members under their command to administer the day-to-day operation of the ALPR equipment and system administration.

### **453.3 AUTHORIZED USERS AND OPERATIONS**

Use of the ALPR equipment and system is restricted to the purposes outlined below. Department members shall not use or allow others to use the equipment or database records for any unauthorized purpose (Civil Code §1798.90.51; Civil Code §1798.90.53).

- (a) The ALPR system shall only be used for official law enforcement business;
- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR;
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles; and
- (d) No ALPR operator may access department, state or federal data unless otherwise authorized to do so. If practicable, officers should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.
- (e) Only personnel who have received department-approved training and have been provided user accounts shall use or access the ALPR system. (Civil Code § 1798.90.51; Civil Code § 1798.90.53).
- (f) Supervisor approval must be obtained prior to a user being granted ALPR system access. Accounts will be granted on a need to know and right to know basis;
- (g) Account usernames and passwords shall not be shared and only the assigned user may access their ALPR account;
- (h) User accounts will be immediately deactivated for any separated employees, inactive users (over 120 days), users who no longer need the account or others as deemed necessary; and
- (i) Users will be required to update their password every 90 days. Accounts will become disabled until password is changed.

### **453.4 DATA COLLECTION AND RETENTION**

All ALPR data captured using department-owned ALPR cameras should be stored for a minimum of one year (Government Code §34090.6), in accordance with the established records retention schedule. Thereafter, department-owned ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. Retention periods for ALPR data collected by commercial providers and/or other law enforcement agencies and made available to this department are set by those providers. ALPR data retention should be reviewed every two years.

User Hot List and Hot Plate retention will be set for no longer than 30 days unless approved by a supervisor and the Patrol Administration Commander or their designee. Users are responsible for managing and maintaining the Hot List(s) or Hot Plate(s) they create in the system. Data entered into the ALPR system is limited to active criminal investigations where reasonable suspicion exists that a crime is being committed or has been committed. No CLETS data may be entered.

All ALPR data security features will comply with Federal Bureau of Investigation-Criminal Justice Information Services (FBI-CJIS) standards.



### 453.5 MONITORING AND ACCOUNTABILITY

All data will be closely safeguarded and protected by both procedural and technological means. The Fresno Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code §1798.90.51; Civil Code §1798.90.53):

- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code §1798.90.52);
- (b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action; and
- (c) ALPR system audits shall be conducted on a quarterly basis.

#### 453.5.1 AUDITS

Quarterly system and user audits will be conducted by the Patrol Division Commander or their designee to ensure the Fresno Police Department's ALPR system meets the high standards and privacy expectations of the citizens of Fresno. Audits will be utilized to ensure public confidence in the ALPR program, identify unauthorized use of the system, to ensure the program is within CJIS compliance and ensure system data confidentiality. This audit process will seek to ensure the ALPR system is in compliance with Senate Bill 34 (Statutes of 2015, Chapter 532).

- (a) Audits will be conducted according to the following schedule:

Quarter	Start	End	Due Date
1	January 1	March 31	April 14
2	April 1	June 30	July 14
3	July 1	September 30	October 14
4	October 1	December 31	January 14

- (b) System audits will include the following:
  - 1) Review of Vigilant contract (annually);
  - 2) Review of Information Sharing MOUs;
  - 3) Review of CJIS compliance; and
  - 4) Review of system user rights;
- (c) User account audits will include the following:
  - 1) Three randomly selected users;
  - 2) Review User Training Status;
  - 3) Run Detection Browsing and License Query reports for each user;
  - 4) Select 100 records from each report and randomly review three of those records for compliance;
- (d) Any suspected misuse of the system shall be administratively investigated, with appropriate disciplinary and/or training action taken as needed.
- (e) Audit records will be maintained under the control of the Patrol Administration Commander or their designee for a period of three years at which time they will be purged.

#### **453.6 RELEASE OR SHARING OF ALPR DATA**

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law. The following procedure will be used:

- (a) The requesting agency makes a written request for the ALPR data that includes:
  - 1) The name of the agency;
  - 2) The name of the person requesting; and
  - 3) The intended purpose of obtaining the information;
- (b) The request is reviewed by the Patrol Administration Commander or authorized designee and approved before the request is fulfilled;
- (c) A signed Memorandum of Understanding (MOU) is executed between the agencies.

The approved written request and MOU are retained on file under the control of the Patrol Administration Commander or authorized designee. MOU's shall be valid for one year from the date of execution, and will be reviewed and renewed each year to continue the data sharing relationship.

The City Attorney's Office will review all ALPR data requests. Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Release of Records and Information Policy 810 (Civil Code §1798.90.55).

#### **453.7 ACCURACY AND DATA ERRORS**

Officers will ensure the accuracy of the notification of a hit by comparing the scanned image to the system provided OCR results and if practicable, verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

Officer shall provide a Case or Event Number along with a valid reason for each search done within the system. Validation of this information shall be included as part of the regular audits.

#### **453.8 DISCLOSURE OF DATA BREACH**

Any data breach will be handled in accordance with Policy 810 Release of Records and Information which ensures compliance with Civil Code §1798.29.

#### **453.9 TRAINING**

The Patrol Administration Commander should ensure that members receive department-approved training for those authorized to use or access the ALPR equipment and system (Civil Code §1798.90.51; Civil Code §1798.90.53). Refresher training regarding ALPR program updates and for reactivated users will be provided as needed.

## Fresno Police Department Policy Manual Interaction with Transgender and Gender Non- Conforming Individuals

### 455 Interaction with Individuals Identifying as Transgender

#### 455.1 POLICY

It is the policy of the Fresno Police Department to treat all individuals with dignity, respect, and professionalism. Members shall at all times abide by the Fresno Police Department's policy on respectful treatment, as well as the City of Fresno's policies and/or guidelines that prevent gender identity discrimination when interacting with transgender and gender non-conforming individuals.

##### 455.1.1 PURPOSE AND SCOPE

This policy establishes a procedure for handling interactions with transgender and gender non-conforming individuals.

#### 455.2 DEFINITIONS

**Adopted Name** - Non-birth name that a transgender or gender non-conforming individual uses in self-reference (this may or may not be the individual's legal name).

**Gender Expression** - An individual's external and social characteristics and behaviors (such as appearance, dress, mannerisms, speech, and social interactions) that may be perceived as masculine, feminine, or androgynous.

**Gender Fluid/Genderfluid** - A person whose gender identification and presentation shifts, whether within or outside of societal, gender-based expectations. Being fluid in motion between two or more genders

**Gender Identity** - An individual's internal sense of being male or female, or something not defined by traditional definitions of male or female

**Gender Non-Conforming** - Individuals who display gender traits which are not generally associated with their birth-assigned sex. Gender non-conforming individuals may or may not identify as male, female, or transgender. Also known as gender-variant, gender atypical or androgynous. Keep in mind that these expectations can vary across cultures and have changed over time.

**Transgender** - Individuals with a gender identity that is different from the sex assigned to them at birth. Someone who was assigned the male sex at birth but who identifies as female is a transgender woman. Likewise, a person assigned the female sex at birth but who identifies as male is a transgender man. Some individuals who would fit this definition of transgender do not identify themselves as such, and identify simply as men and women, consistent with their gender identity. The guidance discussed in this policy applies whether or not a particular individual self-identifies as transgender.

### **455.3 INTERACTIONS WITH TRANSGENDER AND GENDER NON-CONFORMING PEOPLE**

Members are to interact with transgender, gender non-conforming people and the LGBTQ+ community in a manner that is professional, respectful, and courteous.

Members shall:

- (a) *Respectfully treat individuals in a manner appropriate to the individual's gender, or gender identity/expression;*
- (b) *Use pronouns as requested by the individual (e.g. "she, her, hers, he, him, his, and they, them, theirs"); and*

**NOTE:** *If members are uncertain by which gender the individual wishes to be addressed, they will respectfully ask the individual for clarification [e.g. "Do you prefer to be referred to as 'she' or 'he'?" Or simply ask, "What are your pronouns?"]*

When requested, address the individual by the name based on their gender identity rather than that which is on their government-issued identification.

Members shall **NOT**:

- (a) Stop, detain, frisk, or search any person for the purpose of determining that person's gender or in order to call attention to that person's gender identity/expression:

**NOTE:** The above limitation does not prevent an officer from following the established department procedures relative to ensuring the proper processing of arrestees.

- (b) Except when legally necessary (e.g. processing an arrest), either require proof of an individual's gender or challenge an individual's gender identity/expression;
- (c) Use language that a reasonable person would consider demeaning or derogatory; in particular, language aimed at a person's actual or perceived gender, gender identity/expression, or sexual orientation;
- (d) Make assumptions about an individual's sexual orientation based upon an individual's gender or gender identity/expression; or
- (e) Use a person's gender or gender identity/expression alone as reasonable suspicion that the individual is or has engaged in a crime, including prostitution.

### **455.4 DETERMINATION OF LEGAL NAME**

In the event a transgender or gender non-conforming person's legal name is required, the person's legal name should be obtained in the following manner:

Absent extenuating circumstances, an officer should ask the person for their legal name in a one-on-one situation. If the contact is in a group environment, the officer should ask the person to step outside the group to obtain the legal name. Transgender and gender non-conforming people have the right to discuss their gender identity or expression openly, or to keep that information private.

If an officer asks a transgender or gender non-conforming person for their legal name in the presence of others, that officer shall provide a compelling, professional, and articulable reason for having done so.

#### **455.5 TRANSGENDER AND GENDER NON-CONFORMING ARESTEEES**

An arrestee's gender will be classified as it appears on the individual's government-issued card.

- (a) For the purpose of listing gender on citations, arrests reports, and other official documentation, members shall use the designation listed in the most recent records in official government databases, starting with DMV.
- (b) For the purpose of listing the name, members shall always write an individual's name as it appears on the individual's government-issued identification card. If the arrestee identifies themselves using a different name, that name will be listed as the alias on the arrest paperwork.

The exceptions to the government-issued identification card policy are those arrestees who have had gender conforming/affirming surgery from:

- (a) Male to female will be processed as a female;
- (b) Female to male will be processed as a male.

In the event that a government-issued identification card is unavailable, the following criteria will be used in determining gender:

If the arrestee states they:

- (a) Have male genitalia, the arrestee will be classified as a male; or
- (b) Do not have male genitalia, the arrestee will be classified as a female.

In the event that there is uncertainty regarding the appropriate classification of an arrestee's gender, a supervisor will be consulted for further guidance on the appropriate classification (e.g. In situations in which the arrestee does not have identification, and will not speak to police, supervisors can attempt to establish communication necessary to make a determination of the arrestee's gender).

#### **455.6 TRANSPORTATION OF TRANSGENDER AND GENDER NON-CONFORMING ARESTEEES**

Whenever practical, transgender and gender non-conforming arrestees will be transported alone. In situations with multiple arrestees, mass arrests, or where individual transport is not practical, transgender and gender non-conforming arrestees will be transported by gender classification.

#### **455.7 PROCESSING OF TRANSGENDER AND GENDER NON-CONFORMING ARESTEEES**

Appearance-related items, including, but not limited to, prosthetics, clothes, wigs, or make-up should not be confiscated or removed from transgender people unless:

- (a) Such items present a safety hazard;
- (b) Impede the administration of medical attention;
- (c) Are needed for evidentiary reasons;
- (d) Impedes the administration of a criminal investigation; or
- (e) Interferes with prisoner processing.

If an officer confiscates or removes a transgender or gender non-conforming person's appearance-related items, that officer shall provide a compelling, professional, and articulable reason for having done so.

#### **455.8 JUVENILE TRANSGENDER AND GENDER NON-CONFORMING INDIVIDUALS**

All interactions with juvenile transgender and gender non-conforming individuals shall conform to the mandates set out by this policy. This policy does not affect any other provisions outlined in applicable policies and laws covering the processing and handling of juveniles.

#### **455.9 PROTECTION OF PRIVACY**

An officer shall not disclose an individual's gender identity or sexual orientation to other arrestees, members of the public, or other governmental personnel, absent a proper law enforcement purpose. Members shall not disclose this information to the media without supervisor approval. If an officer does disclose such information as described, that officer shall provide a compelling, professional, and articulable reason for having done so.

**Fresno Police Department  
Policy Manual**

**Chapter 5: Traffic Operations**

**500 Traffic Function and Responsibility**

**500.1 POLICY**

This Department will focus 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 and public safety.

**500.1.1 PURPOSE AND SCOPE**

The ultimate goal of traffic enforcement is to reduce traffic collisions. This may be achieved through the application of such techniques as reactive assignment of personnel and equipment and the establishment of proactive patrols to deal with specific categories of unlawful driving behavior. Traffic enforcement techniques are based on accident data, enforcement activity records, traffic volume, traffic conditions and officer observations.

- (a) All officers assigned to patrol or traffic enforcement functions will emphasize enforcement of accident-causing violations during high accident hours and at locations of occurrence.
- (b) All officers will take directed enforcement action on request, and random enforcement action when appropriate.
- (c) All officers shall maintain high visibility while working routine enforcement, especially at high accident locations.
- (d) Other factors to be considered for deployment are citizen requests, construction zones, special events, etc.

**500.2 ENFORCEMENT**

Enforcement actions are commensurate with applicable laws and take into account the degree and severity of the violation committed. This Department does not establish ticket quotas and the number of arrests or citations issued by any officer shall not be used as the sole criterion for evaluating officer overall performance (Vehicle Code §41603). The visibility and quality of an officer's work effort will be commensurate with the philosophy of this policy. Traffic and vehicle stops should be performed in a uniformed manner as established in the Police Training Program and outlined within the Policy Manual.

Several methods are effective in the reduction of collisions:

**500.2.1 WARNINGS**

Warnings are non-punitive enforcement actions that may be considered and substituted for arrests or citations when circumstances warrant.

**500.2.2 CITATIONS**

Citations may be issued when an officer believes they are appropriate.

Officers should provide the following information to violators at a minimum:

- (a) Explanation of the violation or charge;
- (b) Court appearance procedure including the optional or mandatory appearance by the motorist; and;
- (c) Notice of whether the motorist can enter a plea and pay the fine by mail or at the court.

When no citation is issued to the violator, a Department business card shall be provided.

**Exception:** When an officer contacts a traffic violator driving on a suspended or revoked license, the officer shall issue a traffic citation pursuant to VC §14601.

### 500.2.3 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; \* and
- (e) Any other misdemeanor at the discretion of the officer, such as reckless driving with extenuating circumstances.

\* The officer shall notify a supervisor when a subject is taken into physical arrest.

### 500.3 USE OF TEMPORARY TRAFFIC CONTROL DEVICES

Traffic control can be provided by any member of the Department utilizing items such as flares, cones, portable warning signs, and other similar devices, as appropriate, when directing traffic.

The following is a list of situations, which may result in traffic control:

- (a) Traffic collision and/or traffic hazard scenes;
- (b) Special events (parades, races, sporting events, etc.);
- (c) Emergency conditions (fires, earthquakes, floods, other disasters, etc.);
- (d) Traffic signal light failure with approval from a supervisor;
- (e) Inclement weather conditions; or
- (f) Any unusual circumstances, which may require traffic control as deemed necessary by a field supervisor.

Requests for temporary barricades can be utilized for any of the above situations. All requests shall be made through ComCen and should include the type of barricades and/or control devices needed.

### 500.4 MANUAL OPERATION OF TRAFFIC CONTROL DEVICES

Department members who are trained in the manual operation of traffic control devices (that are designed for manual use) may, under certain circumstances, control traffic. These circumstances include, but are not limited to, the following:

- (a) Facilitating movement at traffic signals with field supervisor approval; or
- (b) Special events.

Reflective vests/belts shall be worn when Department members are manually controlling traffic control devices.

### 500.5 DIRECTING TRAFFIC

#### 500.5.1 REFLECTIVE VESTS & FLASHLIGHTS

- (a) Anytime a member is on a roadway (day or night) directing traffic, investigating a collision, or at the scene of a disaster, they shall wear a Department authorized reflective vest;
- (b) An operable flashlight is required for directing traffic during inclement weather and during hours of darkness.

#### 500.5.2 HAND SIGNALS

Hand signals shall consist of the following, but are not limited to:

- (a) **Stopping Traffic** - To stop traffic you should give one long blast of the whistle and raise your hand up so that your palm is facing the driver. Hold your hand up until the driver stops. This same technique can be used to stop traffic from both directions by holding both hands up simultaneously towards the directions of the traffic you want stopped;
- (b) **Starting Traffic** - Give two short whistle blasts and point your arm and forefinger toward the car you want to start. Hold it until you get their attention. Then, with your palm up, swing your hand up and over your chin, bending your arm at the elbow. Use this signal to give the go-ahead for slow and or timid drivers;



- (c) **Signaling for Turns** - Point towards the driver, giving them time to see the gesture. Then, point with your arm and forefinger in the direction that you want the driver to go. While one arm is pointing in the direction of the turn, use the other arm in the "starting traffic motion" to wave the driver into the turn.

## 500.6 VEHICLE STOPS

### 500.6.1 SELECTING THE LOCATION

Officers shall, when possible, plan their vehicle stops in advance. They shall attempt to choose a location which minimizes escape routes and interference from passing traffic and which affords the greatest overall level of protection. Lighting, crowd, traffic, weather, and other conditions shall be considered when planning a stop.

### 500.6.2 ADVISING COMCEN

When a unit is going to stop any vehicle, the ComCen shall be notified. The notification shall be made prior to the stop whenever possible.

### 500.6.3 RADIO VS. MDS

Units equipped with an MDS may initiate a traffic stop with the MDS.

### 500.6.4 RADIO NOTIFICATION

Members shall initiate the radio notification with their unit identification and the word traffic (e.g., "5A31, traffic").

The ESD will acknowledge, after which the initiating unit should advise the ESD of all of the following:

- (a) Anticipated location of stop;
- (b) License number of the vehicle;
- (c) Description of the vehicle;
- (d) Number of occupants; and
- (e) Whether or not an assisting unit is needed.

The initiating unit should wait for the ESD to acknowledge the above transmission before making the stop.

Once the stop is made, the initiating unit should update the final stop location when necessary.

### 500.6.5 METHODS OF STOPPING VEHICLES

Officers may use a combination of hands, horn, voice and/or emergency lights and siren to affect vehicle stops, as each situation dictates.

To reduce the possibility of a pursuit, officers shall not attempt vehicle stops until within a reasonable distance of the violator.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

#### 500.6.8 CONTACTING THE DRIVER / OCCUPANTS

Prior to engaging in questioning related to a criminal investigation or traffic violation, officers shall state the reason for the stop, unless the officer reasonably believes that withholding the reason for the stop is necessary to protect life or property from imminent threat (Government Code § 12525.5). In most cases, it is preferable to have the occupants remain seated in the vehicle with the doors closed.

When an occupant is asked to exit by an officer, contact shall take place on the side of the involved vehicles away from the flow of traffic.

Occupants and/or officers should never stand between the stopped vehicles or near passing traffic.

#### 500.6.9 ADVISING THE DRIVER / OCCUPANTS

Officers should explain to occupants the reasons for orders given and actions taken during the traffic stop.

#### 500.6.10 BUSINESS CARDS

When no citation is issued to the violator, a Department business card shall be provided.

### 500.7 HIGH RISK VEHICLE STOPS

When an officer has reasonable cause to believe the occupants of a vehicle have been involved in a serious crime or are armed, the stop shall be handled as a "high risk vehicle stop."



#### 500.7.2 ADVISING COMCEN

Officers shall advise ComCen of their intent to make a high risk stop and should supply all of the information required in Radio Notification.

Officers should also give the direction the vehicles are facing when stopped.

The ESD shall place the radio channel on emergency traffic.



#### 500.7.4 REMOVAL OF OCCUPANTS

When necessary, the suspects may be ordered from the vehicle one at a time.

An officer shall, under cover of an assisting officer, handcuff the suspects (when appropriate), and conduct a search for weapons.

#### 500.7.5 WRONG PERSONS

When the persons detained are not suspects in the crime for which the stop was made, a full explanation of the officers' actions shall be provided.

### 500.8 UNDERCOVER VEHICLE STOPS

An undercover vehicle stop or "UC Stop" is a vehicle stop accomplished with multiple undercover plain vehicles. The UC Stop is generally utilized in connection with a surveillance operation when the occupant of a vehicle is wanted for a serious crime and there is a likelihood of a pursuit if a routine vehicle stop is initiated. Only officers who have prior documented training on the UC Stop may elect to use this technique. Unmarked or unconventional vehicles should not be used for traffic enforcement purposes unless properly equipped with emergency equipment.

**500.8.1 SELECTING A LOCATION**

Officers should choose the location of the stop using the same guidelines in Selecting the Location stated above.

[REDACTED]

**500.8.4 IDENTIFICATION**

Officers exiting their undercover vehicles will clearly identify themselves as law enforcement. This can be accomplished with the use of an approved tactical vest. When possible, officers conducting UC Stops should request a marked unit to respond to assist. Marked units provide assurance to the public that unmarked vehicles and non-uniformed officers are members of the Department acting in an official capacity.

**500.8.5 REMOVAL OF OCCUPANTS**

Once the vehicle has been stopped, officers should revert to the tactics used in Section E, High Risk Vehicle Stops, as outlined in the above stated section Removal of Occupants.

## **502 Traffic Collision Reporting**

### **502.1 POLICY**

Members involved in the handling of traffic related collisions will follow the guidelines of this policy and utilize the California Highway Patrol Collision Investigation Manual (CIM) as the primary guide for documentation of their investigations.

#### **502.1.1 PURPOSE AND SCOPE**

Members will prepare traffic collision reports in compliance with the California Highway Patrol Collision Investigation Manual (CIM) and as a public service make traffic collision reports available to the community (with some exceptions).

### **502.2 RESPONSIBILITY**

The Traffic Bureau Commander will be responsible for distribution of the CIM. The Traffic Bureau Commander will receive all changes in the CIM.

### **502.3 PROTECTION OF THE SCENE**

Members shall see to the protection of involved vehicles, personal property, and other traffic at the collision scene. As soon as practical, members shall remove damaged vehicles and debris from the roadway and restore the flow of traffic.

**Exceptions:** Members shall take every precaution to preserve any and all evidence at the scene of a major injury or fatal collision until it is determined that it is no longer necessary to do so.

### **502.4 DUTIES ON ARRIVAL AT A COLLISION SCENE**

The traffic collision policies outlined in the following subsections shall be followed by the first unit(s) to arrive at a collision scene, regardless of which unit will ultimately handle the investigation. The first arriving officer on scene shall be in charge of the scene and direct the response of assisting units. Once the Primary unit assigned to the traffic collision arrives on scene, they will assume responsibility for the scene and/or any related investigation.

#### **502.4.1 CARE FOR INJURED**

Members shall:

- (a) Check for injuries and shall request EMS, Fire, and any other assistance as needed;
- (b) Provide care and first aid for the injured pending the arrival of an EMS and/or Fire;
- (c) Encourage injured parties to remain in their vehicle(s) until the arrival of medical assistance; and
- (d) NOT attempt to remove an injured person from a vehicle absent a life-threatening situation.

#### **502.4.2 PROTECTION OF THE SCENE**

Members shall see to the protection of:

- (a) Involved vehicles;
- (b) Other traffic at the collision scene; and
- (c) Personal property.

As soon as practical, members shall:

- (a) Remove damaged vehicles and debris from the roadway; and
- (b) Restore the flow of traffic.

**Exceptions:** Members shall take every precaution to preserve any and all evidence at the scene of a major injury or fatal collision until it is determined that it is no longer necessary to do so.

#### 502.4.3 POSITIONING OF POLICE VEHICLES

- (a) When possible, police vehicles should be parked legally at the collision scene.
- (b) When it is necessary to park in the street to protect persons or property, the emergency lights shall be activated to alert approaching traffic.
- (c) Flares or Lite Flares shall be used as needed.

#### 502.4.4 MAJOR TRAFFIC CONGESTION

Members responding to a traffic collision, where there is significant traffic congestion, may utilize their Code-3 equipment in order to access the scene of the collision. Once they have arrived, members should assess the scene and determine what additional resources are needed. These resources may include, but are not limited to:

- (a) Personnel;
- (b) Barricades;
- (c) Signs; and
- (d) Other resources as identified by the officer in charge.

If it appears that the incident is going to be lengthy the officer in charge shall advise ComCen who will subsequently relay the information to other agencies (FAX, Fire Department, EMS, Cal Trans, etc.).

#### 502.4.5 SUPERVISOR NOTIFICATION

Members shall notify a supervisor of a traffic collision that involves any of the following:

- (a) A fatality;
- (b) Any injury defined in the CIM as "severe injury";
- (c) The potential of civil litigation against the City, the Department, or any other public agency; or
- (d) A City owned or leased vehicle.

#### 502.4.6 FATALITIES

When there is any question as to death, medical aid shall be requested and appropriate first aid rendered.

Deceased persons shall be covered from public view whenever possible.

#### 502.4.7 RESPONSE TO DISTURBANCES AT TRAFFIC COLLISIONS

When Members are dispatched to traffic collisions and receive information of a disturbance or fight occurring at the collision scene, members shall follow the guidelines in Policy §316.3 regarding authorized Code-3 responses.

**Exception:** CSO's and Cadet II's are not authorized to respond Code-3. When a CSO or Cadet II is dispatched to a traffic collision involving a disturbance or fight, they shall confirm with the ESD that a disturbance/fight is occurring and request that a sworn member respond until the scene is stabilized.

#### 502.5 PHOTOGRAPHS AND MEASUREMENTS

Photographs, measurements, and evidence collection will be requested of CSI personnel when:

- (a) A collision involves a fatality or potential fatality;
- (b) Necessary to assist with the prosecution of a felony charge resulting from the collision;
- (c) There is a probability of future litigation against the City; or
- (d) Other circumstances are present in which a supervisor deems necessary.

#### 502.6 AREA OF IMPACT (AOI)

An AOI shall be included in all required collision reports. Collisions occurring:

- (a) In an intersection, the AOI shall be identified by measurements from the curb lines or roadway edges of the intersecting streets;
- (b) Outside of an intersection, the AOI shall be identified by measurements from the curb lines or roadway edges of the street involved and the nearest cross street;
- (c) Measurements shall be expressed in approximate feet unless an accurate measuring device is used;

- (d) When the distance to the nearest cross street is too great to measure in feet, the odometer of a vehicle may be used to measure the distance, which will be expressed in approximate tenths of a mile; and
- (e) When it is necessary to more precisely indicate the AOI, a second description of the AOI may be included in the narrative of the report. This measurement shall be made from any nearby permanent fixed object and the roadway curb or edge. The second measurement will supplement, not replace, the measurement to a cross street.

## **502.7 COLLISION DOCUMENTATION**

The following subsections shall be used to determine which type of collision format is required and the contents of that documentation. Except for those situations described in this section, no collision report will be taken. Upon arrival at any traffic collision, officers shall activate their body worn camera Policy §450.4. When the collision involves any city owned vehicle, the member shall assign the category "City Involved Traffic Collision (Non-Fatal)" for retention purposes Policy §450.9.2.

### **502.7.1 COLLISION INVESTIGATION**

A Collision Investigation shall consist of all elements and forms required by the Collision Investigation Manual (CIM) to document a collision that involves any of the following:

- (a) A fatality;
- (b) Any injury defined in the CIM as "severe injury", (broken or fractured bones; dislocated or distorted limbs; severe lacerations; skull, spinal, chest or abdominal injuries that go beyond visible; unconsciousness, severe burns) regardless of removal/transport from the scene by an ambulance.
- (c) The potential of civil litigation against the City, the Department, or any other public agency;
- (d) The arrest or citation (notice to appear or notice of violation) of a driver for a misdemeanor or felony traffic violation causing the collision (including DUI);
- (e) The potential for a felony prosecution absent an arrest (e.g., Hit and Run); or
- (f) Any City owned or leased vehicle.

### **502.7.2 COLLISION REPORT**

Crossroads shall be the primary method for documenting collisions, unless express permission has been granted by the division commander to utilize another method of reporting (i.e. handwritten, alternate computer software, etc.).

A Collision Report shall be used to document a collision that involves any of the following:

- (a) Hit and run collisions when there is sufficient information available to identify the hit and run driver through follow-up investigation;
- (b) Injury collisions (other than "severe injury") that result in the removal/transport of any person(s) by ambulance, from the scene to a medical facility;
- (c) Damage to City property (Vehicles, light poles, traffic signs, buildings, etc.); or
- (d) The issuance of a notice of violation to a driver for a traffic infraction causing the collision.

The Collision Report shall consist of all of the elements and forms required by the CIM. This shall include documenting any insurance information presented by the driver, regardless of its expiration date.

### **502.7.3 NOTICES OF VIOLATION AT COLLISION SCENES**

When issuing a Notice of Violation, per Vehicle Code §40600, the issuing officer shall check the box "Offense(s) not committed in my presence, completed on information and belief." The officer shall give the violator the yellow copy of the form and admonish them that failure to take care of the matter with the Traffic Court, within the prescribed time, may result in a complaint being issued by the DA's Office. The violator shall not sign the Notice of Violation form. Instead, officers shall insert the words: "Notice of Violation, VC §40600" on the signature line.

Officers issuing a Notice of Violation at a collision scene shall document the incident as a Collision Investigation (for misdemeanor violations) or as a Collision Report (for infraction violations). Either form

of documentation shall include the description and details of any violations which have been substantiated by witnesses and/or evidence.

A citation issued as a Notice of Violation shall be attached to the collision documentation and submitted to Records. The case number of the report shall be listed on the Notice of Violation.

#### 502.7.4 NOTICES TO APPEAR AT COLLISION SCENES

When a driver has no valid license [VC §12500(a)] or has a suspension or revocation action, officers shall investigate the license violation including service of notice and taking enforcement action where permissible (e.g., citizen's arrest). Driver's license violations do not, in and of themselves, require the collision to be documented as an investigation.

When violations exist which would justify issuance of both a Notice of Violation and a Notice to Appear, the charges may not be combined. Instead, separate citations shall be issued for the respective violations. The Notice of Violation and the Notice to Appear shall be clipped together and processed as a single complaint.

### 502.8 SPECIAL COLLISION DOCUMENTATION

#### 502.8.1 PRIVATE PROPERTY COLLISIONS

In compliance with the CIM, traffic collision reports shall not be taken for traffic collisions occurring on private property, unless there is a death or injury to any person involved, a hit and run violation, or Vehicle Code violation. An Incident Report may be taken at the discretion of any supervisor.

#### 502.8.2 PROPERTY DAMAGE COLLISIONS

Members responding to the scene of a collision resulting in property damage only (including vehicle damage) shall ensure that involved parties comply with the notification requirements of VC §20002. No report is required for collisions producing property damage only unless it is a City owned vehicle or other violations are present requiring documentation. (e.g., DUI, VC §14601, etc.)

#### 502.8.3 CRIMINAL VIOLATIONS

When a collision involves an arrest for a criminal violation, the arrest shall be documented in a CR in addition to any required collision report.

**Exception:** Hit and run arrests do not require a CR but may be addressed solely in a Collision Investigation. Hit and run collisions with no suspect information should be documented as a Synoptical Report.

**Examples:**

**DUI with collision:** A Collision Investigation and Sobriety Report are required. The collision investigation need contain only those narrative details dealing with the collision while the Sobriety Report need contain only those narrative details which address the DUI arrest, evidence, etc. Both reports will use the same case number but each will be numbered separately.

**DUI with collision, driver in possession of a loaded, concealed handgun:** A Collision Investigation, Sobriety Report, and a LERF [to document the Penal Code §§25400(a) and 25850(a) charges] are required.

#### 502.8.4 INTENTIONAL COLLISION / LEGAL INTERVENTION

Collisions that are caused intentionally or instances of "legal intervention" (as defined in the CIM) are not motor vehicle collisions and shall not be documented as such. Instead, the incident shall be documented in the applicable CR or GIR.

#### 502.8.5 INDUSTRIAL TRAFFIC COLLISIONS

Collisions/Accidents involving work vehicles (or mobile machinery) on private or public property which are in use as industrial equipment (graders, back-hoes, water trucks, etc.) which result in injury or death will be classed as industrial accidents and will be reported as outlined in Policy §360.

Collisions involving such machinery, when it is not in use as industrial equipment (e.g., in transport from one job to the next), shall be reported as traffic collisions consistent with the requirements of this order.

#### **502.8.6 TRAFFIC COLLISIONS INVOLVING CITY VEHICLES**

Traffic collision investigation reports shall be taken when a City owned vehicle is involved in a traffic collision wherein any damage or injury results. Supervisors shall contact the CRU Sergeant to request a Traffic Unit (Special Investigation Team) response for any City vehicle involved in a collision that results in the transport of any involved person to a medical facility.

When a collision results in no injuries and no damage to any vehicles or property, a general information (GI) report may be taken in lieu of a traffic collision report (CHP 555 form) at the direction of a supervisor if the collision:

- (a) Occurs on private property; or
- (b) Occurs upon a roadway or highway and does not involve another vehicle.

#### **502.9 DEPARTMENT VEHICLE COLLISIONS (DVC)**

Collisions involving members operating City owned or leased vehicles, or other vehicles used during the course and scope of official Department business shall be investigated and reported by an officer of the Department other than an officer driving or riding in a vehicle involved in the collision. The investigation shall be completed under the on scene direction of a supervisor. The report shall be reviewed for completeness and approved by the same on scene supervisor.

##### **502.9.1 INVESTIGATIONS OUTSIDE OF THE CITY**

When a DVC occurs outside of the City, the investigation should be completed by the agency that has responsibility for the jurisdiction in which the collision occurred.

When a DVC occurs in close proximity to the City limits, a supervisor shall respond to survey the collision scene. When the investigating agency is unable to provide the necessary photographs, measurements, and/or evidence collection normally provided by Crime Scene Investigations (CSI), a CSI Technician should be requested.

When a DVC occurs in another jurisdiction, the investigating agency shall be requested to forward a copy of their report(s) to the Investigating Supervisor, who will upload the report(s) to the collision review package submitted using the BlueTeam web interface.

##### **502.9.2 SPECIAL PROVISIONS FOR COLLISION DOCUMENTATION**

When completing the Collision Investigation for the DVC:

- (a) Involved members may use the address of the Department as their residence address;
- (b) The City assigned vehicle number shall be written in the "miscellaneous" box;
- (c) The name(s) of the insurance carrier(s) for involved parties other than members shall be listed in the designated space on the face sheet;
- (d) The words "On Duty Emergency Vehicle" shall be written in the "Special Conditions" box and in the name box above the member's name when the collision involves an on duty sworn member (including reserves) operating an "authorized emergency vehicle" as defined in VC §165. When the vehicle involved is not registered to the Department or the City, an explanation establishing it as an authorized emergency vehicle shall be included in the report narrative;
- (e) The provisions of VC §21806 shall be considered during the investigation and subsequent documentation of the collision; and
- (f) The investigation shall be reviewed/approved by a supervisor.

##### **502.9.3 ADMINISTRATIVE PROCESSING AND REVIEW**

"Administrative Processing" refers to the gathering and distribution of the documents generated as a result of a DVC. "Administrative Review" refers to the actual review of the investigation to determine if the member acted in accordance with statutory requirements, established Department guidelines and procedures, and with the degree of care required.



Administrative processing and review commences with the supervisor present at the scene and culminates with a final decision by the division commander of the involved member. This review will result in a finding that the driving behavior either was or was not within Department vehicle operation guidelines defined in Policy §703 and other related orders.

When an officer is “at fault” in a collision and one of the following occurs, the incident shall be investigated through a formal Administrative Investigation:

- (a) 2nd collision in prior five years;
- (b) The collision is with an occupied vehicle, bicyclist, pedestrian or under circumstances where another party is potentially injured;
- (c) The collision results in major damage to property or the officers vehicle; or
- (d) At the request of a staff member with concurrence of a Division Commander.

All other collisions may be handled through the Administrative Review process. In the Administrative Review process, a Division Commander is required to approve of the proposed discipline or corrective measure.

#### 502.9.4 SUPERVISOR’S RESPONSIBILITIES

Prior to completion of their shift, the supervisor shall:

- (a) Create a collision review package using the BlueTeam web interface to include answering related questions and selecting appropriate entries via drop down boxes;
- (b) Attach a copy of the Automobile Accident Loss Notice to Blue Team;
- (c) Click “save” (can be accessed by the IA secretary); and
- (d) Send a copy of the Automobile Accident Loss Notice Loss to the Collision Review Officer and District/Bureau Commander.

Within 10 days of the collision, the supervisor will complete the collision review package and forward it to the Collision Review Officer via BlueTeam. The package will include:

- (a) Administrative Review Memo (when required);
- (b) Automobile Accident Loss Notice; and
- (c) Collision Investigation;

If a collision results in the transport of any involved person to a medical facility, the supervisor shall contact the CRU Sergeant to request a Traffic Unit (Special Investigation Team) response. The report will be reviewed by a CRU detective prior to its submission for approval.

When a supervisor determines that a DVC may result in disciplinary action, they shall conduct the investigation consistent with the requirements of the Public Safety Officers Procedural Bill of Rights (Government Code §3300, et seq.)

#### 502.9.5 COLLISION REVIEW OFFICER

The Collision Review Officer is appointed by the Chief of Police and is responsible for:

- (a) Creating a log to track each collision package;
- (b) Reviewing the Automobile Accident Loss Notice for completeness and forwarding to Risk Management and the Fleet Maintenance Supervisor;
- (c) Reviewing the collision package and determine a finding; and
- (d) Forwarding the collision package via Blue Team to the commanding officer of the involved member.

#### 502.9.6 COMMANDING OFFICER RESPONSIBILITY

The commanding officer of the member involved in the DVC shall review the Collision Review Officer's findings, making a determination if they concur or disagrees with the findings.

When the review by the commanding officer is in concurrence with the findings of the Collision Review Officer, the commanding officer shall forward the entire package via BlueTeam to the bureau commander of the involved member.

When the review by the commanding officer is in disagreement, the Collision Review Officer and the commanding officer shall meet to attempt to reconcile the differences. When the differences are reconciled in this meeting, the Collision Review Officer shall update the collision review package indicating the results of the meeting and the final findings. The entire package shall then be forwarded via BlueTeam to the division commander through the involved member's chain of command.

When the findings of the Collision Review Officer cannot be reconciled with those of the commanding officer, the commanding officer shall update the collision review package, detailing the differences. The commanding officer will forward the entire package via BlueTeam to the division commander through the involved member's chain of command.

#### **502.9.7 REVIEW OF FINDINGS BY DIVISION COMMANDER**

The division commander will review the entire package and make a preliminary decision as to a course of action. Notification of the involved member of the decision of the division commander will be handled by the Internal Affairs Bureau consistent with established procedures on internal investigations.

#### **502.9.8 MAINTENANCE OF FILES**

Upon completion of the entire review process, collision review packages shall be maintained by Internal Affairs for five years, after which they may be purged.

Records of DVC's may be considered as "disciplinary history" in connection with a subsequent collision for five years from the date of completion of the entire review process for prior collision(s).

#### **502.10 COLLISION RECONSTRUCTION UNIT (CRU)**

A CRU member will be available on a callout basis to provide collision analysis expertise as needed during major collision investigations.

##### **502.10.1 REQUESTING CRU RESPONSE**

The investigating member's supervisor shall make the initial determination that a CRU response is required. A district commander or field commander will review the supervisor's recommendation and make the final decision to have the Duty Office contact the on-call CRU Supervisor. In the absence of a district commander or field commander, the on-scene supervisor shall make the decision to notify the CRU Supervisor.

Upon arrival at the scene, the CRU member shall assume responsibility for direction and coordination of the collision investigation. CSI, the Coroner, and tows shall not be requested on calls involving a CRU response until approval has been given by the CRU member.

##### **502.10.2 CRU RESPONSE CRITERIA**

CRU members shall respond to:

- (a) Fatal or severe injury collisions involving on duty members, on duty City employees, and on duty members of allied law enforcement agencies;
- (b) Fatal collisions where the investigating member and scene supervisor believe a prima facie case exists to support a charge of murder, or vehicular manslaughter;
- (c) Collisions likely to result in a fatality, where criminal charges may result;
- (d) Fatal collisions where the cause cannot be determined by on scene personnel;
- (e) Collisions with a fatality in which there is a reasonable belief that the collision did not cause the fatality;
- (f) Collisions that result in the response of investigators of the National Transportation Safety Board;
- (g) Collisions that result in the spillage of a significant amount of hazardous material(s);

- (h) Collisions resulting in fatal or severe injury or major property damage where it is likely the City is potentially exposed to civil liability; and
- (i) Any other collisions where the on scene supervisor believes technical assistance is required, and the response is approved by a district commander or field commander.

### 502.10.3 REMOVAL OF VEHICLES DURING CRU INVESTIGATIONS

In the event of a CRU call-out, only tow companies from the CRU rotation tow list shall be utilized to impound vehicles.

In any collision investigation meeting the above stated criteria, all vehicles shall be impounded for mechanical inspection. In cases other than those listed in the above stated criteria, impounds for mechanical inspection should be limited to felony investigations where a specific need exists.

When a member feels a vehicle inspection is necessary, they shall contact their immediate supervisor who shall evaluate the request.

Upon approval, the investigating member shall have the ComCen contact the appropriate tow company from the CRU rotation tow list. A Police Hold shall be placed on the vehicle and it shall be impounded as evidence pursuant to VC §22655.5. The member will ensure that the tow truck operator is aware that the impound is for CRU follow-up, to ensure proper disposition of the vehicle. When the collision investigator is not a CRU member, they shall notify the CRU office of the request for a mechanical inspection by voice mail.

### 502.11 HAZARDOUS SITUATIONS

When a collision results in damage to traffic signs or signals or other property creating an immediate hazard, the investigating member shall immediately notify the ComCen and arrange for the direction of traffic until the proper right-of-way controls are restored or temporary devices are installed.

#### 502.11.1 VEHICLE FIRES

Members responding to collisions involving a vehicle on fire shall adhere to the guidelines in Policy §316.3 – Authorized Code-3 Responses and upon arrival the incident shall be handled in a manner consistent with the guidelines outlined in Policy §345.3 – Member’s Duties Before Fire Department Arrival.

#### 502.11.2 HAZARDOUS MATERIALS SPILLS

Members encountering collisions involving suspected hazardous materials spills shall proceed as outlined in Policy §412 – Hazardous Material Response.

### 502.12 FATALITIES

When there is any question as to death, medical aid shall be requested and appropriate first aid rendered. Deceased persons shall be covered from public view whenever possible.

### 502.13 RESPONSE TO DISTURBANCES AT TRAFFIC COLLISIONS

When members are dispatched to traffic collisions and receive information of a disturbance or fight occurring at the collision scene, members shall follow the Departmental guidelines regarding authorized code three responses.

**Exception:** CSO’s are not authorized to respond code three. When a CSO is dispatched to a traffic collision involving a disturbance or fight, they shall request that a sworn member respond until the scene is stabilized.

### 502.14 OPINIONS ABOUT TRAFFIC ENGINEERING ISSUES

Opinions about possible contributing factors to a collision which involve City traffic signals, signs, roadway designs, etc. should not be entered into a collision report.

These concerns or opinions shall be submitted on a memo addressed to the Traffic Safety Section Commander who will follow up on the concerns with the City Traffic Engineer.

### **502.15 FOLLOW-UP INVESTIGATIONS**

Special routing of a collision investigation for follow-up investigation may occur where the collection of off-scene data, collisions reconstruction, or expert technical assistance is required to support felony charges.

When the follow-up investigation is limited to obtaining additional witness or victim statements, the primary investigative officer should respond when possible.

When follow-up is needed, a copy of the original investigation should be routed to the CRU Investigators, through the member's immediate supervisor, with an explanation of what follow-up is needed.

Members requesting a collision reconstruction or expert technical assistance:

- (a) Are required to support felony charges; and
- (b) Shall have completed the required factual diagram and have CSI take appropriate photos of the scene.

## Fresno Police Department Policy Manual

# Vehicle Towing Policy

### 510.1 POLICY

Members will tow and store vehicles only within established procedures of this Department, consistent with state laws. The sole goal of impounding a vehicle is to improve public safety and shall not be done for any other reason. A vehicle shall never be impounded solely for the purpose of generating revenue, or as a means of retribution against the violator.

#### 510.1.1 PURPOSE AND SCOPE

The purpose of this policy is to assure the safety of the public and the protection of private property in accordance with the Community Care Doctrine.

### 510.2 DEFINITIONS

**Evidence Tow** - A member has legal authority to cause the removal of a vehicle by one of the Department's contracted tow companies when any vehicle is found upon a highway, or public or private property and a member has probable cause to believe:

- (a) The vehicle was used as the means of committing a public offense; or
- (b) The vehicle is itself evidence which tends to show that a crime has been committed or that the vehicle contains evidence, which cannot readily be removed, which tends to show that a crime has been committed.

**Impound** – A member has the legal authority to cause the removal of a vehicle by one of the Department's contracted tow companies. Impounds are considered an enforcement action and will require the completion of a CHP 180 Form, the registered owner or legal owner to pay City Administrative Fees and pay all tow charges.

**Owners No-Preference Tow** – An owner's request to use one of the Department's contracted tow companies in non-enforcement impound situations. Owner's no-preference tow requests do not require a CHP 180 Form.

**Owner's Preference Tow** – A specific tow company requested by the driver/owner of a vehicle needing to be towed. If not available, an "Owner's no-preference" tow will be substituted. Owner's preference and owner's no-preference tows shall not be used for impounds and do not require a CHP 180 Form.

**Storage** – A non-enforcement tow, generally considered a courtesy to the public. Storage does not require a CHP 180 Form, the registered owner or legal owner to pay any City Administrative Fees but will require the payment of tow charges.

### 510.3 TOWING SERVICES

The City of Fresno contracts with established tow companies to tow vehicles for the Department. The Chief of Police or designee retains sole discretion in determining the selection of and total number of companies authorized to tow vehicles for the Department. The following circumstances may result in the non-renewal of a Tow Services Agreement (TSA) between the Department and Tow Operators:

- (a) Repeated citizen complaints;
- (b) Violations of the TSA;
- (c) Violations of the FMC or any other governing statutes; or
- (d) For any other reason not specified herein.

The contracted tow companies will be used in, but not limited to, the following situations:

- (a) When the driver is unlicensed, suspended, or revoked, or arrested/cited;

- (b) When vehicles are disabled due to mechanical failure or as a result of a collision and are blocking any portion of the roadway;
- (c) When a vehicle is being held as evidence in connection with an investigation;
- (d) When it is necessary to safeguard a vehicle due to the inability of the owner or operator to take the required action;
- (e) When a vehicle has expired registration over six months being operated on a highway; or
- (f) When it is otherwise necessary to store/impound a 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 regulation.

#### **510.4 VEHICLE SEARCHES**

Vehicles may be searched when one or more of the following conditions are met:

- (a) When probable cause to search the vehicle exists;
- (b) With consent of the operator;
- (c) Incident to an arrest of the occupants of the vehicle;
- (d) To search for weapons;
- (e) When necessary to examine the vehicle identification number or to determine the ownership of the vehicle;
- (f) Under emergency circumstances not otherwise enumerated above; and/or
- (g) Pursuant to a valid search warrant.

#### **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, search personnel shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property from such hazard.

#### **510.6 VEHICLE IMPOUND REQUIREMENTS**

Vehicles **MAY** be impounded:

- (a) For further investigation/evidence;  
**Exceptions:** Recovered stolen vehicles shall be towed utilizing the normal tow rotation list in DTS. Misdemeanor Hit & Run vehicles shall not be towed as evidence. Officers should take photos or utilize the body worn camera to document damage. Vehicles should be released to the registered owner or towed under the Community Care Doctrine.
- (b) For registration expired in excess of six months, and/or evidence of false registration (False Tabs) [VC §22651(o)]. Prior to impounding a vehicle for expired registration in excess of six months the officer shall verify using available DMV records, that no current registration exists for the vehicle. The vehicle shall not be impounded if the registration is current, or the officer cannot access DMV records for verification purposes.
- (c) When the driver has been cited for VC §12500 and has no active license suspensions, the vehicle can only be impounded if, pursuant to the Community Care Doctrine (CCD), leaving the vehicle at the scene would:
  - 1) Jeopardize public safety;
  - 2) Jeopardize the efficient movement of traffic; or
  - 3) Subject the vehicle to vandalism or theft.

**Note:** Members will include a notation on the CHP 180 Form indicating which CCD applied. DO NOT impound when the driver is cited for VC §12500 simply because no other licensed driver is available when the Community Care Doctrine does not apply.

Members must get supervisor approval before releasing a vehicle on scene after having issued a citation for any of the above violations.

Vehicles **SHALL** be impounded:

- (a) When the driver has been cited for VC §12500, and DMV, citation data, or RMS records indicate the driver has been previously cited for the same offense. This indicates “prior knowledge” and proof the offense will continue; therefore the vehicle shall be impounded pursuant to VC §22651(p);
- (b) When the driver has been cited for VC §12500 but has an active suspension on their license. Regardless of knowledge of the suspension, the vehicle shall be impounded pursuant to VC §22651(p);
- (c) When the driver has been arrested/cited for any violation of sections VC §14601; Violations of VC §14601 require knowledge of the suspension or revocation. Knowledge is established by a valid service code indicated in the drivers DMV record. The service codes are listed below;
  - 1) A - First Class Mail, not returned unclaimed;
  - 2) B - Served, Signed Document on File;
  - 3) D - Personal Service Document On File;
  - 4) H - Acknowledgement, No Signature;
  - 5) I - Returned Unclaimed;
  - 6) J - Written Notice Service By Officer;
  - 7) K - Refused Service;
  - 8) L - Reported Deceased;
  - 9) M- Verbal Notice Document on File;
  - 10) P - Personal Service; or
  - 11) R - Personal Service Unsuccessful
- (d) Pursuant to Vehicle Code §23109.2 when the vehicle was involved in:
  - 1) Reckless driving on a highway, as described in VC §23103(a);
  - 2) Reckless driving in any off-street parking facility, as described in VC §23103(b);
  - 3) A motor vehicle speed contest, as described in VC §23109(a); or
  - 4) Exhibition of speed on a highway, as described in VC §23109(c).

All of the service codes constitute proof of knowledge of the suspension or revocation for enforcement purposes, with *the* exception of “I”, “K”, “R”.

When knowledge of the suspension or revocation cannot be established through service codes the driver shall be issued a DL310 verbal notice by Peace officer and cited VC §12500(a) and the vehicle shall be impounded.

**\*Note:** Pursuant to VC §14601 through VC §14601.5(a) service code “A” First class mail, not returned unclaimed, knowledge of suspension or revocation is “conclusively presumed” and therefore service is valid. VC §13106 refers to that presumption of knowledge as a “rebuttable presumption”. Any request of “personal service needed” with service code “A”, does not affect the valid service, it is merely a secondary notification that eliminates the “rebuttable presumption” provision of VC §13106. The District Attorney’s Office WILL NOT file on service code “A”, unless the driver admits to having knowledge and this information is included in the police report. Therefore, if the driver refuses to acknowledge the suspension on an “A” service code, the driver shall be cited for VC 12500(a) and the vehicle shall be impounded. The “Community Care Doctrine” does not apply in this situation since the driver’s privileges have been suspended. It is imperative that members complete a DL 310 so that the service code can be updated showing the driver has been advised of the suspension by law enforcement. ComCen shall be advised that the vehicle is being impounded for an unlicensed driver.

- (d) When the driver has been arrested/cited for VC §§23140, 23152, or 23153:
  - 1) DUI impounds for VC §§23140, 23152, 23153 will follow the guidelines set forth in VC §§22651(h)(1) & 22651(h)(2);
  - 2) Officers shall check the DMV record of all DUI offenders to determine prior convictions for DUI. Vehicles of repeat DUI offenders shall be impounded as follows:

- I. Impound for 5 Days when the driver has been determined to have been convicted one time of violating VC §23140, VC §23152 or VC §23153 within the prior 10 years, per VC §14602.8(a)(1) and at least one of the following criteria:
    - a. The driver has a BAC of .10% or more; or
    - b. The driver refuses to submit to or complete a chemical test requested by an investigating officer.
  - II. Impound for 15 days when the driver has been determined to have been convicted two or more times of violating any combination of VC §23140, VC §23152 or VC §23153 within the prior 10 years, per VC §14602.8(a)(1) and at least one of the following criteria:
    - a. The driver has a BAC of .10% or more; or
    - b. The driver refuses to submit to or complete a chemical test requested by an investigating officer.
  - III. Officers should indicate the length of the hold (5 or 15 days on the CHP 180 Form); and
- 3) Officers shall check the DMV record to determine any requirements for any ignition interlock devices. Any vehicle of a DUI offenders found in violation of this requirement shall be impounded pursuant to the provisions of VC §14602.6(a).

#### 510.6.1 30 DAY IMPOUNDS

30 day impounds will follow the guidelines set forth in VC §14602.6(a) and/or VC §23109.2 when the driver has been arrested/cited for any violation of sections VC §14601, VC §23103 or VC §23109.


Vehicles impounded for VC §12500 will not be impounded for 30 days.

#### 510.7 EVIDENCE TOW

A member shall obtain approval from the assigned/on-scene investigative unit or the member's supervisor to impound a vehicle for further investigation/evidence (i.e. the vehicle itself constitutes evidence in a crime, to secure the vehicle while obtaining a search warrant, VIN discrepancy, contains evidence, etc.).

The member shall request an "evidence tow". ComCen will then contact the appropriate tow company from the evidence rotation tow list in the Dispatch & Tracking Solutions Program (DTS). The requesting member shall contact the investigative unit the vehicle is being held for and advise them of the tow.

A member shall follow the vehicle from the scene to the tow yard. When the vehicle is placed into the holding bay, the member shall place a strip of Evidence Tape over all access points to the vehicle's interior or cargo areas (e.g. doors, trunk, hood, camper shell window/hatch, etc.). The tape shall be placed in such a manner that would break the seal if opened. After placing the evidence tape on the vehicle entry points, the member shall initial and date the tape to ensure the chain of custody. Prior to leaving the tow facility, the member shall complete tow sheet in Axon Records and forward the vehicle impound information to Teletype. The member shall document following the evidence vehicle and securing it in their report.

 Investigators should consider releasing the vehicle once processing is complete and evidentiary items have been collected. The release of a vehicle shall be considered on a case specific/case by case basis. It is the investigator's responsibility to determine if and when the release shall take place.

The releasing investigator shall contact the tow coordinator by email and advise the vehicle is available for release. The releasing investigator shall notify the registered or legal owner that the vehicle is available for release and direct them to the tow yard. Notification shall be either by phone or letter. The letter shall be sent to the Registered Owner's address and shall include the case number, release



information, and vehicle information. A copy of the letter shall be attached to the report. Unless otherwise noted, all City Administrative fees and tow charges are due to the tow company. Investigative unit supervisors are responsible for ensuring that vehicles are released from evidence holds in a timely manner, and notification regarding the release is made to the Tow Coordinator, and the Registered Owner of the vehicle.

### 510.8 VEHICLE TOWING RULES

- (a) To enhance public safety, members should make reasonable attempts to secure transportation for occupants when their vehicle is impounded, and:
  - 1) Occupants are unable to arrange their own transportation, or;
  - 2) Occupants request assistance in arranging transportation. This may include calling a taxi for the occupants at their expense or phoning a friend/family member to pick them up. With supervisor approval, members may transport occupants to a safe location within a reasonable distance.
- (b) Responding tows are required to respond within 30 minutes after being contacted by ComCen through the DTS System. Tows being requested during commuting hours (0700-0900 and 1600-1800) are given a 45-minute response time. When a tow service fails to respond within the required 30 or 45 minutes, the ComCen should be notified to cancel the original tow and dispatch a different tow service. A canceled tow service is considered unauthorized and will not be allowed to remove the vehicle. Members will refrain from requesting ETAs from the ComCen within this 30 to 45-minute period.
- (c) All motor vehicles, including off highway vehicles stored or impounded by members, shall be inventoried (completion of a CHP 180 Form).
- (d) Vehicles such as dirt/minibikes, go-carts, etc., are illegal for street operation. Officers who encounter off highway vehicles should consider citing for VC §24002(b) – Vehicle not equipped as provided by the Vehicle Code, or VC §4000(a) – Unregistered vehicle on a highway. Operators who are unlicensed, suspended, or with revoked driving privileges should be charged with the appropriate violation and the vehicle impounded under VC §22651(p). Members shall advise ComCen of the reason for the tow and that they need a tow for a dirt/minibike, go-carts, etc.
- (e) When a vehicle is stored or impounded and the driver/owner is present, they will be provided with a completed “Towed Vehicle Information Sheet.”
- (f) When a vehicle needs to be impounded after being involved in a major crime or collision, a CRU (Collision Reconstruction Unit) tow will be requested.
- (g) Officers may impound a vehicle as evidence in a crime, with or without the owner’s permission, based on probable cause. When vehicles are towed as evidence, the member shall request an “evidence tow”. Members are required to advise ComCen of the investigative unit for which the vehicle is being held as evidence. ComCen will enter the investigative unit into the DTS program on evidence tows. Evidence tows include vehicles held for evidence for Hit & Run, evading, VIN verification, arson, recovered stolen vehicles involved in a crime or cases which require follow-up investigation by a detective.

**Exception:** Recovered stolen vehicles not requiring follow-up investigation shall be towed utilizing the normal rotation tow list.

- (h) Except under unusual or emergency situations, no other tow company than the one dispatched will be allowed to tow a vehicle.
- (i) Vehicles to be towed shall not be driven by members, unless necessary to move the vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant, at a DUI Checkpoint, or to comply with posted signs.
- (j) The driver/owner will be advised the Department is not responsible for theft or damage to the vehicle.

## **510.9 COMPLETION OF A CHP 180 FORM**

Members initiating the towing and storage of a vehicle will complete a CHP 180 Form and submit it to Records prior to the completion of their shift.

- (a) The Yellow copy is given to the tow operator. All other sheets are sent to the Records Bureau.
- (b) The CHP 180 Form will be completely filled out and will include a description of property within the vehicle (see below).
- (c) The member who completes the CHP 180 Form will notify Teletype as soon as reasonably possible from the time the vehicle was towed, except at Checkpoints where the CHP 180 Forms will be turned in to Records at the conclusion of the operation.
- (d) When a member removes a vehicle and uses the electronic inventory in Axon Records to document the removal, the report shall be sent to Teletype electronically as soon as it is completed.
- (e) The member must present the tow driver with a Fresno PD Tow Information Form and have the tow driver sign the form in the appropriate section. After obtaining the signature, the Tow Information Form shall be turned into Records, who will in turn fax a copy to the appropriate tow company

### **510.9.1 VEHICLE INVENTORY SEARCHES**

Property in a stored or impounded vehicle will be inventoried and listed on the CHP 180 Form. All property of evidentiary value found in a vehicle in plain view and/or resulting from a legal search shall be seized from the vehicle prior to impound and shall be booked consistent with normal booking procedures. This includes the trunk and any compartments or containers, even if closed and/or locked. When a container is locked and the key is not present, members will contact a supervisor and advise them of the circumstances, prior to forcing open the locked container. Members shall inventory all items that can legally be opened without damaging the containers or the contents. When something is not opened due to the probability of damage or not legal to do so, it shall be noted on the CHP 180 Form. Members conducting inventory searches should be 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.

## **510.10 TOWING SERVICES**

The Department contracts with specific tow companies when towing department vehicles. Should a member need a tow for a City owned vehicle, a request will be made through ComCen for a "City" Tow.

### **510.10.1 COMPLAINTS AGAINST TOW COMPANIES**

Complaints regarding the performance of tow services shall be sent to the Traffic Bureau for review by the Tow Coordinator. Members who observe, or who are subject to, unprofessional and/or rude behavior by the tow service, or who observe the tow service failing to comply with Department procedure or any requirement of law shall notify the Tow Coordinator, via Department email or voicemail.

Should a tow service fail to arrive to a call within the 30-to-45-minute time period, or cancel themselves from a call after 10 minutes, the Tow Coordinator shall be notified by ComCen.

## **510.11 REMOVAL OF DISABLED VEHICLE IN TRAFFIC COLLISION**

When a vehicle has been involved in a traffic collision and must be removed from the scene:

- (a) If a vehicle is blocking any portion of the roadway and cannot be moved by the driver or responsible party, the member shall request a tow for a collision with road blockage. A CHP 180 Form will be required for this tow under the authority of VC §22651(b). An owner's preference will NOT be allowed in these circumstances.
- (b) 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 member will request a tow for a collision with road blockage. A CHP 180 Form will be required for this tow under the authority of VC §22651(g). An owner's preference will not be allowed in these circumstances.

- (c) If a vehicle is out of the roadway or can be moved out of the roadway, the driver or responsible party will be allowed to take possession of the vehicle. If the driver requests a tow, the member will ask the driver if they prefer a specific tow service and, if possible, advise ComCen of the request for an "owner's preference" (no CHP 180 Form required).
- (d) If a "no preference" tow is requested, a company will be selected from the "owner's no preference" (rotational list of towing companies in DTS) by ComCen (no CHP 180 Form required).

Per the VC §27700, tow truck operators shall remove broken glass, spilled fluid, and other debris from the scene of traffic collisions. Members shall ensure that the tow operator complies with the removal requirements. If the tow driver leaves the scene prior to cleaning the area, the member shall contact ComCen to have the tow driver return to complete the cleanup. The member shall notify the Tow Coordinator, via Department email or voicemail.

**510.12 NOTIFICATIONS**

Records Bureau is responsible for the notification of vehicle owners as required by VC §22852.

Records will send the original CHP 180 Forms to the Tow Unit. The Tow Unit will review the CHP 180 forms for accuracy and return them to the Records Bureau. If it is determined that the charges do not meet the 30 day impound criteria, or a Post Storage Hearing has been conducted and it is decided that the vehicle can be released prior to 30 days, it will be the responsibility of the Tow Unit to notify the registered owner of the vehicle of the release by letter or telephone.

Any modifications to vehicle release dates or fees will be made by the Tow Coordinator in the DTS program.

**510.13 DTS TOW REASON CODES**

ComCen shall be advised by the member requesting a tow truck of the reason for the tow. The reason must be accurate as it sets the administrative fees the driver or the registered owner will pay to have their vehicle released. As an example, if a member requested a tow truck for a collision blocking a roadway, but later determines that this driver was suspended, the member shall advise ComCen to update the reason for the tow to "suspended driver."

Reason Codes and Administrative Fees:

(a) Owners Preference / Owners Non-Preference / Recovered Stolen	\$No Fee
(b) Collision with Road Blockage	\$60.00
(c) Illegal Parker / Expired Registration	\$116.00
(d) Expired Registration / Unlicensed Driver	\$189.00
(e) Suspended Driver / Driver Arrested	\$266.00
(f) DUI	\$450.00

See the attached Towing, Storage & Impound Guide for a complete list of Reason Codes and corresponding VC authority codes. The fees listed are the Department's administrative fees and do not include the towing charges.

Fresno PD - Towing, Storage, & Impound Guide						
Reason Code	Type of Tow	Violation Section	Storage Authority	Hold Time	180?	Cost
City Vehicle	Storage	n/a	n/a	n/a	No	\$0.00
Owners Preference	Storage	n/a	n/a	n/a	No	\$0.00
Owners Non Preference	Storage	n/a	n/a	n/a	No	\$0.00
Stranded Vehicle	Storage	n/a	n/a	n/a	No	\$0.00
Recovered Stolen	Impound	VC 10851(A) recovered on Public Roadway	VC 22651(C)	n/a	Yes	\$0.00
	Impound	VC 10851(A) recovered on Private Property	VC 22653(A)	n/a	Yes	\$0.00
Collision with Road Blockage	Impound	Disabled & Blocking Vehicle @ Scene of TC	VC 22651(B)	n/a	Yes	\$60.00
	Impound	Injured Driver @ Scene of TC	VC 22651(G)	n/a	Yes	\$60.00
Illegal Parker	Impound	72 Hour Parker In Violation of Local Muni-Code	VC 22651(K)	1	Yes	\$116.00
	Impound	Blocking Private Driveway	VC 22651(D)	1	Yes	\$116.00
	Impound	Blocking Fire Hydrant	VC 22651(E)	1	Yes	\$116.00
	Impound	Parked or Left Abandoned in the Roadway	VC 22651 (B)	n/a	Yes	\$116.00
Expired Registration	Impound	VC 4000(A)(1) Expired over 6 Months	VC 22651(O)(1)(A)	Until Paid	Yes	\$189.00
	Impound	Lic Plate or Lic Tab not issued to veh displaying	VC 22651(O)(1)(B)	Until Paid	Yes	\$189.00
Unlicensed	Impound	VC 12500(A) Expired or None Issued	VC 22651(P)	1	Yes	\$189.00
	Impound	VC 12500(A) in lieu of 14601 w/ no proof of service	VC 22651(P)	1	Yes	\$189.00
Evidence	Impound	Used to Commit Crime	VC 22655.5(A)	Variable	Yes	Varies
	Impound	Contains Evidence of Crime or is Evidence of a Crime	VC 22655.5(B)	Variable	Yes	Varies
Hit & Run Felony	Impound	Hit & Run - Public Roadway	VC 22655(A)	Variable	Yes	\$266.00
	Impound	Hit & Run - Private Property	VC 22655.5(B)	Variable	Yes	\$266.00
Other 30 Day (Reckless, Speed Contest, Interlock)	Impound	VC 23103 - Reckless Driving	VC 23109.2(A)(1)	30 Days	Yes	\$266.00
	Impound	VC 23109(A) - Speed Contest	VC 23109.2(A)(1)	30 Days	Yes	\$266.00
	Impound	VC 23109(C) - Exhibition of Speed	VC 23109.2(A)(1)	30 Days	Yes	\$266.00
	Impound	VC 2800 (Felony or Misd.) - Evading/Pursuit	VC 22655.5(A)	30 Days	Yes	\$266.00
	Impound	VC 23247 - Ignition Interlock Device	VC 14602.6(A)(1)	30 Days	Yes	\$266.00
	Impound	VC 14601 - Suspended Driver	VC 22651(P)	1	Yes	\$266.00
Suspended 30 Day	Impound	VC 14601 - Suspended Driver + R/O of the Vehicle	VC 14602.6(A)(1)	30	Yes	\$266.00
Driver Arrested	Impound	Driver Arrested & Custodial Arrest	VC 22651(H)(1)	1	Yes	\$266.00
	Impound	VC 23152 - Misdemeanor DUI	VC 22651(H)(1)	1	Yes	\$450.00
DUII	Impound	VC 23153 - Felony DUI	VC 22651(H)(1)	1	Yes	\$450.00
	Impound	VC 23550.5 - 4th DUI within 10 years (Fel.)	VC 14602.8(A)(1)	15	Yes	\$450.00
	Impound	VC 23154(A) - DUI Probation Violation	VC 22651(H)(2)	1	Yes	\$450.00
DUI 5 Day	Impound	VC 23136 or VC 23140 - Under 21 DUI	VC 22651(H)(2)	1	Yes	\$450.00
	Impound	DUI Arrest w/ 1 Prior DUI Conviction within 10 years+current .10 BAC test or ref chem test	VC 14602.8(A)(1)	5	Yes	\$450.00
DUI 15 Day	Impound	DUI Arrest w/ 2+ Prior DUI Convictions within 10 years+current .10 BAC test or ref chem test	VC 14602.8(A)(1)	15	Yes	\$450.00
	Impound	DUI Arrest + Suspended DL + R/O of the Vehicle	VC 14602.6(A)(1)	30	Yes	\$450.00

### **512.1 POLICY**

The Department will provide the vehicle's registered and legal owners of record, or their agents, with the opportunity for a post-storage hearing to determine if a stored or impounded vehicle meets the criteria for an early release pursuant to Vehicle Code §22852. All requests for a full or partial refund of vehicle impound and tow fees shall be processed by the City of Fresno Risk Management Division.

Under certain circumstances, the City Manager has granted the Fresno Police Department the authority to provide an immediate refund to the registered or legal owner of an improperly towed vehicle. These situations are limited to vehicles that have been clearly towed in error. This request for refund will be forwarded by the Traffic Bureau Commander to the Division Commander in memo form. Upon approval, the Fresno Police Department's Fiscal Affairs Bureau will be instructed to process a refund. When contacted by the Tow Coordinator, the registered or legal owner shall respond to the Traffic Bureau to receive the refund and complete a release of liability form. The Tow Coordinator will maintain a file of all refund requests along with the release of liability form.

#### **512.1.1 PURPOSE AND SCOPE**

The vehicle storage hearing is an informal process to evaluate if a stored or impounded vehicle meets the criteria for an early release.

### **512.2 STORED OR IMPOUND HEARING**

When a vehicle is stored or impounded by any member of the Fresno Police Department, the registered owner or legal owner may request a hearing.

The "Tow Coordinator" will contact the requesting party within 48 hours, (excluding weekends and holidays), to arrange for an appointment for a hearing.

### **512.3 HEARING PROCEDURES**

The Tow Coordinator will usually serve as the "Hearing Officer".

Any relevant evidence may be submitted for review by the Hearing Officer to determine if the vehicle in question meets the criteria for an early release.

The member 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 must be submitted in person, writing, or by telephone within ten days of the date appearing on the notice.

The person requesting the hearing may record the hearing at their own expense.

The Hearing Officer will consider all information provided, VC §§14602.6(a) and 23109.2, and then render a decision as to the number of days of storage.

### **512.4 HEARING RESULTS**

#### **512.4.1 WITHIN POLICY AND LAW**

If a decision is made that the vehicle was stored or impounded within the law and Department policy, the Hearing Officer will:

- (a) Advise the requesting party of the hearing results; and
- (b) Advise they may file a claim with the City's Risk Management Division if they desire.

#### **512.4.2 VEHICLES MEETING EARLY RELEASE CRITERIA**

When the vehicle in question qualifies for early release, as set forth in the Vehicle Code, the Hearing Officer will require that the vehicle in storage be released immediately once applicable fees are paid.

#### **512.5 ADMINISTRATIVE AND IMPOUND FEES**

Administrative impound fees and tow fees are to be paid prior to the release of a stored or impounded vehicle.

#### **512.6 VEHICLES IMPOUNDED AS EVIDENCE**

Detectives may only waive administrative impound fees on vehicles impounded for evidence that belong to a victim.

For all evidence vehicles, the releasing detective shall contact the tow coordinator by email and advise the vehicle is available for release. The releasing detective shall notify the registered or legal owner that the vehicle is available for release and direct them to the tow yard. Unless otherwise noted, all City Administrative fees and tow charges are due to the tow company.

#### **512.7 REQUESTS FOR FEE REIMBURSEMENT**

All requests for the reimbursement of administrative impound and storage fees shall be forwarded by the person requesting the hearing to the City's Risk Management Division.

## Fresno Police Department Policy Manual

# Impaired Driving and Evidence Collection

### 514.1 POLICY

The Fresno Police Department is committed to traffic safety through strict enforcement of all laws related to driving under the influence (DUI). Investigations of all DUI incidents will be investigated in accordance with established procedures.

#### 514.1.1 PURPOSE AND SCOPE

This policy explains the procedures to be followed while collecting evidence to establish the blood alcohol level of drivers arrested for driving while intoxicated, unconscious drivers, and unconscious pedestrians involved in traffic collisions because of their intoxicated state.

### 514.2 ARREST AND INVESTIGATION

#### 514.2.1 INVESTIGATIONS

All officers are expected to enforce DUI laws with due diligence.

#### 514.2.2 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 when the officer has reasonable cause to believe the person has been driving under the influence of an alcoholic beverage, any drug, or 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 themselves or damage property unless immediately arrested; or
- (e) The person may destroy or conceal evidence of a crime unless immediately arrested.

### 514.3 NON-COLLISION RELATED

An arrest for DUI shall be made on a roadway or on private property when:

- (a) An officer witnesses a person commit the elements of DUI;
- (b) The under-the-influence driver was lawfully detained by an officer of another law enforcement agency;
- (c) The under-the-influence driver was lawfully arrested or detained by a person who witnessed the driving element of the offense (citizens' arrest is required only when VC §40300.5 does not apply); or
- (d) When an officer observes someone they believe is under the influence of an alcoholic beverage or drugs, and the elements of VC §40300.5 are present.

### 514.4 COLLISION RELATED

An arrest shall be made for DUI when a traffic collision has occurred on a highway or on private property and the arresting officer has reasonable cause to believe that the suspect had been driving under the influence.

The arrest location shall include the scene of the collision or a location within a reasonable time and distance from the scene, to include locations to which the driver has been transported for medical treatment.

### 514.5 SOBRIETY REPORT

The use of the Sobriety Report form by itself for DUI cases is authorized when the suspect(s) arrested are charged with DUI and related traffic offenses.

## 514.6 CHEMICAL TESTS

A person is deemed to have consented to a chemical test or tests under any of the following (VC §23612):

- (a) The person is arrested for driving a vehicle while under the influence, pursuant to VC §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 (VC §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 (VC §23136); or
- (d) The person was operating a vehicle while under the influence and proximately caused bodily injury to another person (VC §23153).

If a person withdraws this implied consent, or is unable to withdraw consent (e.g., the person is unconscious), the officer should consider implied consent revoked and proceed as though the person has refused to provide a chemical sample.

### 514.6.1 CHOICE OF TEST

A person arrested for DUI has the choice of whether the test is of their blood or breath and the officer shall advise the person that they have that choice. If the person arrested is incapable or states they are incapable of completing the chosen test, the person shall submit to the remaining test.

If the person chooses to submit to a breath test and there is reasonable cause to believe that the person is under the influence of a drug or the combined influence of alcohol and any drug, the officer may also request that the person submit to a blood test. If the person is incapable of completing a blood test, the person shall submit to and complete a urine test [VC §23612(a)(2)(C)].

## 514.7 VEHICLE IMPOUND AUTHORITY AND PROCEDURES

The vehicle of a suspected DUI driver who is arrested shall be impounded under Vehicle Tow Authority VC §22651(h)(1).

When the driver has been arrested/cited for VC §§23152, 23153:

- (a) DUI impounds for VC §§23140, 23152, 23153 will follow the guidelines set forth in VC §§22651(h)(1) & 22651(h)(2);
- (b) Officers shall check the DMV record of all DUI offenders to determine prior convictions for DUI. Vehicles of repeat DUI offenders shall be impounded as follows:
  - 1) Impound for 5 Days when the driver has been determined to have been convicted one time of violating VC §23140, VC §23152 or VC §23153 within the prior 10 years, per VC §14602.8(a)(1) and at least one of the following criteria:
    - I. The driver has a BAC of .10% or more; or
    - II. The driver refuses to submit to or complete a chemical test requested by an investigating officer.
  - 2) Impound for 15 days when the driver has been determined to have been convicted two or more times of violating VC §23140, VC §23152 or VC §23153 within the prior 10 years, per VC §14602.8(a)(1) and at least one of the following criteria:
    - I. The driver has a BAC of .10% or more; or
    - II. The driver refuses to submit to or complete a chemical test requested by an investigating officer.
  - 3) Officers should indicate the length of the hold (5 or 15 days on the VIR); and
- (a) Officers shall check the DMV record to determine any requirements for any ignition interlock devices. Any vehicle of a DUI offenders found in violation of this requirement shall be impounded pursuant to the provisions of VC §14602.6(a).

## 514.8 REFUSAL TO TAKE CHEMICAL TEST

When a driver arrested for VC §23152 refuses to take a chemical test after being admonished of the requirement, they shall be cited or booked as appropriate.



## **514.9 FIELD SOBRIETY TESTS (FST'S)**

When a person suspected of DUI is stopped, field (roadside) sobriety tests (FST's) should be administered safely and when the suspect is able and willing to perform them. FST's may assist the officer in determining if reasonable cause to arrest exists.

Officers should take care to determine that a suspected driver is not merely exhibiting the symptoms of intoxication due to diabetes, epilepsy, or other illnesses. Officers should attempt to use the FST's listed on the Sobriety Report.

## **514.10 OFFICER'S RESPONSIBILITY**

During an arrest for DUI, the officer, acting on behalf of the DMV, shall do the following:

- (a) Confiscate any California Driver's License(s) (CDL) in the possession of the driver. If the subject has an Admin Per Se (APS) temporary license document, it will not be confiscated; another order pursuant to the current DUI arrest shall be issued; and
- (b) Complete and serve the Administrative Per Se Order of Suspension (DMV form DS367, DS367m or DS367s -Officer's Statement and Order of Suspension), 4th page (pink copy) on the driver, regardless of license status and submit this paperwork to Records along with the confiscated license for transmittal to the DMV. This will serve as the driver's temporary license. If the driver's privilege to drive is suspended or revoked, the order will not be a valid temporary license.

## **514.11 IMPLIED CONSENT**

Drivers arrested for DUI shall be admonished per the DS 367 form.

**If a person withdraws this implied consent, or is unable to withdraw consent (e.g., the person is unconscious), the officer should consider implied consent revoked and proceed as though the person has refused to provide a chemical sample.**

### **514.11.1 ADMINISTRATIVE PER SE / OFFICER'S STATEMENT FORM (DS 367)**

This form shall be completed for all DUI arrests except when the arrest is for a drug only DUI. All three pages, front and back, must be completed.

**Note:** When a DUI arrest is for drugs only, a DMV notice of priority re-examination form shall be completed. The pink copy shall be given to the driver.

### **514.11.2 DOCUMENTING "UNDER 21" BLOOD ALCOHOL VIOLATIONS (DS 367M)**

When a violation of VC §§23136, 23140, 23152, and/or 23153 has occurred, the officer shall take possession of the driver's CDL and complete a DS 367M (Under Age 21 - Officer's Statement / Admin Per Se Form). A copy of the DS 367M shall be provided to the suspect.

When a police report is written documenting an incident relating to one of the above sections, the case number shall be inserted on all applicable DMV forms.

When the DS 367M form is the only form completed, the officer shall draw a case number and insert it on the DMV form. The DS 367M form becomes the original report, so the officer shall also write "ORIGINAL" in the top margin of the form and submit the document to Records.

## **514.12 EVIDENCE COLLECTION**

### **514.12.1 COLLECTING BREATH SAMPLE AS EVIDENCE**

If the arrestee chooses a breath test and it can be accomplished without undue delay, the officer shall request another unit to bring a Portable Evidential Breath Tester (PEBT) to the scene or the arrested person shall be transported to the PEBT location.

- (a) No one is to administer a PEPT test unless they have received the required training as provided by DOJ.
- (b) The member administering the test shall follow the instructions displayed on the handheld 7510 inside the PEPT, upon the start-up of the test.

- 1) Upon completion of the test, the mouthpiece shall be given to the suspect.
  - 2) The suspect may retain the mouthpiece or discard it.
  - 3) If the suspect is combative the member shall place the mouthpiece in the suspect's property bag.
  - 4) The disposition of the mouthpiece shall be noted in the member's report.
- (c) The printout of the results from the PEBT shall be attached to the Sobriety Report.
- 1) To prevent the loss of the PEBT print-out, it is recommended that the member tape the original printout to a property/narrative report form.
- (d) The top portion of the form will be filled out and the form will become the final page of the DUI investigation.
- 1) Members will note which PEBT device was used in the disposition portion of their narrative.
  - 2) The PEBT units are identified by the issued serial number which is labeled on the outside of the protective case.
  - 3) The serial number needs to match the serial number on the printout, (e.g., ARCB-0007).

#### 514.12.2 PEBT ADMINISTRATION (UNDER AGE 21)

When an officer comes into contact with a driver under the age of 21 who is suspected of having consumed an alcoholic beverage, the driver shall be advised of the requirement to submit to a PEBT test.

#### 514.12.3 COLLECTING BLOOD AS EVIDENCE

Blood evidence collection will be done in accordance with Policy §373.

#### 514.12.4 DETECTION OF DRUG INFLUENCE

When a driver displays the objective symptoms of DUI and they register a BAC lower than .08, the officer shall determine whether or not the subject is under the influence of a controlled substance.

### 514.13 REFUSAL TO TAKE A CHEMICAL TEST

Officers are not required to offer alternative tests on refusal. They shall allow a person refusing any test an opportunity to change their mind and be tested, within a reasonable period of time after the initial refusal.

Before accepting a refusal, officers shall read the refusal section of DS 367 verbatim to the suspect, explaining the consequences of a refusal.

An officer should make every effort to obtain a complete evidence sample and avoid refusals.

#### 514.13.1 REFUSAL FORM

When, after reading and clarifying the required admonishments, the suspect still refuses any test, officers shall complete Form DS 367 "Officer's Statement" - Section 13353 VC. A refusal form shall be completed when a forced blood draw is necessary.

#### 514.13.2 BLOOD SAMPLE WITHOUT CONSENT

A blood sample may be obtained from a person who refuses a chemical test when any of the following conditions exist:

- (a) A search warrant has been obtained (PC §1524); 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 the driver is to undergo surgery, blood transfusion, or some other situation that would cause the warrant process to be impractical.

#### 514.13.3 FORCED BLOOD SAMPLE

If a person indicates by word or action that they 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 their 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 when practical.
- (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.

When a supervisor is unavailable, officers are expected to use sound judgment and perform as a responding supervisor, as set forth above.

#### **514.14 CRIME REPORT (CR)**

When a suspect arrested for DUI is charged with additional, non-traffic violations, a CR shall be prepared with the Sobriety Report used as a supplement.

#### **514.15 CONFISCATION OF CALIFORNIA DRIVER'S LICENSES**

The driver's license of a person arrested for driving under the influence of alcohol shall immediately be confiscated and returned to DMV as previously indicated in this order.

#### **514.16 SUSPECT DISPOSITION**

When determining the appropriate violation for persons arrested for DUI, officers shall check the suspect's criminal history for prior DUI convictions. Persons arrested for Misdemeanor DUI violations (VC §23152) may be cited and released on a Notice to Appear when the arrestee is able to be released to a sober adult who will assume responsibility for the intoxicated person. Officers will document the name of the responsible person the suspect was released to in the related police report. Any person arrested for DUI that is belligerent, combative, or otherwise uncooperative, shall be booked into the Fresno County Jail. Officers should use sound judgment when making this determination.

## Fresno Police Department Policy Manual

### Traffic Citations

#### 516.1 POLICY

Members issuing citations (notice to appear) will follow the mandates of this Department in regard to the storage, tracking, issuance, prosecution, dismissal, correction, and voiding of citations without exception.

##### 516.1.1 PURPOSE AND SCOPE

This policy outlines the responsibility for traffic citations, the procedure for dismissal, correction, and voiding of traffic citations.

#### 516.2 RESPONSIBILITIES

The Traffic Bureau Commander shall be responsible for the development and design of all Department traffic citations in compliance with state law and the Judicial Council. The Records Bureau shall be responsible for the supply and accounting of all traffic citations.

#### 516.3 GENERAL CITATION PROVISIONS

##### 516.3.1 CITATION COMPLETION

Refer to the Report Writing Manual in Appendix B at the rear of the Policy Manual for specific completion instructions.

##### 516.3.2 CITATION CONTINUATION FORM

The citation continuation form shall be used whenever there are more violations charged than will fit on the standard citation form. Two different citations should not be issued to the same person for the same incident except when violations exist which would justify issuance of both a Notice of Violation and a Notice to Appear.

##### 516.3.3 CITATION SECURITY

Unused citation books are stored at each district station and are distributed as needed. Once distributed, unused citation books shall be kept in a secure area (e.g., locked cabinet) in the district/bureau supervisor's office. Citation books shall only be issued by a supervisor. Dressing station supervisors are responsible for maintaining a supply of citation books at the stations. The inventory card shall be submitted to Records upon a member's receipt of a new book. Records is responsible for filing returned inventory cards.

Members shall make every effort to ensure the security of traffic citations issued to them. When a citation or citation book becomes lost or mutilated, the member shall immediately prepare a memo directed to their immediate supervisor, explaining the circumstances surrounding the loss or mutilation. The supervisor will forward the memo to the Records to document the loss/mutilation on the inventory card.

##### 516.3.4 DISTRIBUTION OF CITATIONS

Citations will be distributed as follows:

- (a) The green original is the court's copy. It is submitted to Records;
- (b) The yellow copy is given to the violator;
- (c) The pink copy is retained for four years by the member (except in a private person's / citizen's arrest or cancellation); and
- (d) The white "hard" copy is submitted the same as the green original.

#### 516.4 JUVENILE CITATIONS

Completion of traffic citation forms for juveniles varies slightly from the procedure for adults.

- (a) The Juvenile box shall be checked, and the juvenile's telephone number shall be included, if available.
- (b) The location for court appearance information box (Infraction & VC12500) at 2317 Tuolumne Street shall be checked. A checkmark shall also be placed in the box corresponding with "To be notified by mail by Juvenile Traffic Division". The juvenile should be advised that they will be notified by mail; however, if they do not wish to contest the citation, they may contact the County Traffic Division prior to receiving the written notification.
- (c) The date and time of appearance shall be left blank.

#### **516.5 CORRECTION OF TRAFFIC CITATIONS**

When an error is identified while the violator's copy of the citation is still available, the citing officer shall:

- (a) Correct the error on all four copies by drawing a single line through the error and legibly printing the correct information as close as possible to the error;
- (b) Initial the correction; and
- (c) Mark the box in the lower right-hand corner, "Violators Copy Corrected".

When a traffic citation is issued and in need of correction, members shall not correct the error or omission on the remaining copies of the citation. Instead, the members shall:

- (a) Complete a Notice of Correction and Proof of Service Form;
- (b) Mail the yellow copy of the completed form to the violator; and
- (c) Attach the original copy (first page) and the second copy (white page) of the Notice of Correction and Proof of Service Form to the court (green) and hard copy of the citation (when available) and submit the citation in the normal manner.

When the court copy of the citation is not available, the Notice of Correction and Proof of Service Form will be submitted to Records. Members shall:

- (a) Maintain the pink copy for their records; and
- (b) Send the white copy to Records.

When the Notice of Correction and Proof of Service Form is issued to correct an error or omission on a citation returned from the Traffic Court, members shall correct the error or omission and return the Notice of Correction and Proof of Service Form to the Traffic Court with the returned citation.

#### **516.6 DISMISSAL OF TRAFFIC CITATIONS**

Members of this Department do not have the authority to dismiss a citation once it has been issued. Only the court has the authority to dismiss a citation that has been issued (Vehicle Code § 40500(d)).

Any request from a recipient to dismiss a citation shall be referred to the Traffic Bureau Commander. Upon a review of the circumstances involving the issuance of the traffic citation, the Traffic Bureau Commander may recommend dismissal of the traffic citation. If approved, the citation will be forwarded to the appropriate court with a request for dismissal.

Should an officer determine during a court proceeding that a traffic citation should be dismissed in the interest of justice or where prosecution is deemed inappropriate the officer may request the court to dismiss the citation.

#### **516.7 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.

- (a) The member shall write "cancelled" across all copies of the citation with the member's initials and date of cancellation.
- (b) The member shall write an explanation for the cancellation on the backside of the hard copy.
- (c) All copies of the citation shall be presented to a supervisor to approve the voiding of the citation.

- (d) The supervisor shall review the explanation and sign the back of the hard copy indicating the review of the reason for voiding the citation.
- (e) The voided citation and copies shall then be forwarded to the Records Bureau.

Reasons for voiding a citation can be, but are not limited to:

- (a) When a violator is booked; or
- (b) When an officer determines the charges are invalid.

#### **516.8 DISPOSITION OF TRAFFIC CITATIONS**

All traffic citations issued by members of this Department shall be submitted for review by a supervisor.

**Exception:** A commander may authorize members under their command to submit copies of citations directly to the Records Bureau without supervisor review. Upon separation from employment with this Department, all members issued traffic citation books shall return any unused citations to the Equipment and Supply Unit (ESU).

#### **516.9 NOTICE OF PARKING VIOLATION APPEAL PROCEDURE**

Disposition of notice of parking violation appeals is conducted pursuant to VC §40215 and is handled by the City of Fresno Parking Enforcement.

#### **516.10 LEGISLATORS / POLITICIANS**

Members of the State and Federal legislature, along with any other politicians, are subject to the same rules of the road as other citizens and have no legislative immunity.

#### **516.11 NON-RESIDENTS**

Traffic violators who are not residents of the State of California shall be handled in the same manner as any other traffic violators.

#### **516.12 MILITARY PERSONNEL**

Military personnel are handled in the same manner as any other traffic violator and enforcement procedures should be followed as outlined in the California Vehicle Code.

#### **516.13 PUBLIC CARRIERS**

Public carriers (e.g. buses, taxis, limos, etc.) are handled in the same manner as any other traffic violator and enforcement procedures should be followed as outlined in the California Vehicle Code.

## Fresno Police Department Policy Manual

### Traffic Enforcement

#### 517.1 POLICY

Members assigned to patrol or traffic enforcement functions should take enforcement action when a violation is observed and enforcement is appropriate. Known and documented locations with high incidents of collisions should receive enforcement emphasis.

##### 517.1.1 PURPOSE AND SCOPE

The purpose of this policy is to reduce the number of fatal, injury, and non-injury collisions in the City of Fresno through traffic enforcement.

#### 517.2 GENERAL ENFORCEMENT PROVISIONS

Traffic violations of the Vehicle Code and Fresno Municipal Code may be handled by:

- (a) Verbal warning/instruction;
- (b) Traffic citation issued as:
  - 1) A NOTICE TO APPEAR for violations occurring in the member's presence; or
  - 2) A NOTICE OF VIOLATION at collision scenes where the violation was not observed by the officer and the citation is completed on information and belief per VC §40600. Only those officers who have received the training required by VC §40600 may issue a Notice of Violation; or
- (c) Arrest, when authorized by law.

##### 517.2.1 TRAFFIC VIOLATIONS INVOLVING CITY EMPLOYEES

Citations may be issued to City employees committing violations while operating City vehicles. When one is issued, the issuing officer shall direct a memo to their commander who shall notify the City Manager by memo of the citation. In no case shall any administrative communication (e.g., memo, phone call, letter, etc.) be used in lieu of a citation, nor shall any administrative communication be forwarded to an employee's supervisor when a citation is not issued.

##### 517.2.2 CITATIONS ON PRIVATE PROPERTY

When vehicles are parked on private property without the permission of the owner or other person in charge of such property, members shall, when such action is lawful, cite the vehicle(s) under Fresno Municipal Code §14-802 at the request of the property owner or their agent. The owner or agent must be present at the time of issuance of the citation and their name shall be included in the "Description" section.

**Exception:** The owner/agent need not be present to request citing of vehicles when:

- (a) Signs are clearly posted prohibiting parking and listing the Department phone number; and
- (b) A letter signed by the owner/agent is on file with the Department authorizing the citing of vehicles at a specified location for a period not to exceed six months from receipt of the letter. Members shall note the existence of such a letter in the description box of the citation.

##### 517.2.3 NEW TRAFFIC LAWS / REGULATIONS

Members should use discretion when enforcing newly enacted traffic legislation. RCTB's related to new traffic laws and regulations are distributed by the Planning & Research Bureau after the beginning of a calendar year and should be referred to when enforcing new legislation.

Members should contact their supervisor when they have questions relating to the enforcement of new laws. The supervisor may contact the Department's Legal Advisor if additional clarification is needed.

#### 517.2.4 UNDERCOVER VEHICLES EQUIPPED WITH EMERGENCY EQUIPMENT

Unmarked or unconventional vehicles should not be used for traffic enforcement purposes unless properly equipped with emergency equipment. When possible, officers conducting enforcement stops should request a marked unit to respond to assist. Marked units provide assurance to the public that unmarked vehicles and non-uniformed officers are members of the Department acting in an official capacity.

### 517.3 REPORTING INCOMPETENT DRIVERS

#### 517.3.1 REQUEST FOR REEXAMINATION OF DRIVER

When an officer has reason to believe that a citizen is not a competent driver, they shall forward a "Request for Reexamination of Driver" (Form DL 412) to the DMV. One copy of the form shall be completed describing the reasons for the requested reexamination. Officers completing the form shall:

- (a) Record all observations which substantiate the opinion that the driver needs to be reexamined for driving ability;
- (b) List any statements made by the driver regarding their own physical condition or defects and driving ability; and
- (c) Submit the completed form to the designated Support Division administrative clerk who will mail it to the DMV.

#### 517.3.2 PRIORITY REEXAMINATION REQUESTS

When the following conditions are present a Notice of Priority Reexamination shall be completed:

- (a) The driver must be cited or arrested for violation of provisions of VC §§21000 through 23336; and
- (b) The driver must show evidence of incapacity and the incapacity must immediately affect driving safety. Incapacity is defined as serious physical injury or illness, mental impairment, or disorientation which leads the officer to "reasonably believe" that a clear or potential danger or risk of injury to that person or others exists if the person is allowed to resume driving.

The three part form is used only for Priority Reexaminations and is to be completed by the officer at the time enforcement action is taken against the driver. Issuance of the Notice of Priority Reexamination shall be noted on the citation or AR for the violation.

Upon completion of the form, the driver should be asked to sign it and should be instructed to read the printed information on the form, appear at a DMV Driver Safety Office for a reexamination, immediately telephone a Driver Safety Office listed on the back of the form for an appointment, and bring their copy of the form to a Driver Safety Office within five work days to complete a reexamination or they may be suspended from driving.

### 517.4 UNLAWFUL USE OF LICENSES

Persons found to have unlawfully used a driver's license (VC §14610) or DMV identification card (VC §13004) are subject to enforcement action consistent with regulations surrounding other misdemeanor crimes. The license or identification card involved in the violation shall be confiscated and booked into evidence. The license or identification card shall not be retained by the officer or returned to the owner.

### 517.5 SUSPENDED OR REVOKED DRIVERS LICENSES

When a check of a traffic violator's license status reveals a suspended or revoked driver's license:

- (a) Seize the license if still in possession;
- (b) Verbally advise of the suspension or revocation;
- (c) Impound the vehicle if it meets the guidelines of Policy §510 – Vehicle Towing;
- (d) Issue the citation; and
- (e) Fill out the Verbal Notice form (DMV form DL-310)

When proof of service of an active suspension or revocation action can be established by teletype or admission, officers shall take enforcement action.



### **517.6 MOVING & MECHANICAL VIOLATIONS COMMITTED BY BICYCLISTS**

Officers who observe bicyclists commit VC violations may cite the bicyclist for the violation using the Notice to Appear. The same procedures utilized for the citing of motorists and pedestrians shall be used in completing a Notice to Appear for bicycle violations committed by either adult or juvenile violators.

### **520.1 POLICY**

Assistance to members of the community whose vehicle has become disabled will be provided as needed for the interest of public safety.

#### **520.1.1 PURPOSE AND SCOPE**

Vehicle Code §20018 provides that all law enforcement agencies having responsibility for traffic enforcement may develop and adopt a written policy to provide assistance to motorists in disabled vehicles within their primary jurisdiction.

### **520.2 MEMBER RESPONSIBILITY**

When the member is assigned to a call of higher priority (0 and 1 priority) the Emergency Services Dispatcher (ESD) shall be advised of the location of the disabled vehicle and the possible need for assistance. The ESD shall then assign another available member to respond as soon as practical.

### **520.3 EXTENT OF ASSISTANCE**

In most cases, a disabled motorist will require assistance.

Members shall determine:

- (a) If the vehicle poses some type of hazard;
- (b) If the vehicle can be moved out of the roadway to a position of safety; and/or
- (c) If the vehicle is movable or what assistance is needed (e.g. tow, timely repair, etc.).

Members shall remain at the scene providing assistance, such as traffic control, until the problem is abated, including transporting the motorist to the nearest telephone or safe area.

Continued involvement by members will be contingent on the time of day, the location, the availability of Departmental resources, and the vulnerability of the disabled motorist.

### **520.4 MECHANICAL REPAIRS**

Members 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

## Fresno Police Department Policy Manual Abandoned & Unregistered Vehicles

### 524.1 POLICY

Members coming into contact with vehicle parking, registration and abandonment violations should take action as describe within this policy.

#### 524.1.1 PURPOSE AND SCOPE

This policy provides guidance and procedures for the marking, recording, and storage of vehicles parked in violation of the Fresno City Ordinance regulating 72 hour parking violations, unregistered vehicles and abandoned vehicles under the authority of Vehicle Code §22651, §22652.6 and §22669.

### 524.2 CHECKING “STOPS”

Authorized members investigating abandoned vehicles will initiate a license plate and VIN check to be informed of “stops”.

### 524.3 MARKING VEHICLES (72 HOUR PARKING ORDINANCE)

Vehicles suspected of being in violation of the City of Fresno 72-Hour Parking Ordinance will be marked and noted on a Fresno Police Department “Abandoned Vehicle Warning Card”. No case number is required at this time.

A visible chalk mark shall be placed on the vehicle’s left rear tire sidewall unless missing tires or other vehicle conditions prevent marking. The member shall mark the date, time, their initials and an arrow pointing to a corresponding mark on the ground to designate the vehicle’s location. The member should also attempt to obtain and record the vehicle’s odometer reading.

The completed “Abandoned Vehicle Warning Card” should be placed under the wiper blade on the windshield or other visible portion of the vehicle.

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.

**Note:** To satisfy the condition that a vehicle has been “moved” by the owner, it must have been relocated at least one-tenth of a mile (528 feet).

### 524.4 CITATION

When, after 72 hours, the marked vehicle has not been removed, a member shall cite the vehicle in violation of Fresno Municipal Code §10005a or VC §22523(b) as appropriate.

If the vehicle has been moved a short distance in an effort to circumvent the ordinance, the vehicle may still be considered abandoned.

### 524.5 OBVIOUSLY ABANDONED VEHICLES

Motor vehicles which are parked, resting, or otherwise immobilized on any highway or public right-of-way and which lack an engine, transmission, wheels, tires, doors, windshield or any other part or equipment necessary to operate safely are a hazard to public health, safety and welfare and may be removed immediately upon discovery by a member rather than waiting the normal 72 hours VC § 22669(d).

### 524.6 ABANDONED VEHICLE REMOVAL

Any vehicle deemed abandoned will be towed/stored or impounded by one of the Department approved rotational tow companies and a Vehicle Inventory Report (VIR) shall be completed authorizing the

storage of the vehicle. All notifications and submission of the VIR form should be done as soon as practical in accordance with Policy §510. No other report is required.

A VIR will be completed and should include, in the narrative section, a description of the violation and:

- (a) Evidence that convinced the member that the vehicle had not been moved (e.g., chalk mark on tire, cobwebs, debris under vehicle, warning card on vehicle, flat tires, etc.);
- (b) The citation number;
- (c) A description of the member's attempt to contact the registered owner; and
- (d) Any other pertinent information.

#### **524.7 ABANDONED ON PRIVATE PROPERTY**

When a vehicle is abandoned on private property, the complaining party will be referred to the City's Community Revitalization Department at 559-621-8400 to initiate removal proceedings under City zoning restrictions.

However, an officer may cite the vehicle for VC §22523 at the request of the property's owner/manager. The property's owner/manager or reporting party shall be documented on the citation in the description section. The member shall not remove the vehicle unless authorized by law.

#### **524.8 EXPIRED REGISTRATION**

When a parked, unattended vehicle with expired registration is encountered on a highway, public lands or off-street parking facility, it may be cited.

If the vehicle has expired registration in excess of six months the vehicle may be impounded under the authority of VC §22651(o)(1).

The member shall complete a VIR form and explain the reason for the tow in the narrative including the date the registration expired.

No other report is necessary.

**Note:** If the vehicle is impounded under this authority, it shall not be cited.

**Fresno Police Department  
Policy Manual**

**Chapter 6: Investigation  
Operations**

## **600 Investigation and Prosecution**

### **600.1 POLICY**

It is the policy of the Fresno Police Department to investigate crimes thoroughly and with due diligence, and to evaluate and prepare criminal cases for appropriate clearance or submission to a prosecutor.

#### **600.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to set guidelines and requirements pertaining to the handling and disposition of criminal investigations.

### **600.2 SUPERVISOR RESPONSIBILITY**

Supervisors assigned to the Investigations Division, patrol investigations, or their designee, shall review cases for assignment on a daily basis. Cases which warrant further follow-up shall be assigned. The supervisor can consider other factors affecting whether a case is assigned or not assigned for further follow-up such as mandated requirements or the seriousness of the crime. Cases meeting the assignment criteria shall be assigned to a member for follow-up investigation based upon the Case Screening criteria outlined in the operations manual for each Investigations Division or District Investigations unit. Cases which do not meet the assignment criteria may be immediately closed by the supervisor or forwarded to the appropriate member as an unassigned case for officer review.

### **600.3 INVESTIGATIVE CASE MANAGEMENT SYSTEM**

The Department utilizes [REDACTED]

[REDACTED] is the agency's case status control system. The system contains the following information for investigative case management:

- (a) Case number;
- (b) Date case assigned;
- (c) Assigned member's badge number;
- (d) Crime;
- (e) Case status: Active, Closed, Deleted, Reopened, Suspended, & Unuspended; and
- (f) Status Comments - such as, 'Case suspended pending additional developments/evidence'.

#### **600.3.1 ADMINISTRATIVE DESIGNATORS FOR CASES**

Member's assigned cases for follow-up shall indicate the current status of cases maintained within [REDACTED]. A case shall remain active while the investigation is continuing. Cases are maintained using one of the following designators:

- (a) Active;
- (b) Closed;
- (c) Deleted;
- (d) Re-opened;
- (e) Suspended; or
- (f) Unuspended.

#### **600.3.2 TYPES OF RECORDS MAINTAINED**

A uniform filing system shall be used by all members to allow ready access by supervisors and other members to all active cases. Each unit or member shall maintain files which shall be separated into active, inactive (suspended), and closed categories. The case files shall be filed in case number order.

Inactive (suspended) cases shall be kept in the file for a period of at least six months, and then purged on a revolving monthly basis as needed for file space. Exceptions can be made by the unit supervisor. For example, homicide cases should be reviewed every six months but may need to remain open for a

variety of investigative reasons. Also, some files should not be purged until the statute of limitations has been exhausted. Cases of this type may be kept open at the discretion of the supervisor. Cleared cases shall be kept in the file for a period of at least one year and may be purged with the final disposition of the case in court.

### 600.3.3 ACCESSIBILITY TO THE FILES

The assigned member shall maintain the case files in such a manner as to allow ready access by supervisors and other members within the investigative unit. All hard-copy files maintained by detectives are secured in each member's office or similar safe storage area. The supervisor and the commander from each unit can coordinate access to cases through the individual member. Electronic case files are secured through the [REDACTED] preventing unauthorized electronic file access.

### 600.3.4 PROCEDURES FOR PURGING THE FILES

An annual review of the files maintained by the individual member will be conducted in coordination with the supervisor of the investigative unit. The annual review of files should begin on January 1<sup>st</sup> of each year and shall be completed to coincide with the matrix rotation. Files will be reviewed and considered for purging using the following format:

- (a) Date case assigned;
- (b) Charge;
- (c) Case management data - solvability, status; or
- (d) Reason why file shall be purged or remain open (e.g., statute of limitations.)

### 600.3.5 MEMBERS LEAVING THE UNIT

When a member leaves the investigative unit, they will provide a signed and dated log of all open cases to the unit supervisor. The supervisor shall ensure this process is completed prior to the last working date of the member leaving the unit. The supervisor will reassign the cases as needed.

## 600.4 MODIFICATION OF CHARGES FILED

Members are not authorized to recommend to the District Attorney, City Attorney, or to any other official of the court that charges on a pending case be altered or the case dismissed. In all cases resulting in court prosecution, any request to modify the charges filed or to recommend dismissal of charges in a pending case shall be made to the District Attorney's Office or City Attorney's Office only as authorized by a division commander or the Chief of Police.

## 600.5 INVESTIGATIVE RECORDS

Investigative units within the Department are authorized to maintain investigative records unique to their mission. These records may include confidential informant files, active case files, collision investigation related documents, and gang intelligence files. It is not the intent of this policy to require dual record-keeping so long as the data is readily available to Department members during the course of a criminal investigation.

Records Section is the designated agency terminal coordinator for the CLETS system and the Department custodian of police records. Unless otherwise noted, all Department crime related documents shall be maintained by the Records Section.

Any investigative records maintained within a bureau, section, or unit, are subject to the file review and purge guidelines as set forth in the respective operations manual.

## 600.6 PRELIMINARY CRIMINAL INVESTIGATIONS

Members assigned to reports of crimes are responsible for the satisfactory disposition of the call including investigation, enforcement, and necessary reports.

### 600.6.1 DEPTH OF INITIAL INVESTIGATION

The primary member is responsible for conducting the initial investigation at least far enough to establish the basic facts and elements of the crime. When leads as to identity and location of a suspect,

witness, evidence, or property are immediately present, the field officer shall pursue the investigation as far as practical. However, when extensive follow-up investigation will be necessary to clear the crime it will normally be completed by follow-up investigators unless the field officer obtains prior approval of their supervisor to continue the investigation. Nothing in this section is intended to prevent an officer from pursuing leads during uncommitted time between calls so long as the activity does not interfere with an ongoing investigation by follow-up investigators.

Officers shall attempt to obtain statements/admissions from suspects in criminal matters in which prosecution is likely. In major felony cases (i.e., child molest, child abuse, rape, robbery, kidnap, assault with a deadly weapon, etc.) officers may utilize available detectives to conduct suspect interviews when possible. Officers are not relieved of the responsibility to question suspects due to the unavailability of detectives.

#### **600.6.2 RESPONSIBILITY FOR ASSUMED INVESTIGATION**

When follow-up investigators respond to a crime scene to assist with an investigation, they assume overall control of and responsibility for the investigation. Unless instructed otherwise, the primary member assigned to the call will retain responsibility for completing and reporting the preliminary investigation.

#### **600.6.3 REPORTING QUESTIONABLE CIRCUMSTANCES**

When the investigating member on a call cannot clearly establish the elements of a crime they should title the investigation a GI report. Any suspicions or hunches, etc., about the legitimacy of a victim's story should be documented in a memo addressed to the supervisor of the unit with follow-up responsibility for the incident rather than being included in the report.

### **600.7 BASIC FOLLOW-UP GUIDELINES**

It is the responsibility of the supervisor of the investigative unit to ensure that appropriate follow-up investigations are completed. When cases are assigned for follow-up, investigators should:

- (a) Review and analyze all pertinent reports, records, and lab exams;
- (b) Conduct additional interviews of victims and witnesses as needed, and conduct interviews and interrogations of suspects when appropriate;
- (c) Seek additional information from other sources (i.e., uniformed officers, informants);
- (d) Plan, organize, conduct searches, and identify physical evidence to be collected;
- (e) Identify and take appropriate steps to effect the apprehension of suspects;
- (f) Determine possible involvement of suspect(s) in other crimes;
- (g) Investigate the background and criminal history of suspect(s) involved, and when appropriate, other parties involved; and
- (h) Organize and prepare the criminal case for submission to the District Attorney, City Attorney, or Court when a suspect has been identified.
- (i) Ensure any assigned misdemeanor cases are investigated thoroughly, prepared for submission to the District Attorney, and victim(s) are kept updated.

#### **600.7.1 CASE SCREENING**

Cases shall be screened by the assigned member and prioritized for investigation based on the following criteria:

##### **Priority 1**

- (a) In-Custody, arrested, or cited suspects;
- (b) Crimes of a serious nature or related to other cases involving serious crimes, such as homicide, robberies, kidnapping, sexual assault, domestic violence, at risk missing persons, crime series, etc.; or
- (c) Crimes against minors;
- (d) Assigned by a supervisor or staff member as a priority.



## **Priority 2**

- (a) Suspect has been identified or is identifiable through latent fingerprints, useable physical evidence, or other investigative leads, and for property crimes, the loss amount is over \$10,000 to a business or over \$5,000 to an individual; and
- 1) In conjunction with other units or agencies; or
  - 2) Involves crime patterns with leads.

## **Priority 3**

- (a) Suspect has been identified or is identifiable through latent fingerprints, useable physical evidence, or other investigative leads and, for property crimes, the loss amount is \$10,000 or less to a business or \$5,000 or less to an individual.

## **Priority 4**

- (a) A possible suspect has been identified but, the case has low solvability factors.

All other cases will be suspended until such time that additional information is developed raising the priority as outlined above.

## **600.8 VICTIM INFORMATION**

### **600.8.1 JUVENILE VICTIMS**

When a juvenile is the victim of a crime, the investigating officer shall notify their supervisor prior to submitting the report for approval/follow up. If the juvenile's school is involved in the investigation in anyway, the member shall also notify the SRO Supervisor, and make notifications through their chain of command when appropriate.

### **600.8.2 VICTIM FOLLOW-UP**

Members SHALL NOT advise victims that an investigator will contact them at a later time. Instead, the phone number of the investigative bureau with follow-up responsibility for the case shall be provided.

In misdemeanor cases, when no arrest is made, officers shall provide the victim/IP with the Involved Party Request for Review Form.

### **600.8.3 VICTIMS OF JUVENILE CRIME**

Any member who is contacted by a victim about restitution for a crime committed by a juvenile shall refer the victim to the County of Fresno Juvenile Probation Department for assistance.

Victims wishing to know the disposition of cases in which they were involved shall be referred to Juvenile Probation or the DA's Office.

## **600.9 AT LARGE SUSPECTS**

### **600.9.1 AT LARGE FELONS**

Victims with inquiries about cases with felony suspects should be directed to the bureau with normal follow-up responsibility for the type of crime involved.

### **600.9.2 AT LARGE ADULT MISDEMEANANTS – CASE REVIEW PROCESS**

When a misdemeanor adult suspect is identified, is at large, and the victim requests prosecution they shall be given and advised to fill out the Misdemeanor Case Review Form. If the form is completed on scene, the officer shall turn it in to the Investigations/POP supervisor for review. If the victim/IP decides to later turn in the form, they should be instructed on which area station it could be sent to. (email/mail/person). In all incidents the officer shall document that the Misdemeanor Case Review Form was given, and process explained. The detective sergeant will review these misdemeanor cases, and when appropriate, they shall assign the case to a detective for review and follow-up. The victim shall not be referred to the DA's Office for prosecution. (This will not apply to misdemeanors involving Domestic Violence cases/Sexual Assault or Child Abuse cases)

The case review process shall also be explained to victims and involved parties in any incident which may not clearly constitute a misdemeanor (e.g., disturbances, possible crimes, etc.) but where some prospect of future prosecution exists.

For the purpose of this subsection, a suspect is considered "identified" when their first and last names are known along with either a DOB or address.

### 600.9.3 AT LARGE MISDEMEANANTS – JUVENILES

When a juvenile misdemeanor suspect is at large and cannot be located by the investigating member, a report shall be prepared as required. The assigned follow-up investigator shall attempt to locate and arrest or cite the suspect. Any other member with reasonable cause to believe the juvenile falls within the provisions of WIC 602 may also arrest or cite the suspect.

Victims of misdemeanor crimes with at large juvenile suspect(s) SHALL NOT be advised to contact the DA's Office to seek a complaint. Any inquiries by the victim should be referred to the appropriate investigative bureau of the Department. Follow-up investigation units are responsible for reviewing cases with at-large juvenile suspects and for completing applications for petitions when appropriate.

## 600.10 RESPONSES TO CRIMES BY FOLLOW UP INVESTIGATORS

### 600.10.1 MANDATORY RESPONSES

A follow-up investigator(s) shall be requested and will respond to all:

- (a) Homicides;
- (b) Attempted homicides and/or assaults that are likely to become homicides;
- (c) Officer involved shootings;
- (d) Bombings; and
- (e) In custody deaths.

### 600.10.2 MANDATORY NOTIFICATIONS

Members investigating sexual assaults or child abuse which involve any of the following circumstances shall notify their supervisor. The Supervisor shall contact the appropriate investigative unit supervisor to determine the need for response or involvement by a follow-up investigator:

- (a) Sexual assault involving serious injury;
- (b) Child molests involving serious injury;
- (c) Offenses which are part of a recognized pattern of criminal sexual activity; or
- (d) Child abuse involving serious injury.

### 600.10.3 OPTIONAL NOTIFICATIONS

When a crime scene in the following categories is determined likely to contain evidence, a field supervisor shall be contacted to evaluate the need for an immediate response by a follow-up investigator(s):

- (a) Kidnappings;
- (b) Citizen involved shootings, with injury, resulting from an in-progress crime;
- (c) Incidents where there is a probability of future litigation against the City;
- (d) Suicides involving unusual circumstances;
- (e) Serious felonies in which the suspect has just become known or for which information has been developed that creates a reasonable likelihood that the suspect can be quickly identified and/or arrested; or
- (f) Other unusual incidents where special expertise is required or would be beneficial to the investigation of the scene and/or incident.

### 600.10.4 REQUESTING IMMEDIATE FOLLOW-UP

Required and optional callouts of follow-up investigators are outlined above. In addition to those provisions, a follow-up investigator may be requested to respond to the scene or otherwise assist with a criminal investigation with the approval of a field supervisor.

#### 600.10.5 NOTIFICATION PROCEDURE

During normal working hours, the unit supervisor of the affected follow-up unit shall be contacted to determine the level of response and notify the assigned investigators. In the supervisor's absence, the commander over the unit or a member of the unit may be contacted to initiate a response. After normal hours, the night detective unit shall be contacted. When night detectives are unavailable, the affected unit supervisor shall be called at home by the Duty Officer

#### 600.10.6 CASE INVESTIGATION COORDINATION RESPONSIBILITY

In all cases where a follow-up investigator responds to a location, the investigator shall be briefed by the members on the scene as to the status of the investigation. The investigator is responsible for the coordination of the investigative effort from that point in time until completion.

The responding follow-up investigator has the authority to direct and coordinate the crime scene investigation consistent with established investigative procedures. This order does not reassign authority or responsibility from field units or supervisors during "in-progress" situations. It does reassign that authority once the situation has stabilized, and a follow-up investigator arrives and assumes responsibility for the crime scene investigation. Authority over the entire incident shall remain with the supervisor/commander in charge.

#### 600.11 CASE MANAGEMENT REVIEW

All open assigned cases shall be periodically reviewed by supervisors to ensure that investigative efforts continue as required and that appropriate clearance and closure is completed by the assigned member. Victims and witnesses should, when necessary, be contacted in a timely manner on priority cases. Statements, evidence, and other investigative material shall be documented in a timely manner. Quarterly reviews of case files shall be conducted by the supervisor to justify keeping the case open. Cases that have been opened over one year shall be reviewed by the supervisor and a memo documenting the review written to the Bureau Commander explaining what has been done on the case and what remains to be done.

Closed cases shall be reviewed for appropriate clearance to ensure compliance with the guideline in the DOJ Uniform Crime Reporting Handbook.

##### 600.11.1 CASE SUSPENSION

A case shall be suspended for the following:

- (a) Insufficient evidence; or
- (b) Waiting for new evidence. Exceptions can be made at the discretion of the unit supervisor. (e.g. homicide cases held open pending new information.)

##### 600.11.2 NO CHARGES FILED BY FOLLOW-UP INVESTIGATOR

When a follow-up investigator does not forward a case to the District Attorney's Office for charges after an arrest has been made or the suspect was processed at CSI prior to being issued a citation, the investigator shall determine if the suspect is still in custody. If the suspect is in custody, the investigator will respond to FCJ and release the arrestee pursuant to Penal Code §849(b).

If the suspect has been released by FCJ and the investigator will NOT be filing the case for an arrest warrant, the investigator shall complete the Adult Detention Disposition Report form (JUS 8715) or Juvenile Detention Disposition Report form (JUS 8716). The form will be forwarded to CSI for processing and forwarding to the appropriate agencies. The investigator shall complete a Detention Certificate. One copy shall be sent to the suspect and the original shall be sent to Records.

The follow-up investigator shall document the reasons for not filing the case with the District Attorney's Office, the actions taken to clear the arrest in a follow-up report, and change the suspect's involvement code to Detained.

**600.11.3 NO CHARGES FILED BY DISTRICT ATTORNEY’S OFFICE**

Upon receipt of an NCF memorandum, PLO shall send an email notification to the primary investigator and assigned supervisor. The unit supervisor is responsible for reviewing all NCF memorandums to determine if additional follow-up is required. If follow-up is needed, the supervisor will assign the case to an investigator and set a deadline for completion. Absent extenuating circumstances, follow-up requested in the NCF should generally be completed within 30 days. The NCF memorandum shall be uploaded into Axon Records along with the detention certificate letter sent to the suspect(s). A supplemental report shall be completed by the investigator under the assigned case number. The supplemental report will document no charges were filed and the suspect’s involvement will be changed to DET/NCF. Unassigned misdemeanor cases with no follow-up requested will be processed by Records. For all cases, the District Attorney’s Office shall complete the Adult Detention Disposition Report form (JUS 8715) or Juvenile Detention Disposition Report form (JUS 8716) and forward it to DOJ.

**600.12 EXTENDED INVESTIGATIONS**

During certain in-depth investigations victims, witnesses, and suspects/arrestees may be at HQ for extended periods of time without food (in excess of 6 hrs). With supervisor approval, members may offer the individual a meal in an effort to meet their basic needs. When requested, the investigating member may phone one of the Denny’s restaurants listed below to request the necessary meals. Each single meal serving shall not exceed \$12.00 (including tax). The member that picks up the meals shall complete the meal receipt form with the name of the member requesting the meals, the division/bureau/unit they are assigned to, the related case number, and their signature & badge number. This service shall not be used to purchase meals for members.

Denny’s # 6209 3120 N. Blackstone Ave. Fresno, CA 93703 (559)227-7151	Denny’s # 6210 2568 S. East Ave. Fresno, CA 93706 (559)485-7710	Denny’s # 7815 1746 W. Shaw Ave. Fresno, CA 93711 (559)432-3806
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**600.13 CUSTODIAL INTERROGATION REQUIREMENTS**

Suspects who are in custody and subjected to interrogation shall be given the Miranda warning, unless an exception applies. Interview or interrogation of a juvenile shall be in accordance with the Temporary Custody of Juveniles Policy.

**600.13.1 AUDIO / VIDEO RECORDINGS**

Any custodial interrogation of an individual who is suspected of having committed any violent felony offense should be recorded (audio or video with audio as available) in its entirety. Regardless of where the interrogation occurs, every reasonable effort should be made to secure functional recording equipment to accomplish such recordings.

Consideration should also be given to recording a custodial interrogation, or any investigative interview, for any other offense when it is reasonable to believe it would be appropriate and beneficial to the investigation and is otherwise allowed by law.

No recording of a custodial interrogation should be destroyed or altered without written authorization from the prosecuting attorney and the Investigations Division supervisor. Copies of recorded interrogations or interviews may be made in the same or a different format as the original recording, provided the copies are true, accurate and complete and are made only for authorized and legitimate law enforcement purposes.

Recordings should not take the place of a thorough report and investigative interviews. Written statements from suspects should continue to be obtained when applicable.

### 600.13.2 MANDATORY RECORDING OF ADULTS

Any custodial interrogation of an adult who is suspected of having committed any murder shall be recorded in its entirety. The recording should be video with audio if reasonably feasible (PC §859.5).

This recording is not mandatory when (PC §859.5):

- (a) Recording is not feasible because of exigent circumstances that are later documented in a report.
- (b) The suspect refuses to have the interrogation recorded, including a refusal *at* any time during the interrogation, and the refusal is documented in a report. If feasible, the refusal shall be electronically recorded.
- (c) The custodial interrogation occurred in another state by law enforcement officers of that state, unless the interrogation was conducted with the intent to avoid the requirements of PC §859.5.
- (d) The interrogation occurs when no member conducting the interrogation has a reason to believe that the individual may have committed murder. Continued custodial interrogation concerning that offense shall be electronically recorded if the interrogating member develops a reason to believe the individual committed murder.
- (e) The interrogation would disclose the identity of a confidential informant or would jeopardize the safety of an officer, the individual being interrogated or another individual. Such circumstances shall be documented in a report.
- (f) A recording device fails despite reasonable maintenance and the timely repair or replacement is not feasible.
- (g) The questions are part of a routine processing or booking and are not an interrogation.
- (h) The suspect is in custody for murder and the interrogation is unrelated to a murder. However, if any information concerning a murder is mentioned during the interrogation, the remainder of the interrogation shall be recorded.

The Department shall maintain an original or an exact copy of the recording until a conviction relating to the interrogation is final and all appeals are exhausted, or prosecution is barred by law (PC §859.5).

### **601.1 POLICY**

It is the policy of this Department to cooperate whenever possible, consistent with the applicable state laws and release of records and information policies of this Department, with external investigations against the Department or its members.

#### **601.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide direction to Department members concerning external investigations they may become aware of during the course of their duties.

### **601.2 REPORTING TO THE CHIEF OF POLICE**

Any member who is made aware of any investigation, civil suit, or claim against the Department or its members shall immediately notify the Chief of Police through the chain of command. The Chief of Police should notify the Legal Advisor and may instruct the Internal Affairs Bureau to conduct a concurrent investigation.

### **601.3 ACCESS TO FILES**

Anyone outside of the Department who is investigating the Department or any member, and who requests access to any Departmental file, shall be referred to the Legal Advisor unless the member has signed a written release authorizing access to their records. This does not apply to authorized law enforcement personnel requesting access to police reports which shall be referred to a Records supervisor.

### **601.4 CIVIL RIGHTS VIOLATIONS**

Supervisors shall cooperate with FBI investigations and provide the investigating agents the opportunity to interview any member and review any records deemed necessary.

### **601.5 INVESTIGATIONS INVOLVING POTENTIAL CONFLICTS OF INTEREST**

Situations which could involve a conflict of interest if investigated by Department members will be referred to investigators at the Attorney General's Office, DA's Office, or FSD. When the Attorney General's Office declines to investigate the charges, the Chief of Police or designee (unless the one being investigated) shall determine which agency the matter will be referred to after conferring with the City Manager and/or the City Attorney. These investigations include criminal allegations involving elected City officials, council officers, City executive management, the Chief of Police, and other executive staff members of the Department.

## Fresno Police Department Policy Manual Sexual Assault Victims' DNA Rights

### 602.1 POLICY

Department members will treat reports involving sexual assaults with confidentiality to protect a victim's rights.

#### 602.1.1 PURPOSE AND SCOPE

Consistent with Penal Code §293 and the Sexual Assault Victims' DNA Bill of Rights (PC §680), this policy will establish a means 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

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 their right to confidentiality [PC §293 (c) and (d)].

### 602.3 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.
- (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; and
  - 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 email address (if available), any victim or victim's designee shall, upon request, be advised of any known significant changes regarding the victim's case.

### 602.4 DESTRUCTION OF DNA EVIDENCE

All sexual assault kits will be sent to DOJ for DNA processing in accordance with PC §680.

If, with the approval of a supervisor, it is determined that rape kit evidence or other crime scene evidence from an unsolved sexual assault is going to be destroyed or disposed of prior to the expiration of the statute of limitations set forth in PC §803, the assigned officer shall provide the victim of the sexual assault with written notice of the intent to do so no less than sixty (60) days prior to the destruction or disposal of such evidence.

## Fresno Police Department Policy Manual

# Polygraph Examinations and Computer Voice Stress Analyzer

### 603 Polygraph Examinations

#### 603.1 POLICY

The polygraph examination and Computer Voice Stress Analyzer (CVSA) may be utilized to verify, corroborate, or refute statements; obtain additional investigative leads; narrow or focus criminal investigations; serve to screen candidates for positions with this or other criminal justice agencies; and assist in conducting internal police investigations.

##### 603.1.1 PURPOSE AND SCOPE

Polygraph examinations and CVSAs are valuable investigative aids used in conjunction with, but not as a substitute for, a thorough investigation.

#### 603.2 DEFINITIONS

**Examinee** - Refers to the individual to be examined by the polygrapher/examiner.

**Polygraph** - An instrument that records certain physiological changes in a person undergoing questioning in an effort to detect deceptive responses. A polygraph simultaneously records at minimum, respiratory activity, galvanic skin resistance or conductivity, and cardiovascular activity.

**Polygrapher** - The individual conducting the polygraph examination. Only polygraphers who have successfully completed a Certified School of Polygraphy by the American Polygraph Association are authorized to administer examinations.

**Computer Voice Stress Analyzer** – A technical device that detects, measures, and charts the stress in a person's voice from recordings or live analysis following preformatted questions.

**Examiner** – The individual conducting the CVSA who has satisfactorily completed training by the National Institute for Truth Verification (NITV Federal Services) in the use of the CVSA. Only currently certified CVSA examiners will be authorized to use the CVSA.

#### 603.3 INVESTIGATIVE / CRIMINAL POLYGRAPH EXAMINATION/CVSA REQUESTS

Members of this agency may request a CVSA examination from one of the Department's examiners. If deemed necessary, a polygrapher from another agency or a private polygrapher can be requested with supervisor approval.

Polygraph examinations/CVSAs may be authorized consistent with state law and agency policy. Situations in which authorization may be requested and approved include, but are not limited to:

- (a) Requests from the District Attorney's office as part of an agreement with the defense attorney or for other investigative purposes;
- (b) Requests from other authorized criminal justice agencies;
- (c) Attempts to verify or reconcile statements of individuals when alternative investigative means have been exhausted; or
- (d) Efforts to confirm or refute an allegation that cannot be verified or disproved by other evidence.

A polygraph examination/CVSA should not be used to verify a victim's or complaining witness' allegation without sufficient grounds for suspecting that they are giving false or misleading statements.

**Exception:** Refer to Penal Code §637.4(a).

Requests for examinations from another law enforcement agency pursuant to an internal investigation must be in writing and must be approved by the Chief of Police or designee.



Submission to a polygraph examination/CVSA must be voluntary on the part of all examinees including members of this agency. Members of this agency wishing to voluntarily transfer to a sensitive assignment (e.g. Vice, Intelligence, Narcotics, etc.) may be required to successfully pass a polygraph examination or CVSA administered at no cost to the examinee before reassignment may occur. If the member refuses to voluntarily participate in a polygraph examination or CVSA the request for transfer will be denied.

#### **603.4 PRE-EMPLOYMENT POLYGRAPH INVESTIGATIONS/CVSA EXAMINATIONS**

All applicants seeking employment with the Fresno Police Department who may be exposed to sensitive information shall be administered a pre-employment polygraph/CVSA examination. This includes sworn positions, and non-sworn positions.

Civilians from an outside entity who work in collaboration with the Department and/or Department volunteers who may be exposed to or have access to sensitive information should be subject to a pre-employment polygraph/CVSA.

Polygraph/CVSA examinations shall not be used as the sole determinant of suitability for employment.

#### **603.5 PREPARING FOR AN INVESTIGATION/CRIMINAL POLYGRAPH/CVSA EXAMINATION**

The requesting member is responsible for providing the polygrapher/examiner with all pertinent information concerning the case. This includes, but is not limited to:

- (a) Information obtained in the investigation that supports and justifies the use of the polygraph/CVSA;
- (b) Copies of crime/offense reports and investigative reports;
- (c) Evidence available but withheld from the examinee;
- (d) Background information on the examinee including criminal record and possible motivation;
- (e) Any statements made by the examinee, complainants and witnesses including alibis; and
- (f) Newspaper articles or other general information concerning the case.

If the examinee is hearing impaired or does not speak English, the member will help make arrangements for a sign language interpreter and/or translator as determined by the polygrapher/examiner. Arrangements should be made in advance to eliminate a delay in the examination.

#### **603.6 INTERROGATIONS**

During any interrogation of a suspect who has agreed or who may reasonably be asked to participate in an examination, members shall not pursue questions that may reveal information only known to the perpetrator. This includes, but is not limited to:

- (a) Method of entry;
- (b) Property taken;
- (c) Weapons or type of force used to commit the crime;
- (d) Evidence left at the scene;
- (e) Unusual acts of the suspect during the crime; and
- (f) Location from which property was taken.

Members shall not interrogate a suspect just before they are to take a polygraph examination/CVSA.

Members shall not attempt to explain procedures that will be used in the examination but shall advise examinees that these will be explained fully by the polygrapher/examiner.

#### **603.7 POLYGRAPH/CVSA SCHEDULING**

##### **603.7.1 SCHEDULING INVESTIGATIVE/CRIMINAL POLYGRAPH/CVSA EXAMINATIONS**

In general:

- (a) Polygraph/CVSA examinations will be scheduled with the polygrapher/examiner who will conduct the examination;
- (b) Examinations should be scheduled during normal business hours, but may be scheduled at other times dependent upon the availability of the polygrapher/examiner and the convenience of the examinee;
- (c) Two hours should be a minimal scheduling time for a polygraph/CVSA examination; and
- (d) When the examinee will be late or cancels the appointment, the requesting member shall immediately notify the polygrapher/examiner.

When possible, the requesting member shall respond with the examinee and any other authorized person (e.g., attorneys, parents, or legal guardians) to the examination location. The polygrapher/examiner shall determine who may be present in the examination or observation rooms.

#### **603.7.2 SCHEDULING PRE-EMPLOYMENT POLYGRAPH/CVSA EXAMINATIONS**

Pre-Employment polygraph/CVSA examinations will be scheduled by the Personnel Bureau. Personnel Bureau personnel will provide all relevant applicant screening reports to the polygrapher/examiner prior to the examination including Personal History Statements, prior polygraph/CVSA examination reports conducted by this agency and polygraph/CVSA questionnaires.

#### **603.8 CONDUCTING POLYGRAPH/CVSA EXAMINATIONS**

Polygraph/CVSA examinations shall not be conducted on any person whom the polygrapher/examiner reasonably believes is physically or emotionally unsuitable for testing. This may include, but is not limited to, persons with heart conditions, women who are pregnant, and individuals taking certain types of medication that may interfere with test results. When in doubt, the polygrapher/examiner may seek guidance from medical or psychological professionals authorized by this agency and or request the examinee to obtain medical clearance from an appropriate health care provider.

A polygrapher/examiner shall:

- (a) Not conduct a polygraph/CVSA examination upon an examinee if they believe they cannot provide an unbiased examination;
- (b) Obtain signed consent from the examinee prior to administering a polygraph/CVSA examination;
- (c) Prior to the examination, review all questions to be asked on the examination with the examinee; and
- (d) Independently interpret the chart tracings and render an opinion on findings that includes one of the following conclusions:
  - 1) No deception indicated;
  - 2) Deception indicated; or
  - 3) No opinion; and
- (e) Determine if a second polygraph/CVSA examination is necessary and appropriate.

#### **603.9 POLYGRAPH EQUIPMENT AND RECORD KEEPING**

The polygrapher shall:

- (a) Be responsible for the maintenance, safe-keeping, and integrity of the polygraph equipment;
- (b) Utilize polygraph instruments of commercial quality which have no fewer than three functioning recording channels;
  - 1) Analog or computerized polygraph instruments may be used. When analog instruments are used, calibration charts and/or maintenance logs shall be maintained according to professional standards; and
  - 2) Computerized polygraphs shall be kept in good working order utilizing the latest software versions available to administer an examination.
- (c) Provide summary activity or statistical reports as directed by the Chief of Police or designee; and
- (d) Maintain copies of each polygraph report, together with polygraph charts, computer discs, and all allied papers for a period of five years and indefinitely in capital offenses.

### **603.10 CVSA EQUIPMENT AND RECORD KEEPING**

The CVSA examiner shall:

- (a) Be responsible for the maintenance, safe-keeping, and integrity of the CVSA equipment;
- (b) Conduct calibration checks prior to the interview;
- (c) Provide summary activity or statistical reports as directed by the Chief of Police or designee;  
and
- (d) Maintain copies of each CVSA report, together with CVSA charts, and all allied papers for a period of five years and indefinitely in capital offenses.

### **603.11 EXAMINATION ROOMS**

Examinations and interviews shall be conducted in a clean, neat environment free of audible and visual distractions. The examination room should be equipped with either audio or video recording equipment.

Certificates, diplomas, pictures, or other distractions shall not be in sight of examinees during the testing phase of the examination.

### **603.12 PERSONAL GROOMING / ETHICS**

Polygraphers/Examiners will be neat and well-groomed. They will dress in a manner consistent with professional business standards and conduct themselves in a professional, ethical manner at all times.

### **603.13 PROFESSIONAL CERTIFICATION**

Prior to providing contracted polygraph services for the Department, polygraphers will be screened to ensure they are a graduate of an accredited school of polygraph.

## Fresno Police Department Policy Manual

# Threats to Public Officials / Department Members

### 605.1 POLICY

Threats to public officials and FPD members shall be handled by members of the Criminal Intelligence Unit of the Special Investigations Bureau (SIB) unless directed otherwise by the Chief of Police.

#### 605.1.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure all reports of threats to public officials and Department members are taken seriously and investigated immediately utilizing available resources.

### 605.2 MEMBER RESPONSIBILITY

#### 605.2.1 THREATS TO DEPARTMENT MEMBERS

Whenever threats are directly made to Department personnel they are to take the appropriate enforcement action (i.e., PC § 422, PC § 69.....). When Department members become aware of an anonymous or third party threat directed at them, another member, or a public official, they are to document the incident in an appropriate police report and notify their immediate supervisor of the threats.

#### 605.2.3 LETTERS

When written or other recorded communications threatening harm to public officials or prominent persons come into the custody of the Department or any of its members, they shall be carefully preserved for fingerprint analysis and booked into evidence. Photo copies of the communication should be made for the CR. A copy of the CR and communication should be forwarded to the SIB through Special Routing. SIB personnel will forward a copy of the communication to the California DOJ for inclusion in the Automated Threatening Letter File.

#### 605.2.4 SPECIAL ROUTING

A copy of reports regarding threats of harm to public officials or prominent persons shall be forwarded by the Records Bureau to SIB through Special Routing.

### 605.3 SUPERVISOR RESPONSIBILITY

The supervisor, through their chain of command, shall notify the Department's Criminal Intelligence Unit Supervisor for assessment and investigation.

### 605.4 PROTECTIVE DETAILS

The Fresno Police Department will be utilized to provide dignitary protection to dignitaries who are not provided protection by Federal or State Agencies, however, because of their status may require protection. The decision to provide a protection detail must be approved by the Chief of Police.

Several units within the Department may be used during the protection detail operation. This includes SIB Criminal Intelligence Unit, Special Weapons and Tactics (SWAT), Traffic, and District Policing POP/Crime Suppression Units. The Chief of Police will approve the protection detail, and then designate a supervisor from the Special Investigations Bureau regarding the protection detail request. Staffing needed for the operation will be determined and assignments will be made. Special Investigations Bureau investigators and/or Special Weapons and Tactic officers may be utilized depending on the size of the operation.

The Criminal Intelligence Unit shall have primary responsibility for providing protection for local elected officials. The Department shall cooperate with the appropriate state and federal agencies for the protection of visiting dignitaries. The SIB commander shall be advised of any threat received to the safety of any public official and shall evaluate the need for an immediate call-up of a protective detail.

### **606.1 POLICY**

Department members will follow the guidelines established, regarding the authority and procedure for the seizure and liquidation of assets associated with specified controlled substances.

#### **606.1.1 PURPOSE AND SCOPE**

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.

HS §11488a 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 HS §11470 (e) or (f).

### **606.3 ASSET FORFEITURE RESPONSIBILITY**

The primary responsibility for investigation of asset seizures rests with the Special Investigations Bureau.

Before seizing any currency, vehicle, or personal property pursuant to HS §11470, a member will contact an "asset forfeiture" detective or a Narcotics supervisor.

### **606.4 ASSET FORFEITURE PROCEDURE**

Before seizing any currency, vehicle, or personal property pursuant to HS §11470, members will contact a narcotics supervisor.

If seizure approval is given, the following procedures will apply:

- (a) The seizing officer, asset forfeiture member or Narcotics supervisor will verbally notify any interested parties. The person in possession of a vehicle and the registered owner which is to be seized will be served a "Notice to Interested Party" form. 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" member, a copy of all reports and all applicable asset forfeiture paperwork must be forwarded to the "asset forfeiture" member in SIB, for review;
- (c) Interview all persons involved concerning their possession of the seized assets, financial situation, employment, income, and other resources. If a defendant has not given a Miranda waiver before an interview regarding assets, the detective will conduct a further criminal interview as necessary;
- (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; and
- (e) The seizure of assets subject to forfeiture is a civil proceeding either filed through:
  - 1) The county of origin, Office of the District Attorney Forfeiture Unit or Narcotic Enforcement Team; or
  - 2) The U. S. Marshals Service, via: the Drug Enforcement Administration.

### **606.5 ASSET FORFEITURE LOG**

A computerized inventory of all asset forfeiture cases will be kept in the SIB.

The inventory will include the following:

- (a) Case number;
- (b) Date of seizure;
- (c) Value;
- (d) Type of seizure (federal or state); and
- (e) Status of the seizure.

Information maintained on the log will be provided to the Chief of Police or authorized staff, as requested.

### **606.6 SEIZED CURRENCY**

Currency seized subject to forfeiture will be counted by the seizing officer and a supervisor. Prior to seizing currency, the officer shall notify the Narcotics supervisor of the seizure of the currency and circumstances of the seizure.

- (a) The currency will be:
  - 1) Placed in a money envelope with the denominations of the currency; and
  - 2) Totals of each denomination and total amount of currency enclosed noted on the money envelope.
- (b) The officer counting and supervisor verifying money will initial and sign the envelope when sealed.
- (c) 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.
- (d) Currency seized will be given to the "asset forfeiture" member or Narcotics Unit supervisor.
- (e) As soon as practical the "asset forfeiture" member or Narcotics Unit supervisor will convert the currency into a cashier's check and deposit it into the Litigation Trust Fund.

### **606.7 SEIZED VEHICLES**

Vehicles seized subject to forfeiture will be taken to a designated secure storage facility.

A seized vehicle should not be impounded. Prior to an officer seizing the vehicle they shall notify the Narcotics supervisor of the seizure of the vehicle and circumstances of the seizure.

Personal property located in a seized vehicle shall be removed and booked into Property as either evidence or for safekeeping.

#### **606.7.1 SPECIAL GUIDELINES APPLICABLE TO AUTOMOBILES**

Special guidelines apply regarding the minimum amounts of controlled substances contained in a vehicle in order for it to be seized as a conveyance used to facilitate narcotic activity.

The minimum amounts of a controlled substance within a vehicle are as follows:

- (a) 14.25 grams (1/2 oz) or more of rock cocaine or a substance containing heroin;
- (b) 28.5 grams (1 oz) or more of cut cocaine or methamphetamine;
- (c) 57.0 grams (2 oz) of a substance containing cocaine or methamphetamine; and
- (d) 10 pounds of marijuana, peyote or psilocybin.

### **606.8 PROCEEDS FROM FORFEITURE**

Equitable shares received from seized assets will be maintained in separate funds, subject to accounting controls and annual financial audits.

All property acquired through the civil process is accounted for in Department records and is disposed of by the Department pursuant to legal authority.

### **607.1 POLICY**

The Fresno Police Department will strive to use eyewitness identification techniques, when appropriate, to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent.

When conducting a physical lineup, photographic lineup, or in-field show-up, members shall avoid any conduct prior to, during, or after the identification which might be suggestive in any way to the person making the identification.

#### **607.1.1 PURPOSE AND SCOPE**

This policy sets forth guidelines to be used when members of this department employ eyewitness identification techniques (Penal Code §859.7).

### **607.2 DEFINITIONS**

**Eyewitness Identification Process** - Any field or in field show-up identification, live lineup or photographic identification.

**Field / In Field Show-Up 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.

**Line-up** - A physical or photographic group of people from whom a witness may pick the perpetrator of the crime.

**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.

**Show-up** - A one-on-one confrontation between a witness and a suspect, usually in the field, within a short time frame following the commission of a crime.

**Witness** - A person who has seen the event first hand, including victims.

### **607.3 LINEUPS – PHYSICAL / PHOTOGRAPHIC**

#### **607.3.1 PHYSICAL LINEUPS**

Physical lineups are normally conducted whenever a suspect is placed in a live group of individuals and the entire group is presented individually to witnesses and/or victims for viewing. Persons arrested on the basis of probable cause may be placed in a physical line-up for identification purposes. The suspect is entitled to have an attorney present.

#### **607.3.2 PHOTOGRAPHIC LINEUPS**

Photographic lineups are normally conducted when a suspect is not in custody and occur when an officer arranges for a victim and/or witness to view an array of photographs.

### **607.4 IN-FIELD SHOW-UP**

Show-ups should be limited to situations where the eyewitness views a suspect in close proximity in time and place to the scene of the crime and where physical lineups or photographic identifications are impractical.

## **607.5 GENERAL PROCEDURES**

Prior to conducting a line-up or in-field show-up, the investigating member will obtain a thorough description of the suspect and details surrounding the incident. This should include:

- (a) Physical description of suspect (Height, weight, hair/eye color, clothing worn, tattoos, etc.);
- (b) The witness' opportunity to view the perpetrator at the time of the crime (length of time, lighting, distance, etc.); and
- (c) The witness' degree of attention at the time of the crime (were they concentrating to remember the perpetrator's looks; was the witness sober; did the victim know the suspect?).

The Fresno Police Department will strive to use eyewitness identification techniques, when appropriate, to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent. This should include:

- (a) An instruction to the witness that it is as important to exclude innocent persons as it is to identify a perpetrator;
- (b) An instruction to the witness that the perpetrator may or may not be among those presented and that the witness is not obligated to make an identification; and
- (c) An instruction to the witness that the investigation will continue regardless of whether an identification is made by the witness.

### **607.5.1 COMPOSITION OF LINE-UPS**

When composing a line-up, all participants must be similar in appearance, though "there is no requirement that a defendant in a line-up must be surrounded by people nearly identical in appearance." [Van Tran (9th Cir. 2000) 212 F.3d 1143, 1156; Blair (1979) 25 Cal.3d 640; Wimberly (1992) 5 Cal.App.4th 773, 790.]

### **607.5.2 MULTIPLE WITNESSES**

When more than one witness is available to view a line-up/show-up, each witness must view the lineup/show-up separately. Witnesses must not be allowed to communicate or hear another's comments during a line-up/show-up or "compare notes" about the description of the suspect(s).

### **607.5.3 IDENTIFICATION DURING LINE-UP / SHOW-UP**

If identification is made by the witness, the investigator should ask the witness to state in their own words their level of certainty related to identification or non-identification. Investigators should not ask for this as a percentage or on a 1-10 scale. Investigating members shall not provide feedback to the witness during the identification.

### **607.5.4 OTHER SAFEGUARDS**

Witnesses should be asked for suspect descriptions as close in time to the incident as possible and before conducting an eyewitness identification. No information concerning a suspect should be given prior to obtaining a statement from the witness describing how certain they are of the identification or non-identification. Members should not say anything to a witness that may validate or invalidate an eyewitness' identification. In photographic lineups, writings or information concerning any previous arrest of a suspect shall not be visible to the witness (PC §859.7).

## **607.6 EYEWITNESS IDENTIFICATION**

Members are cautioned not to, in any way, influence a witness as to whether any subject or photo presented in a lineup is in any way connected to the case. Members should avoid mentioning that:

- (a) The individual was apprehended near the crime scene.
- (b) The evidence points to the individual as the suspect.
- (c) Other witnesses have identified or failed to identify the individual as the suspect.

In order to avoid undue influence, witnesses should view suspects or a lineup individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses.

Whenever feasible, the eyewitness identification procedure should be audio and video recorded and the recording should be retained according to Policy §450 (PC §859.7).



## **607.7 PHYSICAL LINE-UPS**

Physical line-ups are conducted at the Fresno County Jail and are coordinated through the Detention Bureau's Watch II Administrative Sergeant.

### **607.7.1 USE OF VIDEO AND / OR AUDIO RECORDING**

If video and/or audio equipment is used to record the line-up proceedings, the original copy of the recording shall be booked into evidence under the associated case number for the incident being investigated.

### **607.7.2 WITNESS ADMONITION**

Prior to viewing a physical line-up, witnesses will be admonished:

- (a) To keep an open mind;
- (b) That the person who committed the crime may or may not be among those present;
- (c) That just because a person is in custody does not mean that they committed the crime; and
- (d) Not to discuss their identification with other witnesses before, during, or after the line-up procedure.

### **607.7.3 DOCUMENTATION**

The investigator's procedure for creating the line-up, showing the line-up, and the results, shall be documented in the related Follow-up Report. The exact words used by each witness in viewing the lineup, and whether a positive or negative identification occurred, shall also be documented.

## **607.8 PHOTOGRAPHIC LINE-UPS**

When conducting photographic lineups, the following minimum guidelines shall be followed:

- (a) "BLIND" LINE UP ADMINISTRATION - When practicable, the member presenting the lineup should not be involved in the investigation of the case or know the identity of the suspect. In no case should the member presenting a lineup to a witness know which photograph or person in the lineup is being viewed by the witness (PC §859.7). Techniques to achieve this include randomly numbering photographs, shuffling folders, or using a computer program to order the persons or photographs in the lineup.
  - 1) If the member did not use the "blind" line up administration, they shall document the reason why.

### **607.8.1 STRUCTURE OF PHOTOGRAPHIC LINE-UPS**

Use a Minimum of Six Photographs.

- (a) All of the photos should depict similar looking suspects -size, hair, race, age, etc. Photographs for photographic identification may be obtained from the FPD Prisoner Processing Section, Sheriff's Department, DMV, Department of Corrections, State Parole, etc.
- (b) Block Out or Cover all Visible Notations. In particular, names, dates, and other information should not be visible to witnesses. The Photo Display Folder will usually block out this information. If it is necessary to block-out or cover a notation on one photograph, then similar block-out or covering marks should be placed on all photos so that all will appear alike. It is considered impermissibly suggestive for one photograph to have marks that are not on the other photos.

### **607.8.2 'SIX-PACK' PHOTO DISPLAY FOLDER**

- (a) Each witness should view the folder separately and individually (Separate folder and set of photos for each witness). Do not allow witnesses to talk to one another during the photo line-up procedure.
- (b) Witnesses must not be allowed to consult with one another about their identification either before, during or after the line-up procedure. Each witness making an identification should initial and date the back of the photograph they identify.
- (c) The Photo Display Folder containing all photographs used in the photographic line-up shall be photocopied, and the copy retained in the Investigator's Case folder. The original folder and photos shall be booked into evidence under the associated case number for presentation in any subsequent court proceeding.

### 607.8.3 WITNESS ADMONITION

Prior to showing the Photo Display Folder to a witness, the Photo Show-up Admonition which appears below must be read to the witness.

"In a moment, I am going to show you a group of photographs. This group of photographs may or may not contain a picture of the person who committed the crime now being investigated. It is as equally important to exclude innocent persons, as it is to identify a perpetrator. Keep in mind that hair styles, beards, and moustaches may be easily changed. Also, photographs may not always depict the true complexion of a person - it may be lighter or darker than shown in the photo. Pay no attention to any markings or numbers that may appear on the photos or any other differences in the type or style of the photographs. When you have looked at all the photos, tell me whether or not you see the person who committed the crime. This investigation will continue regardless if an identification is made. Do not tell other witnesses that you have or have not identified anyone."

### 607.8.4 ADDITIONAL FACTORS FOR CONSIDERATION

- (a) If the suspect or person of interest has multiple photographs available, the investigator should use the most recent photograph which best depicts the subject as described by the victim or witness. However, the investigator should not refrain from using an older photograph if it reflects the subject's current appearance (i.e. hair style, facial hair, weight etc.).
- (b) To minimize the probability for misidentification and/or compromising the investigation, the investigator should, prior to presenting the lineup:
  - 1) Research the suspect or person of interest to ensure he or she is not in custody.
  - 2) Ask the victim or witness if they have viewed any photographs of the suspect or person of interest (i.e. social media and news broadcasts).
  - 3) The investigator should record the photographic lineup interview. The photographic line up is only one piece of the investigation. The investigator should utilize other investigative methods to place the suspect or person of interest at the scene of the crime (i.e. video footage, cell phone records, Probation/Parole GPS monitor, independent witness, social media postings etc.) In the event an investigator obtains single person identification via photographic line up, further follow up and investigative efforts should be made to corroborate the validity of the identification.
- (c) Documentation - Comments by a witness who is shown photographs in a Photo Display Folder shall be documented in the related Follow-up Report. When an identification is made, the detective should ask each witness if there is anything significant that caused the witness to select a particular photograph, how the witness recognized the person, if the photo is different in any way from the witness' recollection of the suspect, etc. Witnesses should not be told they have picked the "right" or "wrong" photo.

**Note:** If a witness cannot make an identification, they may then be read the following: "Do any of the persons shown in the photographs resemble the person you saw?" If the witness then selects a photo, they should be questioned about the reasons that particular photo resembles the suspect.

### 607.9 IN-FIELD SHOW-UPS

When an in-field show-up is necessary to quickly determine whether a detainee was the perpetrator of a recently committed offense, the following minimum guidelines shall be followed.

#### 607.9.1 TRANSPORTATION

As a general rule, witnesses should be transported individually to the location where the suspect is detained. The suspect may be transported to the victim's location when:

- (a) You have probable cause to arrest the suspect;
- (b) You obtain a valid, voluntary consent from the detainee to move them to the witness' location for a show-up; or
- (c) It is impossible or impractical to bring the witness to the suspect (e.g. the witness is injured or incapacitated, or the availability of officers is limited).

### 607.9.2 WITNESS ADMONITION

Prior to viewing a detainee during an in-field show-up, witnesses will be admonished:

- (a) To keep an open mind;
- (b) That the person who committed the crime may or may not be among those present;
- (c) That just because a person is in custody does not mean that they committed the crime; and
- (d) Not to discuss their identification with other witnesses before, during, or after the show-up procedure.

### 607.9.3 DOCUMENTATION

The in-field show-up procedure, comments during witness identification, and the results shall be documented in the appropriate Original/Follow-up Report. The exact words used by each witness in viewing the show-up should be included in the report.

Investigating members who are assigned a body camera shall ensure that their camera is recording both audio and video during the contact with the witness and identification process. If the members' body camera is not operating, then the member will be required to have another member present with a working camera to record the process.

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### **609.1 POLICY**

Investigative Funds, per the Department of Justice Equitable Sharing Program guidelines, are established for designated amounts from which payments and/or reimbursements for expenditures may be made. At all times, the cash on hand plus the dollar amount of expenses supported by expenditure vouchers should equal the designated amount of the particular Investigative Fund.

#### **609.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide uniform guidelines for the control and administration of the Police Department Investigative Funds.

### **609.2 GENERAL PROCEDURES**

#### **609.2.1 APPROVED EXPENSES**

Investigative Fund expenses include, but are not limited to, the following:

- (a) Purchasing narcotics;
- (b) Purchasing contraband (i.e. weapons, stolen property, *alcohol from commercial establishments*, etc.);
- (c) Direct payment to informants; and
- (d) Direct payment to minor decoy's (Minor's working directly under the supervision of the ABC Coordinator).

#### **609.2.2 PROHIBITED USES**

The following transactions are prohibited uses of Investigative Funds, except where specifically pre-approved by the City Manager or the City Controller:

- (a) Entertainment, office supplies, travel reimbursements, and personal expenses are specifically excluded from authorized Investigative Fund cash disbursements;
- (b) Reimbursements for member meals;
- (c) For alcoholic beverages when not in conjunction with an ABC Unit investigation/operation;
- (d) Tickets to social, cultural or athletic events;
- (e) Purchase of meals/beverages for informants, victims, witnesses, and suspects/arrestees. If necessary, these types of purchases shall be done via established petty cash reimbursement procedures; or
- (f) Cash expenditures for miscellaneous items or services needed during any approved investigation. If necessary, these types of purchases shall be made with other funds using the appropriate procedure and documented authorizations.

#### **609.2.3 INFORMANT EXPENDITURES**

All monies expended in connection with the use of the informant shall be recorded in the informant's individual file:

- (a) Upon payment, the informant must sign the Investigative Funds Expenditure Voucher unless directed otherwise by the district, bureau, section, or unit Commander;
- (b) The golden rod signed "Investigative Funds Expenditure Voucher" will be kept in the informant's individual file; and
- (c) The Fiscal Affairs Bureau shall not reimburse vouchers which fail to contain all applicable signatures (i.e. employee's signature, approving supervisor, confidential informant, and witness). Sworn members shall sign the voucher as witnessing all expenditures of more than \$20.

### **609.3 CUSTODIANS**

The Commander of each district, bureau, section, or unit that is assigned Investigative Funds will designate one Lieutenant with one additional Sergeant (as back up) as the custodian of the

Investigative Funds. The designated Investigative Fund custodian will be communicated to the Finance Department. When the custodianship of the Investigative Fund changes, a witnessed, physical count of the cash and receipts on hand must be performed and documented at the time of change. The completed documentation will be forwarded to the City Controller by the Fiscal Affairs Bureau representative upon completion of the change of custodianship.

#### 609.3.1 CUSTODIAN RESPONSIBILITIES

The Investigative Fund custodian shall be responsible for the following matters related to the operation of the fund:

- (a) Safe and secure storage;
- (b) Keeping each Investigative Fund separate from all other funds;
- (c) Ensuring that each transaction is for the established purpose of the Investigative Fund;
- (d) Providing proper documentation to support each expenditure, ensuring the completeness and accuracy of the Investigative Funds Expenditure Voucher;
- (e) Replenishing the Investigative Fund in a timely manner;
- (f) Notifying the City Controller or other designee when changing a custodian, changing the location of the Investigative Fund, or changing the physical security of the Fund; and
- (g) Reporting discrepancies or theft of the Investigative Fund in a timely manner to the respective district, bureau, section, or unit Commander and the City Controller.

#### 609.4 ESTABLISHMENT OF INVESTIGATIVE FUNDS

All Investigative Funds will be established through the City Controller's Office. Written requests are to be sent to the City Controller's Office for approval and action. Requests for these funds should contain:

- (a) Reason for the fund;
- (b) The account, fund and organization to be charged;
- (c) The amount requested; and
- (d) Individual assigned responsibility (custodian) and backup for the fund.

#### 609.4.1 INCREASE OF INVESTIGATIVE FUNDS

Increasing an existing Investigative Fund requires a written memo from the respective district, bureau, section, or unit Commander, through the chain of command, to the Finance Department. Requests should contain:

- (a) Reason for the increase;
- (b) The account, fund and organization to be charged; and
- (c) The amount requested.

#### 609.4.2 TERMINATION OR REDUCTION OF INVESTIGATIVE FUNDS

An Investigative Fund may be terminated or reduced at any time at the request of the respective district, bureau, section, or unit Commander and through the chain of command, or as directed by the City Controller. To close an Investigative Fund, the cash balance on hand and all receipts for the fund are to be returned to the Finance Department. If the total of the cash to be returned plus the receipts does not equal the total amount authorized for the Investigative Fund account, an explanation, in writing, signed by the fund custodian and Commander, must be provided.

#### 609.4.3 SECURITY OF FUNDS

Investigative Funds shall be maintained in the safe of the respective district, bureau, section, or unit assigned, under the control of the lead custodian.

#### 609.5 ACCOUNTING OF EXPENDITURES

##### 609.5.1 INVESTIGATIVE FUNDS EXPENDITURE VOUCHER

Personnel who expend funds should be reimbursed upon presentation of a voucher, completed in ink, and containing the following information:

- (a) Date and time - Enter the exact date and time that the expenditure occurred;
- (b) Vice/narcotics number - Enter the vice/narcotics number assigned to the investigation;
- (c) Fresno Police Department (FPD) case number - When FPD case number has been issued;

- (d) Location - Exact location where expenditure was made;
- (e) Confidential Informant (CI) Number - When an expense occurs in connection with the use of a CI, enter the CI number;
- (f) Details - Briefly describe the reason for the funds;
- (g) Amount spent - When expenses are incurred in the furtherance of a police investigation, they shall be delineated as follows:
  - 1) Expenses - List all expenses other than a narcotics purchase or payments to a CI;
  - 2) Narcotics Buy - List the exact amount expended for an undercover narcotics purchase;
  - 3) Confidential Informant - List the exact amount paid to the CI; and
  - 4) Total - All listed categories shall be totaled. When the amount expended is for only one or two categories, a line shall be drawn through the unused categories;
- (h) Contraband seized - When expenditure has resulted in the seizure of narcotics, stolen property, or other contraband, the quantity of contraband shall be listed (**Note:** When more than one voucher is submitted for the investigation involved in any one seizure of contraband, the amount of narcotics or stolen property seized shall be listed on only one voucher);
- (i) Employees signature - The employee requesting reimbursement shall sign their name and badge number and write out the total amount expended (e.g., twenty dollars);
- (j) Approving supervisor - The supervisor (commanding officer or section supervisor) approving the expenditure shall review the voucher for content and completeness and sign their full name, rank, and badge number;
- (k) Confidential informant - When payment is made to a CI, the exact amount shall be written out and signed by the CI;
  - 1) A copy of all vouchers for expenditures to a CI shall be given to the case agent for inclusion in the CIs file, after approval by the Sergeant and Commander; and
- (l) Witness - A sworn member shall sign/date and include their badge number as a witness for all expenditures of more than \$20.

An original receipt properly documenting the purpose of each expenditure should be forwarded with the original voucher when possible. Receipts other than original receipts (or any other form of documentation) must be signed by the district, bureau, section, or unit commander and are subject to the approval of the City Controller.

#### 609.5.2 INVESTIGATIVE FUND RECONCILIATION / REPLENISHMENT

The Investigative Fund shall be reconciled at least quarterly by the custodian or when fund replenishment is required. An Investigative Fund log shall be retained by the custodian in order to facilitate a running balance of funds currently on hand.

All expenditures submitted for reimbursement or are voided shall be recorded on the ledger cash control summary page with the following information:

- (a) A brief description of the reason for the expenditure;
- (b) Vice/Narcotics report or case number entered;
- (c) Voucher number entered;
- (d) Date of transaction as it appears on voucher entered;
- (e) Dollar transaction (cash received, voucher expense and cash advance) entered; and
- (f) Asset column listing the actual cash on hand following reimbursement for the voucher.

Additions to the Fund must be recorded in the ledger cash control summary page by entering:

- (a) The reason for the addition in the name/description column;
- (b) The date of addition of funds; and
- (c) The amount of the monies added to the revolving funds in the cash received column.

#### 609.6 AUDITS

The City Controller or designee is responsible for ensuring that each Investigative Fund is audited periodically. Custodians will not be notified in advance. The purpose of the audit is to ensure that the Department funds are properly safeguarded. This would, in turn, enable an effective verification of cash held by the custodian with the official records.

The following control procedures are in place and will be utilized to safeguard the Investigative Fund:

- (a) Investigative Funds are subject to surprise cash counts by the City Manager, the City Controller, Assistant City Controller and/or the Internal Audit Division of the Finance Department;
- (b) Segregation of Investigative Funds from other funds should be monitored; and
- (c) Investigative Fund shortages exceeding \$5 should be reported to the City Controller or designee and to the Fiscal Affairs Bureau.

#### 609.6.1 POLICY REVIEW / APPROVAL

This policy and any future revisions require the review and approval by the Finance Department prior to implementation.



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Unresolved operational conflicts will be immediately referred to the member's Bureau Commander.

Any exemption or deviation from this procedure shall be considered on a case-by-case basis and approved only by the Bureau Commander of the affected unit.

**610.5 TRAINING AND ACCESS**

All members with assignments that may require them to perform event deconfliction shall receive training enabling them to obtain appropriate security access and to navigate through the event deconfliction system. [REDACTED]

**610.6 TARGET AND INVESTIGATIVE INFORMATION DECONFLICTION**

Event deconfliction applies to geographical conflicts that occur at the same time and in the same proximity. Target and investigative activity deconfliction applies to subjects, gangs, locations, telephone numbers, vehicles, and other investigative information about criminal activity.

Upon opening an investigation on any crime, information shall be queried and/or stored through available national, regional, or local systems to determine whether another agency has an ongoing investigation with common investigative information, to reduce parallel investigations and to promote investigative collaboration. If a conflict is discovered in either target or investigative activity, contact shall be made with the other agency to resolve and coordinate issues and information.

## Fresno Police Department Policy Manual

### Cannabis Businesses

#### 611 CANNABIS BUSINESSES

##### 611.1 POLICY

Officers should not take enforcement action related to cannabis, if the use, possession, delivery, retail sale, distribution, cultivation, possession for testing, or manufacturing of cannabis falls under California's Compassionate Use Act (Health & Safety § 11362.5), Medical and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), or the Fresno Municipal Code § 9-3301-3342.

##### 611.2 PURPOSE AND SCOPE

To provide guidelines during the implementation process of commercial cannabis businesses within the city of Fresno.

##### 611.3 DEFINITIONS

**Cannabis** – means all parts of the Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. It also means the separated resin, whether crude or purified, obtained from cannabis. It includes medicinal cannabis, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician's recommendation. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, the sterilized seed of the plant which is incapable of germination, or "industrial hemp" as defined by Section §11018.5 of the Health and Safety Code.

**Cannabis Retail Business** - means a business where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment (whether fixed or mobile) that delivers, pursuant to express authorization, cannabis and cannabis products as part of a retail sale, and where the operator holds a valid commercial cannabis business permit from the city authorizing the operation of a retailer, and a valid state as required by state law to operate a retailer. Cannabis retail businesses, including delivery of cannabis, may operate between the hours of 6 am and 10 pm. Other non-sales related activities germane to the business may take place on premises after hours.

**Commercial Cannabis Business** - means any business or operation which engages in commercial cannabis activity, except for delivery or sales of cannabis, with a license issued by the state. It does not include a cannabis retail business or medicinal cannabis retail business.

**Delivery** - means the commercial transfer of cannabis or cannabis products to a customer. It also includes the use by a retailer of any technology platform owned and controlled by the retailer. Delivery must be part of a store-front retailer. Delivery vehicles shall be unmarked vehicles with no indication that the vehicles are transporting cannabis or cannabis products.

**Distributor** - means a person holding a valid commercial cannabis business permit for distribution issued by the city, and, a valid state license for distribution, required by state law to engage in the business of purchasing cannabis from a licensed cultivator, or cannabis products from a licensed manufacturer, for sale to a licensed retailer. A distributor may operate 24 hours a day.

**Manufacturer** - means a licensee with a valid commercial cannabis business permit that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis,

combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or container. A manufacture may operate 24 hours a day.

**Microbusiness** - means the cultivation of cannabis on an area less than 10,000 square feet, by an entity authorized to act as a licensed distributor and Level 1 manufacturer under state law, provided such licensee can demonstrate compliance with all requirements imposed by state law on licensed cultivators, distributors, and Level 1 manufacturers to the extent the licensee engages in such activities. Microbusiness licenses that authorize cultivation of cannabis shall include the license conditions described in subdivision (b) of Section 26060.1 of the Business and Professions Code. A microbusiness shall be considered a commercial cannabis business that engages in commercial cannabis activity.

#### **611.4 CANNABIS BUSINESSES**

As of June 2022, the City of Fresno will begin issuing permits for commercial cannabis and cannabis retail businesses authorizing the legal sale of cannabis within the city limits of Fresno. The primary role of our Department when responding to calls for service at these locations is to preserve the peace and to enforce/document criminal activity in/on the business property similar to any other retail business in the city.

If an officer believes a location is not a legally permitted business or if there is evidence a permitted cannabis business is operating outside of FMC § 9-3301-3342, they can report the information to the SIB Cannabis Coordinator who will disseminate the information to the appropriate investigative unit (i.e., FPD district detectives, Code Enforcement, California Bureau of Cannabis Control, California Department of Tax and Fee Administration, FPD Major Narcotics Unit, etc). Officers responding to an alarm call for service at a cannabis business should follow protocols under Policy § 319.

#### **611.5 DISTRICT COMMANDER'S RESPONSIBILITIES**

The designated security representative/liaison shall, on behalf of the cannabis retail business, annually prepare and submit to the appropriate District Commander of the Fresno Police Department a security plan for approval. They shall maintain a copy of the current security plan on the premises to present to a peace officer immediately upon request that meets the following requirements:

- (a) Confirms that a designated Manager will be on duty during business hours and will be responsible for monitoring the behavior of patrons;
- (b) Identifies all Managers of the cannabis retail business and their contact phone numbers.
- (c) Confirms that first aid supplies and operational fire extinguishers are located in the service areas and the Manager's office;
- (d) Confirms that burglar, fire, and panic alarms are operational and monitored by a licensed security company 24 hours a day, seven days a week, and provides contact information for each licensed security company;
- (e) Identify a sufficient number of licensed, interior and exterior security personnel who will monitor individuals inside and outside the premises, the parking lot, and any adjacent property under the business' control; and
- (f) Confirm that the licensed security personnel shall regularly monitor the parking lot and any adjacent property to ensure that these areas are: (a) free of individuals loitering or causing a disturbance; (b) are cleared of patrons and their vehicles one-half hour after closing.



### **611.5 SIB CANNABIS COORDINATOR RESPONSIBILITIES**

This position will report directly to and be supervised by the SIB VICE Sergeant. They are also responsible for/to:

- (a) Completing background investigations and store files regarding owners, managers, and business partners;
- (b) Collect all complaints regarding permitted and non-permitted dispensaries. Complaints maybe received from dispatch, Crime Stoppers, city hall, 311 call center, private caller, etc;
- (c) Organize complaint data and disseminate to appropriate policing district for investigation;
- (d) Record data and disposition of enforcement regarding permitted and non-permitted dispensary locations;
- (e) Track repeat offender locations and progress of investigations. Record & file violations, citations, or criminal charges at permitted and non-permitted dispensaries;
- (f) Enter complaint location into WSIN for deconfliction;
- (g) Store and file all compliance warning letters to dispensaries issued by policing districts;
- (h) Track part one crimes/activity/calls for service by Crime View zone at permitted and non-permitted dispensaries;
- (i) Be department liaison with the California Bureau of Cannabis, the California Department of Tax and Fee Administration, and City of Fresno Code Enforcement, City Hall personnel, District personnel and SRO's;
- (j) Track and document status of safety measures, plans, and compliance status derived from district compliance checks, annual renewal applications as required per FMC;
- (k) Collect and store copies of annual security plan/updates for permitted dispensaries after the plan has been submitted and approved by the District Commanders (FMC 9-3310(2), 9-3311(b)(1)(xviii), 9-3312(b)(1)(xviii), 9-3313(b)(1)(xviii), 9-3314(b)(1)(xviii);
- (l) Track and record progress of state asset seizures for seizures stemming from a cannabis dispensary search warrants;
- (m) Produce admin products on each permitted location in regards to crime and quality of life issues;
- (n) Lead Neighborhood Watch Meetings educating residents on the impacts of the legalization of marijuana; and
- (o) Perform community outreach at various schools.

### **611.6 NEW CANNABIS PERMIT APPLICATIONS**

The SIB Cannabis Coordinator will complete a background investigation as part of the City of Fresno cannabis permit application process for all operators, owners, investors, and managers of a commercial cannabis business or a cannabis retail business as stated in FMC § 9-3318(c).

Recommendations by the background investigator for denial of a cannabis permit issuance will be based on the criteria outlined in FMC 9-3318(a). This background investigator position will report directly and be supervised by the SIB VICE Sergeant.

Pre & Post inspections of new cannabis businesses will be the responsibility of the policing district where the business is located. An officer designated by the district commander shall perform a pre-permit inspection and a post permit inspection of new cannabis businesses to confirm conformity of regulations in FMC § 9-3301 to 9-3342. Officers shall use the checklist provided by the city to ensure compliance with the items identified as police inspection responsibilities. The list is available on the Department network ("L" Drive).

FMC § 9-3335(a) states: The City Manager, or his/her designee(s) charged with enforcing the provisions of this Code, as well as the City Attorney, or his/her designee(s) and the Chief of Police, or his/her designee(s), may enter the location of a commercial cannabis business or cannabis

business at any time, without notice, and inspect the premises as well as any recordings and records required to be maintained pursuant to this Article or under applicable provisions of state law.

### **611.7 ENFORCEMENT & REGULATION OF CANNABIS BUSINESSES**

On-going regulation of permitted cannabis businesses will be the responsibility of the policing district where the business is located pursuant to FMC § 9-3301-3342 and all other California Laws.

Enforcement action against non-permitted illegal dispensaries will be the responsibility of the policing district where the illegal business is located. Districts are encouraged to utilize partnerships to address non-permitted dispensaries such as California Bureau of Cannabis, the California Department of Tax and Fee Administration, City of Fresno Code Enforcement, and FPD resources. If the location is occupied by violent subjects or if violence has already occurred at the location, SIB Major Narcotics Unit maybe be requested to assist with the investigation.

It is the responsibility of the lead investigative district detective to maintain communication and update the SIB Cannabis Coordinator with the status and progress of their investigation.

#### **611.7.1 ARMED SECURITY**

Pursuant to FMC § 9-3309, armed security personnel shall be on-site during operating hours. If armed security personnel are not on-site when the cannabis retail business is closed, a verified response security patrol shall be utilized. Firearms shall be carried by security personnel at all times while they are on duty, except as otherwise authorized by the Chief of Police.

Armed security should ensure:

- (a) Cannabis shall not be consumed by any person on the premises of any cannabis retail business or commercial cannabis business;
- (b) No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the commercial cannabis business or cannabis retail business; and
- (c) No person shall cause or permit the sale of tobacco products on or about the premises of the commercial cannabis business or cannabis retail business.

#### **611.7.2 MINORS**

pursuant to FMC § 9-3309(i):

- 1) Except as provided below, persons under the age of twenty-one (21) years shall not be allowed on the premises of a cannabis retail business or a commercial cannabis business and shall not be allowed to serve as a driver for a delivery service. It shall be unlawful and a violation of this Article for any person to employ any person who is not at least twenty-one (21) years of age.
- 2) The entrance to a commercial cannabis business shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises of the commercial cannabis business.
- 3) Persons at least eighteen (18) years old shall be allowed on the premises of a medicinal cannabis retail business to purchase medicinal cannabis or medicinal cannabis products. The entrance to a medicinal cannabis retail business shall be clearly and legibly posted with a notice that no person under the age of eighteen (18) is permitted to enter upon the premises of the medicinal cannabis retail business.
- 4) It shall be a violation of this Article to sell medicinal cannabis or medicinal cannabis products to any person under the age of eighteen (18) or to sell cannabis or cannabis products to any person under the age of twenty-one (21).

**Fresno Police Department  
Policy Manual**

**Chapter 7: Equipment**

## Fresno Police Department Policy Manual Department Owned and Personal Property

### 700.1 POLICY

Members shall be responsible for the operational readiness, safekeeping, condition, care, use and replacement of Department property assigned or entrusted to them, as well as any personal property they may possess.

All Department equipment shall be maintained in a good operating condition and be ready for use as needed. To ensure that equipment is maintained in this condition, regular documented inspections of equipment, uniforms, vehicles, and facilities shall be conducted.

#### 700.1.1 PURPOSE AND SCOPE

Members 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 LOSS OR DAMAGE OF PROPERTY OF ANOTHER

Members intentionally or unintentionally may cause damage to the real or personal property of another while performing their duties. Damage will be documented in a report related to the incident/event.

Any member who loses, 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 member's immediate supervisor as soon as circumstances permit; and
- b) A written report shall be submitted before the member goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

#### 700.2.1 DAMAGE BY PERSON OF ANOTHER AGENCY

If employees of another jurisdiction cause damage to real or personal property belonging to the City, it shall be the responsibility of the employee present or the employee responsible for the property to:

- a) Make a verbal report to their immediate supervisor as soon as circumstances permit; and
- b) Submit a written report before going off duty or as otherwise directed by the supervisor.

These written reports, accompanied by the supervisor's written report, shall promptly be forwarded to the appropriate Division Commander.

### 700.3 MILITARY SURPLUS PROGRAM

From time to time the Department may acquire excess property/equipment from the Department of Defense to support law enforcement activities, including counter-drug and counter-terrorism activities. Any requests for acquisition of equipment through the 1033 Military Surplus Program shall be coordinated by the Patrol Division Commander's designee, with final approval by the Chief of Police.

### 700.4 CARE OF DEPARTMENT PROPERTY

A member'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) Members shall take reasonable steps to safeguard Department property entrusted to them, including the removal of unsecured property from within a locked vehicle (i.e. weapons, police radio, etc.);
- b) Members shall promptly report through their chain of command, any loss, damage, or unserviceable condition of any Department issued property or equipment assigned or entrusted to them. Lost, damaged, or stolen equipment shall be reported according to Policy §701;

- c) The use of damaged or unserviceable Department property should be discontinued as soon as practical and replaced if possible with comparable Department property as soon as available and following notice to a supervisor;
- 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;
- e) Department property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority;
- f) In the event that any Department property becomes damaged or unserviceable, no member shall attempt to repair the property without prior approval of a supervisor; and
- g) At no time will any repairs be attempted or made to any Department issued, authorized, owned, leased, or acquired firearms, less lethal (kinetic energy projectile), Electronic Control Device (ECD), or any other apparatus, equipment (including vehicles) or weapon, unless authorized by the Chief of Police.

### **700.5 FILING A CLAIM FOR PERSONAL PROPERTY LOSS OR DAMAGE**

Claims for reimbursement for loss or damage to personal property must be made on the Property Loss Notice form available on the Department Network ("L" Drive) or from a supervisor. This form is submitted to Risk Management.

Members always retain the right to personally seek redress from another, through the courts, for any loss or damage to personal property.

### **700.6 INSPECTIONS**

#### **700.6.1 SUPERVISOR RESPONSIBILITY**

Supervisors shall be responsible for conducting inspections of all subordinates assigned to them. Inspections shall be conducted in conjunction with required performance evaluations. Unannounced inspections may also be utilized to ensure that equipment issued to subordinates is maintained in good working condition. Inspections shall include, at minimum, uniforms, issued Department equipment, weapons, complete Policy Manual, periodic inspections of facilities, and vehicles.

#### **700.6.2 FACILITIES INSPECTION**

Supervisors shall ensure that facilities utilized by members of the Department are inspected annually for general condition, cleanliness, and to prevent costly repairs for neglected equipment in facilities. Observed defects, inoperable equipment, and general cleanliness issues shall be documented in a memorandum through the supervisor's immediate chain of command describing in detail the condition identified. Supervisors shall also re-inspect, as necessary, and document when the equipment or facilities have been repaired and/or replaced.

### **701.1 POLICY**

All members have the primary responsibility of maintaining equipment issued to or used by them, including optional equipment authorized by the Department, in a good operating condition.

#### **701.1 PURPOSE AND SCOPE**

This policy shall apply to equipment issued by the Department and optional equipment purchased by members. Members shall maintain all equipment issued to them in a state of operational readiness ensuring that the equipment is clean, repaired as needed and in functional working order.

#### **701.1.2 DEFINITIONS**

**Good Standing-** A status of a current or former employee who;

- Does not have/had any open or unresolved administrative complaints or criminal charges relating to their employment that likely would result in termination of employment.
- Conducted any actions that violated the mission, vision or code of ethics of the Department;
- Been the subject of a pending psychological fitness for duty evaluation or had been found not fit for duty based on a psychological determination;
- Left the Department following formal allegations of misconduct and/or unsatisfactory performance or after being advised they would be removed from the Department.

The Chief of Police, or designee, has the final say in determining if a current/former employee is in good standing.

### **701.2 ISSUED EQUIPMENT**

Issued equipment shall not be altered, modified, or repaired except by City personnel or private vendors authorized by the Chief of Police. Members shall not use equipment on duty that is not issued or approved by the Department.

The Department may issue the below listed equipment to members to be used in conjunction with their job duties:

- (a) Badge
- (b) Soft Cap Badge
- (c) Photo Identification Card
- (d) Pepper Spray
- (e) Whistle
- (f) Handcuffs/Keys
- (g) Handcuff Case
- (h) Key Strap
- (i) Belt Keepers (four)
- (j) Ammo Pouch
- (k) Pepper Spray Case
- (l) Baton (Expandable)
- (m) Baton Holder
- (n) Citation Case
- (o) Inner Belt
- (p) Outer Belt
- (q) Helmet (Ballistic) with detachable face shield & black carrying bag
- (r) Flashlight
- (s) Flashlight Holder
- (t) X26 Taser™ with two cartridges
- (u) Holster

- (v) Collision Manual
- (w) Handgun
- (x) Radio (PT)
- (y) Lite Flares
- (z) Keys
- (aa) Ballistic Vest
- (bb) Body worn video camera with pairing device, case, and mounts.
- (cc) Cell phone

#### 701.2.1 DEPARTMENT IDENTIFICATION & BADGES

Members shall have their Department Photo Identification (ID card) with them at all times.

Sworn members shall have either their Department badge or an off-duty badge in their possession when on duty.

- (a) When on duty or acting in an official capacity representing the Department, members shall display their Department issued identification in a courteous manner to any person upon request and as soon as practical.
- (b) Officers working specialized assignments may be excused from the possession and display requirements when directed by their division commander.
- (c) Members working undercover details are exempt from these provisions.

#### 701.3 BUSINESS CARDS

The Department will provide members who have regular personal contact with the public with standardized business cards. The business card shall include the officer's name, badge number, and voicemail number.

##### 701.3.1 USE OF CARDS

When necessary, business cards shall be used to record case or event numbers to provide such information to a member of the public.

A business card shall be provided to the subject of a traffic enforcement stop when a citation is not issued.

A business card shall be provided when any person requests a member's name and/or badge number in person.

Department issued business cards shall be used for official business only.

#### 701.4 WEAPONS PROFICIENCY / ORIENTATION

Members must demonstrate proficiency with each weapon issued, prior to being authorized to carry the weapon in the field. Demonstrated proficiency is established as follows:

- (a) Members must attend a course of instruction specific to the weapon system. The course of instruction shall be taught by a certified weapons instructor and be an approved course of instruction through the Training Bureau.
- (b) The course of instruction will provide attendees with information regarding the laws governing the use of the weapon, policies, and procedures relative to the application of reasonable force up to and including the application of deadly force, medical treatment protocols after force application, reporting requirements, and safe handling procedures for the use of the specific weapon.
- (c) Attendees must also obtain a minimum qualifying score on a prescribed course to successfully complete the course for the specific weapons system.

When the authorized course of instruction is provided by an agency or organization outside of the Department, members must provide Personnel Bureau with a copy of the course completion certificate prior to being authorized to carry the weapon in the field.

## **701.5 LOST, DAMAGED, OR STOLEN EQUIPMENT**

### **701.5.1 MEMBER RESPONSIBILITY**

Members whose Department issued property is lost, damaged, or stolen shall immediately advise a supervisor. When the loss/damage/theft occurs outside of the City of Fresno, the member shall report the incident to the law enforcement agency with jurisdiction. Additionally, members shall complete a GI/Synoptical Report containing:

- (a) A 'Narrative' describing the events surrounding the loss/damage/theft; and
- (b) The outside agency's case number in the 'Related Rpts' section of the 'Dispo' tab.

Incidents occurring within the City of Fresno shall be documented in a Crime Report or GI report as appropriate. In all cases, members shall:

- (a) List the location of occurrence;
- (b) List the City of Fresno as a victim; Check the 'Department Property Lost/Damaged/Stolen' box as a case factor on the 'Case' tab;
- (c) Complete the 'Prop' tab listing all lost/damaged/stolen Department property, including serial number and City asset number when known;
- (d) Complete the 'Narrative' describing the circumstances surrounding the loss/damage/theft;
- (e) List the replacement cost and private insurance claim information (when applicable); and
- (f) Route a copy of the report to the 'Property Supervisor'.

The report shall be submitted within three business days of the loss.

Members who receive compensation from their personal insurance company for a loss of Department issued property shall reimburse the City, through the Fiscal Affairs Bureau, for the amount collected from the insurance company. When the member's division commander has determined the loss was not the result of negligence, the reimbursed compensation shall be less any deductible.

Disciplinary action may be taken against members whose negligence results in loss of Department issued equipment. Members shall have the option of reimbursing the Department for the loss of Department issued equipment in lieu of disciplinary action with the approval of their division commander.

### **701.5.2 SUPERVISOR RESPONSIBILITY**

The member's supervisor shall investigate the circumstances surrounding the loss and complete a BlueTeam entry including:

- (a) A completed Inquiry or Complaint Form, or Receipt of Complaint (ROC) memo;
- (b) Loss Notice Report; and
- (c) All other related documentation.

All documents shall be forwarded through the chain of command in Blue Team to the division commander consistent with the complaint process outlined in Policy §1020. The supervisor shall CC the unit responsible for the property (PECS Supervisor, Body Camera Supervisor, or Rangemaster) in BlueTeam. The documentation shall be submitted within five days of the loss. Loss Notice Report forms may be obtained from the Department network ("L" drive).

The routing of the Blue Team entry to the unit supervisor will authorize replacement of the property when appropriate.

Unit supervisors shall ensure that any equipment issued to that unit is also kept in a state of operational readiness through periodic inspections.

### **701.5.3 FISCAL AFFAIRS BUREAU RESPONSIBILITY**

The Fiscal Affairs Bureau shall receive reimbursements from members who have been compensated for the loss of Department issued property.



When directed by a division commander the Fiscal Affairs Bureau shall bill members for the amount of the loss.

The Fiscal Affairs Bureau shall track all payments and billing to ensure member compliance. When the bill has remained unpaid for 90 days a notice will be forwarded to the billed member's division commander.

#### 701.5.4 DIVISION COMMANDER RESPONSIBILITY

Division commanders shall review the circumstances surrounding the loss of Department issued equipment and make a determination of accountability.

When a determination is made that the loss was the result of a member's negligence, the division commander may allow the member the opportunity to pay for the loss in lieu of disciplinary action. Payment shall be made to the Fiscal Affairs Bureau.

Upon receipt of a notice from the Fiscal Affairs Bureau that a member has failed to pay a bill, the division commander shall determine whether disciplinary proceedings shall be initiated.

### 701.6 ISSUED EQUIPMENT

#### 701.6.1 DEPARTMENT ISSUED HANDGUN & HOLSTERS

Uniformed officers shall carry the Department issued handgun in the Department issued holster at all times while in uniform.

**Exception:** Sworn members assigned to administrative positions may be exempted from carrying a weapon on-duty upon the approval of their commanding officers (See Policy §312).

#### 701.6.2 BODY ARMOR

Body armor vests are issued to all sworn personnel and are made available to non-sworn field personnel because they are effective in reducing deaths and life-threatening injuries. Personnel are only authorized to wear Department issued or Department approved body armor.

The Department strongly encourages all on-duty officers to wear body armor (ballistic vests) (See Policy §1024).

All officers participating in a pre-planned tactical operation shall wear their Department issued ballistic vest (See Policy §323).

#### 701.6.3 FLASHLIGHTS

On-duty field members shall have a flashlight immediately accessible, either as issued by the Department or one personally owned. Flashlights shall not be used to knock on doors, windows, etc.

#### 701.6.4 REFLECTIVE VESTS

Anytime a member is on a roadway (day or night) directing traffic, investigating an accident, or at the scene of a disaster, they shall wear a Department authorized reflective vest.

#### 701.6.5 ISSUED BOOKS AND MANUALS

Members shall maintain issued books and manuals as revisions are issued. Members shall have these books and manuals immediately accessible while on-duty in either a printed or electronic format.

#### 701.6.6 DEPARTMENT KEYS

Members who routinely need access to an area that their issued key will not operate shall obtain the proper key from the PECS with authorization from their commander. When the PECS determines the member would not normally be authorized the key(s), then the member must submit a memo through their immediate supervisor to that section or bureau commander explaining the need for access. The section or bureau commander shall indicate approval on the memo and return a copy to the member

originating the memo. The original memo shall be sent to PECS and will serve as authorization to issue the member a key for the lock.

#### 701.6.7 DEPARTMENT PHOTO IDENTIFICATION CARD (ID CARD)

Members shall have their Department Photo Identification (ID Card) with them at all times. Sworn members shall have either their Department badge or an off-duty badge in their possession when on-duty.

- (a) When on-duty or acting in an official capacity representing the Department, members shall display their Department issued identification in a courteous manner to any person upon request and as soon as practical.
- (b) Officers working specialized assignments may be excused from the possession and display requirements when directed by their Division Commander.
- (c) Members working undercover details are exempt from these provisions.

#### 701.6.8 BUSINESS CARDS

Whenever necessary, business cards shall be:

- (a) Used for official business only;
- (b) Used to record case or event numbers to provide such information to a member of the public;
- (c) Provided to the subject of a traffic enforcement stop when a citation is not issued; and
- (d) Provided whenever any person requests a member's name and/or badge number in person.

#### 701.6.9 DEPARTMENT-OWNED CELL PHONES

A member assigned a cell phone shall acknowledge receipt with the ISD Cell Phone Coordinator. Broken or malfunctioning cell phones shall be taken to the ISD Cell Phone Coordinator for repair or replacement. Should the cell phone become lost, members are to immediately notify ISD (PD Helpdesk) so they can assist with locating and/or wiping the device.

A request for a cell phone to be assigned to a position, for which one is not currently authorized, shall be forwarded through the member's chain of command for approval. Refer to Policy §702 for department cell phone guidelines.

#### 701.6.10 BODY WORN CAMERAS

A member assigned to a position that has a body worn camera shall acknowledge receipt during camera training. A member who has departed from the assignment or is placed on Long Term Absence shall ensure the camera and all related equipment is turned in to the Body Camera Unit.

Broken or malfunctioning body worn cameras shall be taken to the Body Camera Unit for repair before the end of the work shift when the malfunction occurred. The camera, cable, and controller will all be placed in an envelope with the officer's name on it and left in the Drop Off Box at the Body Camera Unit. An email to [axoncamera@fresno.gov](mailto:axoncamera@fresno.gov) describing the error shall be included. Cameras are not to be sent via interdepartmental mail.

Once the equipment is repaired, the Body Camera Unit will send an email to the officer advising them the equipment is ready to be picked up. Upon receipt of the email, officers shall respond to the Body Camera Unit at the start of the same work shift, retrieve their equipment from the Pickup Box, and place their camera back in service. Should an officer be unable to respond and retrieve their equipment immediately, or at the start of their work shift, officers shall notify their immediate supervisor of the reason for the delay.

### 701.7 OPTIONAL EQUIPMENT

Provisions in this section shall govern the use of personal equipment on-duty that is not issued by the Department. Except as provided herein, personal equipment not provided by the Department shall not be used in lieu of Department issued equipment, unless approved by the Chief of Police or designee.

### 701.7.1 VEHICLES

Except with the expressed permission of their supervisor, no member may use a personal vehicle in the performance of their duties while on-duty. No member shall be required to use their personal vehicle for official purposes unless use of a personal vehicle is a job requirement (e.g., Crime Prevention Unit CSO's).

### 701.7.2 WEAPONS

Only authorized weapons, or those specifically authorized by the Chief of Police may be carried. Specifically prohibited are sheath knives, daggers, batons, saps, sap gloves, flashlight/baton combinations, or other striking devices not issued by the Department. Members, however, may carry knives, not previously mentioned, for utility purposes as defined by law. 701.7.3 LOAD BEARING VESTS Members are authorized to purchase a load bearing vest at their own expense, subject to the stated provisions listed in the Uniform Specifications List. Members who choose to purchase the load bearing vest will also be responsible for purchasing any associated equipment, i.e., thigh holster.

### 701.8 DEPARTMENT EQUIPMENT USED OFF-DUTY

Department issued oleoresin capicum spray (OC), Electronic Control Device ECD, hobbles, handcuffs, keys, whistles, flashlights, and holsters may be carried and used off duty.

### 701.9 SEPARATION FROM SERVICE

Supervisors shall ensure that members under their command return Department equipment upon separation. When all Department equipment has not been returned upon separation of a member that member's supervisor shall notify the Fiscal Affairs Bureau so that appropriate action can be taken.

When a sworn member resigns from the department under an In-Lieu of Termination agreement, that member will not be eligible to obtain their Department Firearm, Department badge or be issued a CCW in accordance with Policy §220.

### 701.10 RETIRED BADGES

When a sworn member retires in good standing, with 20 years or more of service, they will receive the following from the Property Evidence & Control Section (PECS):

- (a) Regular Department issued badge currently held by the member;
- (b) A retirement flat badge; and
- (c) A mini "pin" badge.

When a sworn member retires in good standing with less than 20 years of service, they will receive the following from PECS, upon review and approval of the Chief of Police, or designee:

- (a) The option to buy their regular Department issued badge. A memorandum must be signed by the Chief of Police, or designee allowing the PECS to sell the badge to the member for the replacement value;
- (b) A retirement flat badge; and
- (c) A mini "pin" badge

When a sworn member separates from service in good standing, with a minimum of five years of service, they will have the option to buy their Department badge. A memorandum of approval must be signed by the Chief of Police, or designee allowing the PECS to sell the badge to the member for the replacement value.

### **702.1 POLICY**

This policy is to establish guidelines for the use of Departmental-issued cell phones and personal communication devices, and the on-duty use of such devices owned by members.

#### **702.1.1 PURPOSE AND SCOPE**

Because of technical advances and varying manufacturer nomenclature, this policy will generically refer to all personal communication devices as such, but is intended to include all cell phones, PDAs, and other electronic communication devices.

### **702.2 DEPARTMENT ISSUED DEVICES**

Depending on a member's assignment and needs of the position, the Department may, at its discretion, issue them a personal communication device. Such devices shall remain the sole property of the Department and are subject to inspection or monitoring (including related records) at any time.

#### **702.2.1 DEPARTMENT-OWNED CELL PHONES**

Members assigned a department-issued cell phone shall have it readily available while on duty, as they will be used for two-factor authentication for department electronic device log-ins. Department cell phones are intended for official use only and there is no right of privacy. Members assigned a cell phone are subject to the following conditions:

- (a) The cell phone will come preloaded with approved applications. If there are applications required that members do not have access to, the member must go through their Chain of Command to request access from ISD (PD Helpdesk);
- (b) Members are responsible for checking and responding to any work-related messages or voicemails received during their duty shift;
- (c) Members are expected to protect the device from loss, damage, and theft;
- (d) Downloads or uploads of inappropriate, illegal, obscene material, or content that may violate Administrative Order §2-16 is prohibited unless work-related;
- (e) To maintain security and integrity of the device, members should not share the pin or password to the phone;
- (f) All members shall adhere to relevant provisions as outlined in Administrative Order §8-11.

#### **702.2.2 MEMBER OWNED PERSONAL COMMUNICATION DEVICE**

Members may carry individually owned personal communication devices 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 member's expense; and
- (c) When a member chooses to use a personal device during the course and scope of employment, it is subject to subpoena by a court and the member may have to disclose personal records of communication during that time period.

#### **702.2.3 USE OF PERSONAL COMMUNICATION DEVICES**

Personal communication devices should be used by members to effectively communicate with other personnel in those situations where the use of the radio is either impractical or not feasible. Personal communication devices should not be used to replace regular radio communications.

Personal communication devices should not be used to conduct personal business while on duty, except when brief personal calls may be warranted by the circumstances (e.g., inform family of extended hours). While members may use individually owned personal communication devices for personal business during authorized breaks, such usage should be limited as much as practical to areas where the call will not be seen or heard by the public.

Extended or frequent use of personal communication devices while on duty for personal use may result in discipline, and members are responsible for reimbursing the Department for any charges incurred as a result of personal use of a Department issued device.

#### 702.2.4 USE WHILE DRIVING

California law prohibits the use of personal communication devices while operating a motor vehicle on a public roadway. Police personnel operating an on-duty emergency vehicle may use a personal communication device for official business. The use of a personal communication device while driving can cause unnecessary distractions and presents a negative image to the public. Members are encouraged to use "hands free" devices when available. Officers 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. Members are prohibited from text messaging while operating a vehicle.

## **703 Vehicle Operations & Equipment**

### **703.1 POLICY**

All Department vehicles will be operated attentively, with due caution and care, consistent with current laws, driving conditions, experience and training received.

#### **703.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to establish guidelines for the use of Department vehicles and equipment.

### **703.2 DRIVER'S LICENSE REQUIREMENT**

Department vehicles may only be operated by members that possess a valid California Driver's License (CDL). Members required to operate a motor vehicle as part of their employment shall notify their immediate supervisor any time their CDL status is no longer valid or is compromised in any manner. This includes sworn members, reserve officers, CSO's, and cadets. A supervisor may randomly verify the member's CDL status at any time.

### **703.3 GENERAL RULES (ALL VEHICLES)**

- (a) No modifications to any Department vehicle are authorized (including disabling any equipment or accessory. e.g., passenger seat airbag, seatbelt sensor, etc.).
- (b) No passengers except ride-a-longs, witnesses/involved parties, and arrestees are permitted, unless authorized by a supervisor.
- (c) No smoking is allowed inside any Department vehicle.
- (d) No personal business is to be done using a Department vehicle.
- (e) All vehicles will be inspected prior to use, for safety, usability, contraband, and proper equipment (siren check should be minimal).
- (f) All lethal and projected impact weapons (less lethal) are to be inspected for function and use (See Policy §432).
- (g) Any damage found will be reported to a supervisor prior to the use of the vehicle and checked against the damage log. If not already noted, the supervisor will make the necessary entry and inquiries.
- (h) Keys issued (including spares/remotes if used) are to be turned in immediately after use. Each division or district may have specific instructions regarding vehicles and keys issuance.
- (i) Lost or stolen items, contraband and evidence (including keys) are to be reported immediately to a supervisor. The supervisor will decide how it is to be reported, returned or booked into PECS.
- (j) Any required supplies are to be replaced by the user prior to turning in the vehicle.
- (k) Vehicles are to be used only by the division or district assigned unless authorized by a supervisor, and notifications made.
- (l) Pro-net (ETS) vehicles are to be issued first to maximize their availability.
- (m) Older high mileage vehicles are to be issued first to maximize use and ensure timely rotation out of the fleet.
- (n) All available vehicles can be utilized as the need arises to maintain shift deployment in a timely fashion (except those tagged for safety reasons).
- (o) Push bumpers are to be used only to move a disabled vehicle a short distance, to a place of safety and at the discretion of the officer, exercising due caution.
- (p) Escorting any vehicle is prohibited unless authorized by a supervisor.
- (q) Transportation of sick/injured persons is prohibited unless authorized by a supervisor.
- (r) Seatbelts are a mandatory use safety item for all drivers and passenger seat occupants, while the vehicle is in motion (Exception: tactical exits and exigent circumstances).
- (s) Prior to and after any transport of any prisoner(s) for any distance, for any purpose, the vehicles transport area will be inspected for contraband or property.
- (t) Anytime there is contact with any object or surface with the undercarriage or suspension component of any Department vehicle, it must be reported to a supervisor. Lacking any obvious damage, the vehicle will be "tagged" for inspection.

- (u) Any damage done as a result of a criminal act or theft of or from the Department vehicle and/or its equipment will be reported immediately to a supervisor.
- (v) Only an authorized tow company will be used to tow a Department vehicle (ComCen will process the request).
- (w) Vehicles left at the City Shop can be exchanged for another on the ready line as long as it is from the same division or district (The keys and tag must be left in the key box and all weapons removed).
- (x) When transporting a child that requires a child seat, all efforts to locate and utilize one will be made. However, under exigent circumstances, they may be transported in a marked patrol vehicle without one provided they are seat belted and authorization is made by a supervisor.
- (y) When patrol vehicles are expected to be unattended, employees shall turn their engines off, unless the vehicle's emergency equipment is activated. In this instance, secure idle shall be utilized with the engine running. Department members who expect to be out of their patrol vehicles for **more than 4 hours** should consider shutting down their computer, to avoid significant delays in rebooting.

(Refer to Policy §704, Vehicle Maintenance, for additional info)

#### 703.4 UNMARKED / PLAIN VEHICLES

The Chief of Police has the authority to assign or reassign vehicles and the criteria under which they will be used, including allowable distances and availability of storage (refer to current MOU).

- (a) Vehicles not assigned to an individual officer shall not be used by anyone not assigned to the unit, unless authorized by a supervisor of that unit.
- (b) Vehicles are not to be taken outside the city limits without prior approval of a supervisor.
- (c) Unassigned vehicles will not be checked out more than 5 minutes prior to use and must be checked back in no more than 5 minutes after use.
- (d) Vehicles are not to be used for personal errands or solely for going to meals.
- (e) Assigned (take-home) vehicles should be parked in an enclosed garage, driveway, carport, stall or other secure area and not on any street or alleyway.
- (f) When not secured inside a lockable, enclosed garage, all Department equipment will be removed and secured away from the vehicle.
- (g) Assigned vehicles must be returned to the unit for any prolonged absence from work, including vacation, injury, illness, or a leave of more than two weeks.

#### 703.5 TAKE HOME MARKED VEHICLES

The Chief of Police has the authority to assign take home marked patrol vehicles and will have complete discretion for defining the criteria related to the assignment of the take home vehicles. This will be subject to a user agreement between the member and the department. The assignment of a take home patrol vehicle is a benefit to the employee, completely voluntary, and not a right. All members shall adhere to relevant provisions as outlined in Administrative Order §8-8. Members shall not use their patrol vehicle for personal errands and the assigned patrol vehicle shall be stored at the member's residence.

- (a) Officers assigned to a take home patrol vehicle shall not allow any unauthorized person(s) to ride in their assigned vehicle. Authorized person(s) include city employees, approved ride-alongs, person(s) being transported during the course and scope of their assignment, or person(s) approved by a supervisor.
- (b) Officers should drive directly to and from their work sites prior to, and following, their assigned shifts. Becoming involved in enforcement duties during the commute will be limited to responding to an emergency or being flagged down and will require notification to a supervisor as soon as practical.
- (c) Officers are expected to remain within their assigned patrol area until the end of their work shift unless cross area dispatched during the course of their duties.
- (d) Officers shall not make any modifications to their assigned patrol vehicles without approval from fleet personnel or the fleet liaison officer.
- (e) Members parking their patrol vehicle at home shall remove all firearms, personally issued equipment, and documents of a sensitive nature unless the vehicle is stored in an enclosed locked garage.

- (f) Members assigned a take home patrol vehicle are responsible for the care and maintenance of the vehicle. All repairs, and preventative or scheduled maintenance will only be performed by authorized City Fleet personnel. If the member fails to properly maintain the patrol vehicle the take home privilege can be revoked.
- (g) Take home patrol vehicles are subject to inspection by the member's supervisor to ensure proper care and maintenance. Personal belongings contained within the vehicle are not subject to inspection.
- (h) Members operating a marked patrol vehicle are expected to be prepared to respond to any emergency event. At a minimum, this includes department issued firearm, police identifier, ballistic vest, radio, handcuffs, and proper footwear/clothing.
- (i) When members are expected to be, or have been, absent from their patrol matrix duties for more than two weeks, their assigned patrol vehicle must be parked at the member's assigned district station. Based upon department need, the patrol vehicle may be temporarily reassigned until the member returns to work.
- (j) When a member assigned a take home patrol vehicle moves to an assignment outside the patrol matrix, they shall notify their patrol supervisor, and the fleet liaison officer of the move no later than the first day of the member's new assignment.
- (k) Any justification to store a City-owned/leased vehicle greater than 15 miles from any point in the City limits for the City of Fresno will require the City Manager's authorization.
- (l) In the event there are more eligible members than dedicated take home patrol vehicles, department seniority will be used to determine priority of issuance, with the most senior officer being given first consideration.
- (m) Marked take home patrol vehicle privileges may be revoked at the discretion of the Chief of Police for violations that are set forth within this specific policy.
- (n) Members assigned a take home patrol vehicle shall sign a Take Home Marked Vehicle User Agreement form. The user agreement form will be located at L:\LIBRARY\FORMS\Take Home Marked Vehicle User Agreement. A copy of this agreement will be placed in the members' divisional file with a second copy being sent to the fleet liaison officer.

## 703.6 POLICE MOTORCYCLES

- (a) Motorcycles are assigned to an individual traffic officer for official use only.
- (b) Motorcycles may be ridden to and from work only.
- (c) Motorcycles may be stored at another location with prior supervisor authorization.
- (d) Motorcycles must be stored (parked) in a secure and sheltered facility.
- (e) Motorcycles shall not be ridden off-duty without prior supervisor authorization.
- (f) Passengers are prohibited.
- (g) Headlamps and tail lamps must be on at all times when ridden.
- (h) No modifications are permitted without authorization of the Chief of Police.
- (i) Repairs shall only be made by an authorized dealer or repair facility.
- (j) Motorcycle condition, including care and cleanliness, as well as maintenance issues are the responsibility of the assigned officer.

## 703.7 RADAR

### 703.7.1 RADAR EQUIPMENT

Prior to issuing any traffic citation using a radar as the speed measuring device, the member shall have completed a P.O.S.T. certified 24hr radar operator's course. The radar equipment being utilized shall have been calibrated by either the manufacturer or by RHF, Inc. and the operator will ensure that the unit is working properly by performing the required calibration and function tests. These tests will be completed using the assigned tuning forks and internal light function tests and will be performed both before and at the end of the member's shift. The tuning forks shall be kept with the assigned radar unit.

It is the District Commanders' responsibility to designate a supervisor to coordinate and track the radar units assigned to the district. When the radar equipment fails either the calibration or function test and/or the calibration is due, it shall be the district supervisors' responsibility to ensure the unit is shipped to RHF, Inc for repair and/or calibration. The supervisors shall ensure that all units within their district are working properly and calibrated before putting them back into service. Units assigned to the Traffic



Bureau shall be maintained by the Radar Coordinator. The calibration due date shall be checked periodically as both the Decatur and Stalker units must be factory calibrated every three years. The maintenance, repair and calibration records for radar units assigned to the districts shall be kept at that district's dressing station. The Traffic Bureau radar units' records will be maintained at the Traffic Bureau. A master copy of all radar unit records will be maintained by the Radar Coordinator and kept at the Traffic Bureau.

#### 703.8 PARKING VEHICLES AT HQ / CITY HALL ANNEX

Only persons authorized by the Chief of Police, or a Division Commander may park on the HQ/City Hall Annex (Annex) parking lot. Parking is restricted on the HQ/Annex parking lot as follows:

- (a) Parking in handicap stalls is restricted to handicapped persons who display appropriate handicap identification as required by the California Vehicle Code;
- (b) All stalls marked with signage (custodian, Duty Office pool car, ISB, Business Manager, Chief's Office, etc.) shall not be utilized by anyone except for the designated City employee;
- (c) All numbered stalls are reserved and shall only be used by the assigned member. With the assigned member's approval, a designee may use the stall when the assigned member is not using the space (vacation, days off, training, etc.);
- (d) Un-numbered stalls are restricted from 0600-1800 hours M-F, for Department vehicles only (i.e. detective vehicles, vehicles assigned to HQ, Duty Office pool cars, etc.);
- (e) Members shall not park their personal vehicles in un-numbered stalls between 0600-1800 hours M-F. With the assigned member's approval, a designee may use the stall when the assigned member is not using the space (vacation, days off, training, etc.);
- (f) Members who are assigned to a City of Fresno parking lot shall park their personal vehicles in their designated lot and not at a meter. When the designated lot is full, members shall abide by the "City of Fresno Employee Parking Permit Rules, §6, 6a and 6b" they agreed to when issued their permit;
- (g) Members who want a City parking permit shall obtain a parking permit from the Parking Division, participate in payroll deduction and abide by all City of Fresno Employee Parking Permit Rules (this includes obtaining a HQ/Annex parking lot permit);
- (h) Members working in a temporary capacity at HQ/Annex shall not park their personal vehicles in the HQ/Annex lot. Members working in a temporary capacity shall obtain a temporary parking permit from Parking Services at City Hall; and
- (i) Police parking on N Street, Fresno Street and M Street designated as "Police Vehicles Only" are for detective vehicles, marked Department vehicles or City of Fresno vehicles. Members shall not park their personal vehicles in these designated stalls.
- (j) Members are not to park on the prisoner processing ramp's western downslope on the M Street side or the flat portion between 0400 to 0700 hours daily. Officers with prisoners may park on the eastern upslope of the ramp on the N Street side during this time frame.

When no authorized parking is available on the parking lots, members driving vehicles with exempt license plates or having dashboard parking placards may park in adjacent parking meter stalls.

#### 703.8.1 OTHER DEPARTMENT FACILITIES

Members may park in other Department facility parking lots only with the express permission of the commander/manager in charge of the facility.

#### 703.9 SUPERVISOR RESPONSIBILITIES

Supervisors should monitor personnel assigned to them to ensure compliance and take appropriate corrective action when violations occur.

#### 703.10 IN FIELD PARKING

Members shall make every effort to park Department vehicles legally. When vehicles must be parked in a manner that interferes with traffic, emergency lights shall be activated. The vehicle shall be moved and legally parked as soon as practical.

### 703.11 COURT PARKING

Members responding to court may park their personal vehicles in the underground parking garage or in the north lot of the Memorial Auditorium. When parking at these locations, members shall place a copy of their subpoena on the dash, so it is visible from the exterior.

### 703.12 PARKING OF PRIVATE VEHICLES DURING DUTY HOURS

Members are responsible for making their own arrangements to park their private vehicles at their work site. Members parking on the street shall not interrupt their duties to move their vehicles or "feed" parking meters to avoid citations. Members who receive parking citations on their private vehicles shall not attempt to have the citation canceled or voided for any reason. Should on duty members be called to cite vehicles and discover that the vehicle to be cited belongs to another member, no attempt shall be made to contact the owner in lieu of issuing the citation.

### 703.13 VISITOR PARKING

Personnel of other law enforcement agencies who are conducting business at HQ will be allowed to park in the HQ lot. Members who are conducting business with visiting law enforcement personnel shall direct them to display a business card on the dashboard when the vehicle is unmarked.

### 703.14 VEHICLES ASSIGNED TO SWAT PERSONNEL

Refer to Policy §408 SWAT Team.

### **704.1 POLICY**

Members are responsible for assisting in maintaining Department vehicles so that they are properly equipped, properly maintained, properly refueled and present a clean appearance.

#### **704.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to establish guidelines for Department vehicle maintenance.

### **704.2 VEHICLE EQUIPMENT**

Certain items shall be maintained in all Department vehicles for emergency purposes and to perform routine duties.

#### **704.2.1 PATROL VEHICLES**

Members 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:

- (a) 10 Emergency road flares
- (b) 1 Roll crime scene tape
- (c) 1 Fingerprint kit
- (d) 1 Fire extinguisher (fully charged)
- (e) 1 Personal Protective Equipment (bio-hazard kit), "Red Box"
- (f) 1 Disposable blanket
- (g) 1 Bottle of water (1qt for O/C exposure)

In addition to the above, supervisor vehicles shall have:

- (a) 1 Set of jumper cables
- (b) 1 Complete set of evidence number stands

#### **704.2.2 UNMARKED VEHICLES**

A member driving an unmarked Department vehicle shall ensure that the minimum following equipment is present in the vehicle:

- (a) 10 Emergency road flares
- (b) 1 Disposable blanket
- (c) 1 Personal Protective Equipment (bio-hazard kit)

### **704.3 NON-SWORN EMPLOYEE USE**

Non-sworn members using marked vehicles shall insure all weapons are removed from vehicles before going into service.

Non-sworn members should not operate the emergency lights or siren of any vehicle unless they have received prior authorization by a supervisor.

### **704.4 DEFECTIVE VEHICLES**

When a Department vehicle becomes inoperative or in need of repair that affects the safe operating ability of the vehicle, that vehicle should be removed from service for repair. A vehicle repair "tag" shall be promptly completed by the member who first becomes aware of the defective condition, describing the problem or correction needed. The Shotgun, Less Lethal Shotgun, and Patrol Rifle from tagged vehicles shall be removed, unloaded outdoors, and then placed in a gun locker or safe in the Bureau, District, Section, or Unit where the vehicle is assigned. The vehicle should not be driven until repaired.

#### **704.5 ROUTINE MAINTENANCE**

When a Department vehicle is in need of routine maintenance as indicated by the shop mileage sticker, a repair tag should be completed, and the vehicle issued only as a last resort or in emergency situations. Prior to the vehicle being transported to the shop or other off-site repair facility, the Shotgun, Less Lethal Shotgun, and Patrol Rifle shall be removed and secured as listed above in Section 704.4.

If no mileage sticker is found, then a repair tag should be completed, to have it replaced.

#### **704.6 VEHICLE REFUELING**

Absent emergency conditions or supervisor approval, members driving patrol vehicles shall not leave the vehicle with less than one-quarter tank of fuel at the end of their shift.

Vehicles shall only be refueled at authorized locations.

#### **704.7 WASHING OF VEHICLES**

All vehicles shall be kept clean at all times. Weather conditions permitting, they should be washed as necessary.

- (a) Department vehicles will only be washed at authorized locations.
- (b) Members shall put themselves out "Vehicle Service" when responding to the car wash.
- (c) Only one marked unit should be at the car wash at the same time unless otherwise approved by a supervisor.
- (d) Members 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.

#### **704.8 SUPERVISOR RESPONSIBILITIES**

Supervisors shall conduct inspections periodically to ensure that all Department vehicles are maintained in a condition of operational readiness. An annual vehicle inspection shall be performed by supervisors of all vehicles not covered by the Special Vehicle Operations Manual. The inspection shall occur prior to the patrol matrix rotation. The inspections will comply with the existing requirements of Policy §§703.3, 704.2 and be documented on a Vehicle Inspection Form.

Any vehicle deficiencies shall be noted on the Vehicle Inspection Form along with the corrective measures taken. Vehicle Inspection Forms shall be retained in the Bureau, District, Section, or Unit where the vehicle is assigned.

Supervisors shall re-inspect vehicles where deficiencies are identified, after corrective measures are taken to ensure the adequacy and safety of the vehicle. This re-inspection and correction shall be noted on the Vehicle Inspection Form.

### **705.1 POLICY**

The National Defense Authorization Act authorizes the Secretary of Defense to transfer excess Department of Defense (DoD) personal property to federal, state and local law enforcement agencies (LEA) with special emphasis given to counter drug and counter terrorism. The 1033 Program allows LEAs to receive DoD excess property.

#### **705.1.1 PURPOSE AND SCOPE**

This policy establishes a procedure for the acquisition and tracking of military surplus property/equipment.

### **705.2 MILITARY SURPLUS 1033 PROGRAM**

The Department may acquire excess property/equipment from the Department of Defense (DoD) Military Surplus 1033 Program to support law enforcement activities, including counter-drug and counter-terrorism activities. The 1033 Program shall be coordinated by the Support Division Commander or designees, with final approval by the Chief of Police.

### **705.3 PROGRAM COORDINATOR RESPONSIBILITIES**

The designated program coordinator and/or designees will insure all Local, State and Federal rules, requirements, and guidelines are followed in regard to the 1033 program. Responsibilities include:

- (a) Maintaining accurate records, from receipt through final disposition, for all property obtained through the 1033 program and updating the Federal Excess Property Management Information System;
- (b) Coordinate with Property and Evidence Control Section (PECS) supervisor and have the property added to the Department's inventory maintained by Equipment and Supply. Equipment and Supply will track the property and which department member or unit it is assigned to;
- (c) Conduct annual inventory inspections as required by DoD and Department related to all equipment obtained through the 1033 program. This normally includes an in person visual inspection and may require a photograph of the items for DoD review;
- (d) Complete searches and requests for available equipment (screening process) through the program;
- (e) Insure acquired surplus property is not thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority and tracking;
- (f) Designate personnel as "Authorized screeners" who will be approved to access, request, and acquire excess property through the program; and
- (g) Designate the Department's Property Accountability Officer (Main designee) and secondary Department Accountability Officer (Secondary designee) for the 1033 Program with approval of the Chief of Police.

### **705.4 REQUESTS FOR ACQUISITION OF SURPLUS PROPERTY**

Any requests for acquisition of equipment through the 1033 Military Surplus Program shall be approved by the requesting unit's commander and forwarded for final approval by the Support Division Commander or designee.

### **705.5 RESPONSIBILITY OF MEMBER OR UNIT ISSUED SURPLUS PROPERTY**

Units and/or department members who are issued property acquired through the military surplus 1033 program shall notify the 1033 Program Coordinator and PECS Supervisor or their designees; if the property is no longer needed, becomes damaged or is lost. This is in addition to any other required procedures.

Fresno Police Department Policy Manual  
**Military Equipment Funding, Acquisition  
& Use Policy**

**706.1 POLICY**

It is the policy of the Fresno Police Department that members of this Department comply with the provisions of Government Code § 7071 with respect to military equipment.

**706.1.1 PURPOSE & SCOPE**

This policy establishes guidelines for the acquisition, funding, use and reporting of “military equipment” as the term is defined in Government Code section 7070. This policy is provided to fulfill the obligations set forth in Assembly Bill No. 481. These obligations include, but are not limited to, seeking approval on specific items deemed to be military equipment and requirements related to compliance, annual reporting, cataloging, and complaints regarding these items.

**706.2 DEFINITIONS**

**Governing body** – The elected or appointed body that oversees the Department.

**Military equipment categories**– Includes but is not limited to the following:

- Unmanned, remotely piloted, powered aerial or ground vehicles.
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.
- High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.
- Tracked armored vehicles that provide ballistic protection to their occupants.
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- Weaponized aircrafts, vessels, or vehicles of any kind.
- Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram.
- Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.
- Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue handguns.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- Noise-flash diversionary devices and explosive breaching tools.
- Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray.
- TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).
- Kinetic energy weapons and munitions.
- Any other equipment as determined by a governing body or a state agency to require additional oversight.

### **706.3 PHILOSOPHY**

The acquisition of military equipment and its deployment in our communities may impact the public's safety and welfare. The public has a right to know about any funding, acquisition, or use of military equipment by local government officials, as well as a right to participate in any government agency's decision to fund, acquire, or use such equipment. Decisions regarding whether and how military equipment is funded, acquired, or used should give strong consideration to the public's welfare, safety, civil rights, and civil liberties, and should be based on meaningful public input.

### **706.4 MILITARY EQUIPMENT USE CONSIDERATIONS**

The military equipment acquired and authorized by the Department is:

- (a) Necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
- (b) Reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
- (c) Military equipment shall only be used by a Department employee only after applicable training, including any course required by the Commission on Peace Officer Standards and Training, has been completed, unless exigent circumstances arise.

#### **706.4.1 MILITARY EQUIPMENT COORDINATOR**

The Chief of Police shall designate a member of this Department to act as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

- (a) Acting as liaison to the governing body for matters related to the requirements of this policy.
- (b) Identifying Department equipment that qualifies as military equipment in the current possession of the Department, or the equipment the Department intends to acquire that requires approval by the governing body.
- (c) Conducting an inventory of all military equipment at least annually.
- (d) Collaborating with any allied agency that may use military equipment within the jurisdiction of Fresno Police Department (Government Code § 7071).
- (e) Preparing for, scheduling, and coordinating the annual community engagement meeting.
- (f) Preparing the annual military equipment report for submission to the Chief of Police and ensuring that the report is made available on the department website (Government Code § 7072).
- (g) Establishing the procedure for a person to register a complaint or concern, or how that person may submit a question about the use of a type of military equipment, and how the Department will respond in a timely manner.

#### **706.4.2 MILITARY EQUIPMENT INVENTORY**

The Military Equipment Coordinator shall maintain an up-to-date and comprehensive Military Equipment Inventory in compliance with the provisions of AB 481. This inventory shall be available for public review on the City of Fresno Police Department's website.

## **706.5 GOVERNING BODY APPROVAL**

The Chief of Police, or designee, shall obtain approval from the governing body by way of an ordinance adopting the military equipment policy. As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed military equipment policy is submitted to the governing body and is available on the department website at least 30 days prior to any public hearing concerning the military equipment at issue (Government Code § 7071). The military equipment policy must be approved by the governing body prior to engaging in any of the following (Government Code § 7071):

- (a) Requesting military equipment made available pursuant to 10 USC § 2576a.
- (b) Seeking funds for military equipment, including but not limited to applying for a grant, soliciting, or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
- (c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
- (d) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this Department.
- (e) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body.
- (f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of military equipment.
- (g) Acquiring military equipment through any means not provided above.

### **706.5.1 REQUESTS FOR ADDITIONAL EQUIPMENT**

All requests made for equipment that fall under the definition of Military Equipment § SB 481, which is in addition to existing Council approved and authorized equipment, will require City Council approval prior to the purchase or use of that equipment. This section shall not apply if the request were merely to replace an existing piece of equipment.

If a member of the department wishes to purchase new equipment that falls under the definition of Military Equipment § SB 481, they shall, prior to purchasing, submit a SB481 Equipment memo through their chain of command to the Support Division Deputy Chief for approval. If approved the member is responsible for seeking City Council approval.

### **706.6 COORDINATION WITH OTHER JURISDICTIONS**

Military equipment shall not be used by any other law enforcement agency or member in this jurisdiction unless the military equipment is approved for use in accordance with this policy.

### **706.7 ANNUAL REPORT (AB 481)**

Upon approval of a military equipment policy, the Chief of Police, or designee, shall submit a military equipment report to the governing body for each type of military equipment approved within one year of approval, and annually thereafter for as long as the military equipment is available for use (Government Code § 7072). The Chief of Police, or designee, should also make each annual military equipment report publicly available on the department website for as long as the military equipment is available for use. The report shall include all information required by Government Code § 7072 for the preceding calendar year for each type of military equipment in department inventory.



## **706.8 COMMUNITY ENGAGEMENT**

Within 30 days of submitting and publicly releasing the annual report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the Department should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.

## **706.9 AB 481 COMPLAINT PROCESS**

It is the policy of the Fresno Police Department that there are legally enforceable safeguards, including transparency, oversight, and accountability measures, in place to protect the public's welfare, safety, civil rights, and civil liberties. To ensure that the military equipment authorized pursuant to AB 481 is being utilized in a manner consistent with the approval of the governing body, a citizen complaint process is established consistent with the mandates established in AB 481.

### **706.9.1 INQUIRIES AND COMPLAINTS**

The Fresno Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members. It is also the policy of this Department to ensure that the community can report misconduct without concern for reprisal or retaliation. The Department encourages the public to come forward with any relevant facts pertaining to complaints or violations of policies against its members.

The Department will accept and address all inquiries and complaints of the misuse of Military Equipment in accordance with Policy 1020, Personnel Complaints, as well as the provisions outlined in this policy.

### **706.9.2 ACCESSING AB 481 COMPLAINT FORMS**

Fresno Police Department complaint forms are maintained in a clearly visible location at the following Police locations:

- (h) Fresno Police Headquarters, 2323 Mariposa Mall, Fresno, CA. 93721
- (i) Southwest Policing District Station, 1211 Fresno St. Fresno, CA. 93706
- (j) Northwest Policing District Station, 3074 W Shaw Ave. Fresno, CA. 93711
- (k) Northeast Policing District Station, 1450 E Teague Ave. Fresno, CA. 93720
- (l) Central Policing District Station, 3502 N. Blackstone Ave. Fresno, CA. 93726
- (m) Southeast Policing District Station, 224 S. Argyle Ave. Fresno, CA. 93727

*Fresno Police Department Complaint forms may also be available at these other police, government, community facilities:*

- (a) Fresno City Hall, City Manager's Office, 2600 Fresno St. Fresno, Ca 93721
- (b) Hinton Community Center, 2385 S. Fairview St. Fresno, CA 93706
- (c) Mosqueda Community Center, 4670 E. Butler Ave. Fresno, CA 93702
- (d) Ted C. Willis Community Center, 770 N. San Pablo Ave. Fresno, CA 93728
- (e) Stone Soup Fresno, 1345 E Bulldog Lane, Fresno, CA 93710

Electronic complaint forms are also available at the City of Fresno website at [www.fresno.gov/police/services-special-units/internal-affairs/internal-affairs-online-complaint-form/](http://www.fresno.gov/police/services-special-units/internal-affairs/internal-affairs-online-complaint-form/)

### **706.9.3 AB 481 COMPLAINT PROCESS AUDITING**

The Department will conduct annual reviews of the complaint process. The audit will ensure the availability, acceptance, and completion of the complaint process is done in a timely, effective, and unbiased manner. The audit will be submitted to the Chief of Police for review. The results of this audit will be included in the AB 481 Annual Audit Report.

**Fresno Police Department  
Policy Manual**

**Chapter 8: Support Services**

### **800.1 POLICY**

The Crime View Bureau will provide crime analysis and statistical data to Department personnel to assist them in developing strategies to reduce crime.

#### **800.1.1 PURPOSE AND SCOPE**

The Crime View Bureau relies on timely and accurate data to effectively analyze a crime spike and/or trend. Once the information is analyzed, it is forwarded to affected command staff and other members for their use. Crime analysis plays a critical role in how the Department addresses crime by examining crime trends and clusters.

### **800.2 DATA SOURCES**

Crime View data is extracted from many sources including, but not limited to:

- (a) MARS Multi Agency Record System which includes original and supplemental reports, citations, arrest reports and field interview cards;
- (b) Parole Leads program;
- (c) Computer Aided Dispatch data;
- (d) CAD/RMS/Axon Records CrimeView program download;
- (e) ARC 9 mapping system;
- (f) Cal Gangs information;
- (g) Biweekly meetings with investigative and patrol personnel;
- (h) Parole/Probation meetings;
- (i) Law Enforcement Analyst network; and
- (j) Latent result comparisons (Report Writer/Crime Scene Bureau).

### **800.3 CRIME ANALYSIS FACTORS**

The following minimum criteria should be used in collecting data for Crime View:

- (a) Crime incident;
- (b) Location factors;
- (c) Victim and target descriptors;
- (d) Suspect descriptors;
- (e) Suspect vehicle descriptors;
- (f) Modus operandi factors; and
- (g) Physical evidence information.

### **800.4 CRIME ANALYSIS FOCUS AND DISSEMINATION**

An analysis will be given to the affected members to find factors that may or may not play a role in the statistical increase with results forwarded to Command staff, investigative units, and patrol officers. Analysis will be conducted on clusters even if no statistical spike is present.

## 804 Property & Evidence

### 804.1 POLICY

Property and evidence are a critical responsibility of the criminal justice system. Property and evidence will be handled, stored, and processed with due regard to the chain of evidence and those persons authorized to remove and/or destroy property.

#### 804.1.1 PURPOSE AND SCOPE

This policy provides the basic definitions of types of property that may be encountered by members of the Department and the proper handling of the property.

### 804.2 DEFINITIONS

**Booked** - Is defined as property that has been properly entered into the Property Section FileOnQ property management computer system, packaged as required, with booking labels attached in the appropriate manner.

**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.

**Found Property** - Includes property found by a member or citizen that has no apparent evidentiary value and where the owner cannot be readily identified or contacted.

**Property** - Includes all items of evidence, items taken for safekeeping and found property.

**Safekeeping** - Includes the following types of property:

- (a) Property obtained by the Department for safekeeping such as a firearm;
- (b) Personal property of an arrestee not taken as evidence; and
- (c) Property taken for safekeeping under authority of a law (e.g., Welfare and Institutions Code § 5150 (mentally ill persons)).

### 804.3 PROPERTY HANDLING

Any member who comes into possession of any property shall retain such property in their possession until it is booked and placed in the designated property locker or storage room. Care shall be taken to document the chain of custody for all evidence in appropriate reports. A written report is required detailing the circumstances by which property and/or evidence came into FPD possession and describing each item of property obtained. Members shall indicate the disposition of all evidence in their report of the incident.

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. Release of property back to the owner should be documented by recording it on the member's body camera and documenting it in the member's report of the incident.

### 804.4 PROPERTY BOOKING PROCEDURE

All property must be booked prior to the member going off-duty unless otherwise approved by a supervisor. If the system is unavailable, handwritten forms may be used.

Members booking property shall:

- (a) Complete the FileOnQ booking screen by completing all applicable sections for each item booked;
- (b) Mark each item of evidence with initials and date;
- (c) Package each item appropriately and attach the proper evidence labels for each item; and
- (d) Place the booked item(s) into the appropriate locker or designated secured storage space.

#### 804.4.1 HANDLING EXCEPTIONAL VALUE / SENSITIVE ITEMS

When booked items are exceptional, valuable, or sensitive (e.g., expensive jewelry, rare coins, collectibles, rare documents, etc.) and have a reasonable and estimated market value in excess of \$1000.00, members shall write "**VALUABLE**" in large bold letters on the booking envelope or box just below the booking label and include the same comments in the comments section of the FileOnQ booking screen. This will flag the item as needing special storage considerations. Property and Evidence Control Section (PECS) personnel will store the item(s) in the evidence vault at HQ.

#### 804.5 PROPERTY / EVIDENCE TRANSPORTATION

Members shall transport property and evidence in their assigned vehicles when possible.

A district pickup or a patrol wagon shall be requested when an item is too large for a car.

When an item is too large or too heavy for a district pickup or a patrol wagon, the member shall notify their supervisor who will coordinate with PECS to arrange transportation.

Property or evidence shall not be stored in a member's desk, locker, vehicle, or any other container beyond the end of the shift that the property or evidence was obtained.

#### 804.6 FLAMMABLE MATERIALS

When flammable or volatile material evidence from an arson or related crime needs to be booked as evidence and stored for potential lab analysis, FFD personnel (or CSI personnel when FFD is unavailable) will transfer a small amount of the liquid (1 ounce) into a glass jar they have for this purpose. FFD (or CSI) personnel may then appropriately discard the remainder of the contents of the liquid container. The booking member will place the glass jar into a K-Pak pouch, heat seal it, then place it into a small paint can (available in the CSI or Evidence booking room) and seal it inside. The booking label will be affixed to the outside of the can. After entering the can into FileOnQ, the sealed can will be left with CSI personnel, who will turn the items over to PECS the next business day. PECS personnel will receive the item, and then store it in the flammable liquids locker in the PECS. The original and now empty storage container can then be booked by the booking member at FPD facilities as evidence when needed as such. Members shall note in their reports the approx. total amount of the contents inside the container before it was discarded (e.g., note that there was 6 oz. of liquid when only 1 oz. was kept for analysis).

#### 804.7 DANGEROUS / UNSTABLE OR HAZARDOUS MATERIALS

Dangerous and/or unstable substances shall not be booked into standard property storage lockers. All such property will be collected at the scene by FFD personnel for booking into their evidence storage facility.

Hazardous materials shall not be booked into PECS. A hazardous materials team (i.e., FFD) shall be called to handle the proper collection and/or disposal of all hazardous materials. Dynamite, military explosives, etc., will be handled by the Explosive Ordinance Disposal (E.O.D.) Team. Paint, glue, and ammunition (.50 caliber and smaller) shall be booked into property lockers.

Legal fireworks (Safe and Sane) that are booked into PECS and which do not have evidentiary value shall be transported to the Fire Marshall for destruction on the next business day by an EOD technician. Legal fireworks that are booked into PECS which do have evidentiary value shall be transported to the FPD explosives magazine on the next business day by an EOD technician.

Illegal or homemade fireworks shall not be booked into PECS. An EOD technician shall respond to the scene to take custody of all illegal fireworks. The EOD technician shall transport the illegal fireworks to the explosives magazine to be retained as evidence or held for destruction.

## 804.9 PACKAGING PROPERTY / EVIDENCE

### 804.9.1 CONTAINERS

Boxes, envelopes, hang tags, labels, tape and wire are provided at all property booking stations.

- (a) Members booking property or evidence shall package items in envelopes, boxes, or other designated containers using the smallest container available which will hold the item(s) safely.
- (b) Envelopes shall be sealed with 2 inch transparent or evidence tape.
- (c) Boxes shall be secured with tape so that the flaps do not open on the top and bottom.
- (d) Seals shall be initialed and dated by the booking member.
- (e) Envelopes and boxes shall then be placed in a property locker.
- (f) Evidence booked in envelopes will be placed in envelope "Drop Slots."
- (g) Larger items and evidence booked in boxes will be placed inside lockers.

A note shall be attached to the exterior of a property locker which describes where the property is stored.

### 804.9.3 PROPERTY TAGS & LABELS

- (a) All containers of property or evidence shall have a property label attached.
- (b) When a box is used, the label shall be attached to the top left side of the smaller end panel.
- (c) Items which do not fit into a container shall have a hang tag or label attached.
- (d) All envelopes shall have a property label attached.
  - 1) Only pre-printed envelopes specifically designated to be used for booking money and narcotics shall be used for packaging those specific items.

The labels are generated from the information entered into the FileOnQ booking system.

- (a) The item numbers on the label should match the item numbers in FileOnQ.
- (b) Money envelopes require two property labels. One which includes the item barcode and case number, and one listing the specific money denominations inside the money booking envelope.

### 804.9.4 MARKING OF PROPERTY AND EVIDENCE

Members shall mark all items of property and evidence with their initials and, where space permits, the date the item was booked.

- (a) When possible, members shall apply the required evidence markings in a location and manner which does not outwardly damage or disfigure the item.
- (b) Markings shall not be placed in any place which would in any way alter or damage the evidentiary or real value of an item.

**Exceptions:** Very small items need not be marked individually but shall be identified by marking their containers;

- (a) Large quantities of like items need not be marked individually. It is necessary to mark only a representative sample of such items; and
- (b) Items which can be identified by serial numbers and/or unique identifying markings need not be marked as described above. In such cases, the number or unique marking shall be clearly listed in the appropriate information field in FileOnQ.

### 804.9.5 PRESERVING MINUTE EVIDENCE

Small pieces of evidence, such as fingernail scrapings, hair, paint scrapings, etc., shall be placed in an envelope, glass vial or other suitable container and placed in a properly labeled evidence envelope.

## 804.9.6 BICYCLES

## 804.9.7 VENDOR CARTS

When storing a vendor cart, the storing member shall:

- (a) Contact COMCEN who shall contact Econo Towing Company to respond to the member's location and store the cart;
- (b) Complete a VIR for the stored cart; and
- (c) Advise the vendor cart operator that their cart may be released by contacting a district investigator from the district where the cart was seized.

## 804.10 PROPERTY / EVIDENCE REPORT (PER)

When property or evidence is booked, the information will be typed into the FileOnQ booking system. A PER may be printed from FileOnQ at the member's discretion but is not necessary to book property. A printed copy of the PER may be used as a citizen receipt at the member's discretion.

- (a) Evidence booked into FileOnQ will automatically become an attachment to the case within 48 hours. Therefore, it is not necessary to additionally enter the booked items in the Property Tab in Axon Records.

**Exception:** It is necessary to also enter the evidence in the Property Tab in Axon Records for property that is serialized or has identifying markings so that it can be entered into Teletype by selecting the Teletype button in Axon Records.

## 804.11 FOUND PROPERTY

Members shall indicate on the FileOnQ property booking page any information identifying the owner of Found Property to allow notification by PECS. Identifying information may include name, address, phone number, driver's license number, social security number, etc.

Found property shall be packaged separately from evidence and safekeeping property.

## 804.12 STOLEN PROPERTY CHECK

Prior to reporting any property with serial or identification numbers as "found," members shall initiate a check into the stolen property system of CLETS and DMV (when an owner applied number resembles a CDL number).

Items that have been checked for stolen status and determined to be clear may then be booked as found property.

## 804.13 CITIZEN CLAIMS FOR FOUND PROPERTY

Members shall inform the RP that they must submit a written claim to the Department when they want to claim an item which has been booked as found property.

- (a) The claim letter must contain the case number under which the property is booked, the date the property was booked, a brief statement that the RP wishes to claim the property, and the type of property claimed.
- (b) The claim letter should be addressed to the supervisor of the PECS and must be submitted within the following time limits:



- 1) Personal items (including bicycles): 30 days from the booking date.
- 2) All other property: 90 days from the booking date.

Firearms may be claimed, but they will not be released until the Gun Clerk authorizes the release of the firearm to the claimant, and a background check on the finder has been completed by the DOJ. Contraband and other unlawful items will not be released to the finder.

#### **804.14 PROPERTY HELD FOR SAFEKEEPING**

Members shall indicate in their report the reason(s) why the item(s) was seized and booked for safekeeping to facilitate later case review.

If a Department member takes a large quantity of property to store for Safe Keeping from transients/homeless, that department member shall call the Sanitation Department to have such items turned over to them. Department members shall provide the owner with the Item Collected Tag Number and advise the owner to call the City of Fresno to setup an appointment: [REDACTED]

Members should NOT book items for safekeeping that belong to a suspect when the suspect is released on a citation.

When members come into possession of property which cannot be returned safely to the rightful owner, the member shall book the property for safekeeping.

- (a) The member shall advise the person from whom the property is obtained that the property will be held for safekeeping by the PECS for no longer than sixty days.
- (b) If the rightful owner of the property does not claim the property within the sixty days, it will be disposed of consistent with the law.

When members take or receive property for safekeeping (not including firearms and/or other deadly weapons), they shall give the person a Fresno Police Department Property for Safekeeping - Receipt.

- (a) This receipt has instructions notifying the person about the requirement to pick up the property within sixty days.
- (b) The person may also authorize another to pick up the property in their place by making a written request to the Department, addressed to the supervisor of the PECS, prior to picking up the property.
- (c) The receipt also gives the person, if incarcerated, an additional ten-month extension in which to make arrangements for the disposition of the property. In this case, the person must make a written request to the Department, addressed to the supervisor of the PECS, in order for an extension to be granted.
- (d) Safekeeping property shall be packaged separately from evidence and found property.

#### **804.15 NARCOTICS EVIDENCE**

Narcotic evidence is divided into two categories.

- (a) Narcotic evidence which has no evidentiary value and does not require analysis; and
- (b) Narcotic evidence which has evidentiary value and requires immediate analysis.

When narcotics from both categories are seized together, they shall be booked separately according to the guidelines listed below.

##### **804.15.1 EVIDENTIARY NARCOTICS**

Narcotics that have evidentiary value require immediate analysis. Immediate analysis is required when a suspect is in custody on charges related to the narcotics being booked, a citation has been issued, or a known suspect is at large for whom an arrest warrant will be sought.

##### **804.15.2 NON-EVIDENTIARY**

Narcotics that have no evidentiary value, such as found narcotics or narcotics that are not related to pending charges against a suspect, will not be analyzed.



### 804.15.3 PACKAGING NARCOTICS

[REDACTED]

Members shall provide all information requested on the envelopes and, in the case of non-evidentiary narcotics, the member shall write "No Test Needed" in the description portion of the DOJ Controlled Substance Evidence Envelope.

Members booking narcotics for analysis shall place the evidence inside the completed DOJ Controlled Substance Evidence Envelope and seal the flap of the envelope with 2" tape to prevent tampering and the loss of evidence.

- (a) Members shall sign or initial over the seal in letters large enough to extend beyond the edge of the flap so that booking members can determine if the seal has been broken.

When the items booked are very small or are powdery and subject to leaking through the envelope or their own containers, members may put them in smaller envelopes, KAPAK pouches, glass vials or other suitable containers before putting them in the DOJ envelope.

When different types of narcotics are seized under the same case and are all to be analyzed, or when narcotics are seized from different suspects under the same case and are to be analyzed, booking members shall put the different types of narcotics and/or narcotics seized from different suspects into separate KAPAK pouches labeled with appropriate identifying information, before putting all the evidence into the DOJ envelope.

[REDACTED]

### 804.15.4 PCP, COCAINE, LSD, METHAMPHETAMINE, AND OTHER SYNTHETIC DRUGS

Once seized, PCP/LSD should be transported to HQ and booked immediately.

- (a) Members should wear gloves to avoid direct contact with the PCP/LSD and should wash their hands thoroughly with soap and water after handling anything containing PCP/LSD.
- (b) PCP/LSD should be transported either in the trunk of the vehicle or, when carried in the passenger compartment, with windows down to provide adequate ventilation.
- (c) When PCP is spilled onto clothing (including shoes), the clothing must be removed immediately and will need to be discarded. Neither laundering nor dry cleaning will make the clothing safe to wear.

PCP/LSD shall not be brought into HQ before it is properly packaged to avoid spillage, breakage, and/or exposure to fumes. A heat sealer and KAPAK pouches are stored in the property cage for this purpose.

- (a) PCP/LSD in solid form need only be heat sealed in a KAPAK pouch before booking.
- (b) PCP in liquid form should be placed in a capped bottle or jar.
- (c) It may remain in its original container, if safe, or put into a jar available in the Crime Scene Investigation Bureau (CSI).
- (d) The capped bottle or jar shall then be heat sealed in a KAPAK pouch. Once properly packaged, PCP/LSD evidence is to be booked the same as regular drug evidence.

Cocaine, Methamphetamine, and other synthetic drugs shall first be heat sealed in KAPAK pouches prior to being booked the same as regular drug evidence.

### 804.15.5 LARGE QUANTITIES OF NARCOTICS

When the quantity of narcotics seized is so large that it will not fit into a DOJ envelope, a representative sample of the substance shall be booked for analysis using the DOJ envelope.

- (a) A separate entry into FileOnQ shall be made for each item.
- (b) The remainder (no more than 10 pounds) should be booked in regular evidence lockers using standard evidence containers. When the remaining amount is more than 10 pounds, refer to Policy 335-Drug Enforcement for further procedures.

- (c) When this procedure is followed, a note shall be left with the sample booked for analysis advising narcotics personnel that more narcotic evidence from the same seizure was booked into regular lockers.
- (d) A DOJ envelope shall be taped to the box so the identity, weight and quantity can be listed.

Large quantities of narcotics (anything over one ounce) shall be booked by at least two members. Both members shall sign the DOJ envelope.

#### 804.15.6 MARIJUANA AND OPIUM PLANTS

When marijuana or opium plants are booked, members shall complete the DOJ envelope and enter the items in FileOnQ. The marijuana or opium plant(s) shall then be booked into the narcotics evidence locker.



Members who have received DOJ authorized training shall perform their own presumptive tests on marijuana or opium plant(s) that they seize.

- (a) The results shall be recorded on a Presumptive Analysis Report and attached to the back of the DOJ envelope.
- (b) The DOJ envelope shall be placed in the narcotics locker.

When booking fresh, green plants or wet marijuana, the plants shall be placed in a box with the top left open or placed in a burlap sack which is available from the PECS or CSIB. The case number shall be written on the box or burlap sack using a sharpie pen or similar item.

- (a) A sample shall be booked into the narcotics locker in a DOJ envelope.
- (b) Once the plants have dried, PECS personnel shall then seal the box for storage or place the burlap sack into a box and seal it for storage.
- (c) In the event PECS is closed, CSI personnel will temporarily store the plants until PECS personnel takes custody of the evidence on the next working day.

#### 804.15.7 NARCOTICS ANALYSIS AND STORAGE

It is the responsibility of CSI members to remove and forward all booked evidentiary narcotics for presumptive analysis.

After the presumptive analysis, the CSI members shall return the evidence to the PECS for storage.

All non-evidentiary narcotics shall be removed from the narcotics locker and given to PECS for storage.

#### 804.15.8 NARCOTICS EVIDENCE VIEWING PROCEDURES

All requests to view narcotic evidence will be handled by PECS, CSI or Narcotics personnel who will arrange with the PECS to have the evidence retrieved from storage.

#### 804.15.9 NARCOTICS PARAPHERNALIA

Narcotics paraphernalia booked as evidence for paraphernalia charges (Health & Safety Code §11364, Business & Professions Code §4140) is not subjected to analysis. This evidence shall be booked in standard envelopes and placed in regular evidence lockers.

Narcotics paraphernalia, other than syringes, booked as evidence of possession of controlled substances charges (based on a usable quantity of narcotic) is subject to immediate analysis and shall be booked into the narcotics evidence locker.

When the material to be analyzed is in liquid form, it must be put in a sealed container or small glass vial prior to booking to avoid leakage.

#### 804.15.10 BOOKING AND ANALYSIS OF SYRINGE CONTENTS

In the absence of an exceptional circumstance (e.g., incidents involving the death or imminent death of a person) members shall not book hypodermic syringes and/or needles for analysis of contents.

- (a) Syringes booked under an exceptional circumstance shall be handled according to policy and secured in protective syringe containers provided by the Department.
- (b) The container(s) shall be placed in an appropriate envelope and then booked into regular evidence lockers using standard booking forms.

Special arrangements shall be made by Narcotics, upon receipt of a special request from the booking member, for the contents of syringes involved in exceptional cases to be transferred into containers suitable for delivery to, and analysis by, the DOJ laboratory.

#### 804.15.11 FENTANYL SYRINGES

When dealing with syringes filled with fentanyl department members shall follow the following guidelines:

- (a) Syringes containing possible Fentanyl shall be booked at HQ.
- (b) Syringes containing possible Fentanyl that have evidentiary value shall be booked as evidence, those which have no evidentiary value shall be booked as safe keeping ensuring proper destruction.
- (c) Syringes containing possible Fentanyl **shall not** be placed in a red sharps container. When booking a syringe possibly containing Fentanyl, the syringe shall be placed in a quart sized paint container with the lid attached. The paint container shall then be booked into a regular evidence locker using the standard booking method. Labeling on the outside of the paint container should clearly identify the substance inside is possibly Fentanyl.
- (d) The booking officer shall notify the Department member assigned to the Fentanyl Overdose Response Team (FORT) by email, that a syringe possibly containing Fentanyl has been booked at HQ and provide the case number. The member assigned to FORT will then be responsible for transferring the contents of the syringe into a container suitable for delivery to and analysis by, the DOJ laboratory or suitable for destruction if the syringe and contents are of no evidentiary value.
- (e) Syringes with contents other than possible Fentanyl, that are needed for an evidentiary purpose, shall have the contents transferred by the booking Department member into a suitable container. The contents/container shall be placed in a DOJ envelope for analysis, if required. If the syringe is to be retained as evidence, the syringe shall be placed in a protective syringe container, placed in an appropriate envelope, and then booked into a regular evidence locker. If the syringe is not needed for any evidentiary purpose, the syringe shall be placed in a red sharps container for proper disposal.

#### 804.15.12 SYRINGES AND OTHER PARAPHERNALIA

In narcotics paraphernalia cases (HS §11364, BP §4140), in which the syringe or small glass pipe itself (rather than its contents) is physical evidence of the offense, the syringe or glass pipe shall be booked in a protective syringe container, placed in an appropriate envelope, and then booked into regular evidence lockers using standard forms. When glass pipes are too large to fit into the plastic protective syringe container, they shall be wrapped in bubble wrap before putting them inside the booking envelope.

Other contents of "hype kits" shall be booked as regular evidence.

#### 804.15.13 DISPOSAL OF SYRINGES AND NEEDLES

When syringes and needles are not needed as evidence in a criminal prosecution, they shall be disposed of in red "Sharps containers" located in all district stations, and the PECS booking area. Syringes with contents other than possible Fentanyl, that are not needed for any evidentiary purpose, shall be placed in a red sharps container as is, for proper disposal.

PECS is responsible for the proper disposal of full containers.

#### **804.16 BOOKING PROPERTY OF AN ARRESTEE**

Any property belonging to an arrestee that is not accepted by FCJ booking officers shall be booked into the PECS. Officers booking property from an arrestee into the PECS system shall give a copy of the Property for Safe Keeping Receipt to the arrestee before they are booked.

#### **804.17 PROPERTY/EVIDENCE DISPOSITION METHODS**

Property / evidence may be disposed of through:

- (a) Investigator/District Attorney authorization;
- (b) Court orders and dispositions (JUS 8715); and
- (c) Purging guidelines as established in this order, absent the authorizations stated above.

#### **804.18 ACCEPTABLE DISPOSITIONS FOR PROPERTY AND EVIDENCE**

##### **804.18.1 DISPOSITIONS BY INVESTIGATORS:**

- (a) Release to owner or representative;
- (b) Hold for future case review;
- (c) Release to Dispose; and
- (d) Release to Destroy (used if an investigator specifically wants an item destroyed).
  - 1) Items that are legally deemed to be "contraband" by their very nature or manner of illegal use in an incident should not be returned, but instead marked for destruction in FileOnQ.

**Note:** Items that are evidence of a crime, instrumentalities of a crime, and fruits of a crime should not be returned to suspects when a conviction has been achieved in the case.

##### **804.18.2 RELEASE OF DISPOSED PROPERTY AND EVIDENCE BY MEMBERS OF PECS**

- (a) Release for Auction;
- (b) Release to City Finance;
- (c) Release to Charity; and
- (d) Release for Governmental use (Penal Code §1411).

##### **804.18.3 INVESTIGATIVE SERVICES DIVISION (ISD) SUPERVISOR RESPONSIBILITY**

ISD supervisors shall:

- (a) Ensure investigators comply with the disposition guidelines as contained in this order;
- (b) Review and make a disposition determination on assigned cases directed to their unit, in which property and/or evidence has been booked; and
- (c) Ensure that final disposition of found, recovered, and evidentiary property is accomplished within six months after legal requirements have been satisfied.

#### **804.19 SPECIAL BOOKING PROCEDURES**

##### **804.19.1 BLOOD/URINE EVIDENCE SAMPLES TO BE ANALYZED FOR DRUGS AND/OR ALCOHOL**

Blood or urine samples which are to be analyzed for drugs, or a combination of drugs and alcohol, are to be booked into the PECS. All such samples shall be booked as follows:

- (a) Blood samples from the same subject shall be enclosed in the same blood sample envelope. When more than one vial is enclosed, measures are to be taken in packaging (e.g., wrapping the vials with gauze and taping them together, etc.) to prevent breakage;
- (b) The blood/urine envelope headings shall be modified from "Sample for Alcohol Analysis" to "Sample for Drug (or Drugs and Alcohol) Analysis";
- (c) All urine samples will be closed securely and sealed with the attached evidence tape and placed in the Urine Sample Envelope. Any blood samples (in the appropriate envelope) from the same suspect, may be included in the larger urine envelope with the proper heading modification "Urine and Blood Sample for Drug (or Drugs and Alcohol) Analysis";
- (d) [REDACTED]



(e)

#### 804.19.4 MONEY

Money (U.S. currency and/or coin) shall be packaged separately from all other property being booked under the same case and shall be booked at [REDACTED]. It shall be placed in a pre-printed money envelope and have two labels attached to the money envelope. One label for the case number/barcode number, and one label for money denominations being booked. When the quantity of bills or coins is too bulky to fit into a money envelope, a larger envelope or a box may be used with a money envelope taped to the outside.

The booking of money shall be done using the "Two Person Rule" where the money is counted and witnessed by two members prior to placing the money in the pre-printed money envelope.

- (a) The booking members shall provide their name, badge number and date on the lines provided on the flap which shall then be closed and covered with transparent tape.
- (b) The FileOnQ booking labels shall be placed where noted with brackets on the pre-printed money evidence envelope.

All money envelopes shall be listed as an individual item in FileOnQ, indicating the total number of each denomination in the denomination fields.

**Exceptions:** Money in the following categories will not be deposited into the Trust Fund account:

- (a) Money that has been processed and from which fingerprints were lifted;
- (b) Money that has DNA evidence;
- (c) "Bait Money": recorded, serialized bills, or bills containing a tracking device which were collected during a robbery investigation;
- (d) Money specifically requested to be left in the vault by the case investigator;
- (e) Money collected in PC §187 cases, OIS cases; and
- (f) Collectible bills and coins. (Collectible bills and coins, as identified by the owner due to their increased value, shall be booked as property, not as money.)

**Example:** Coins mounted in books, stored in containers, etc.

When money is booked under the above exceptions, members shall write "Do Not Deposit" in large letters on the money envelope and include a brief reason (e.g., "DNA," "Bait Money," etc.) in the Item Description line of FileOnQ.

#### 804.19.5 MOTOR VEHICLES

Small motor vehicles, such as minibikes, mopeds, go-carts, etc., may be booked into PECS rather than having them towed and impounded.

- (a) Motorcycle frames, parts, and accessories may also be booked into property.

- (b) [REDACTED]
- (c) In determining whether to impound or book a vehicle, the size of the vehicle will be the primary consideration.
- (d) When the vehicle and/or part can be placed into a vehicle by one person, it may generally be suitable for booking into the PECS.

#### 804.19.6 PAINT & GLUE EVIDENCE

Evidence of possession or use of paint, glue, or other prohibited substances (PC §381), (e.g., paint rags, plastic bags, etc.) is not subject to immediate lab analysis, nor to presumptive tests.

- (a) All paint or glue saturated materials shall be placed in sealable metal containers available in the PECS.
- (b) When all of the material will not fit, a representative sample (preferably wet) shall be placed in the container and booked.
- (c) The remainder shall be placed in a heat sealed KAPAK pouch, then put in a standard booking envelope.
- (d) The metal container shall be identified with a standard property label.
- (e) This material shall be deposited into regular evidence lockers only.
- (f) The booking of this type of evidence does not require completion of the DOJ envelope.

#### 804.19.7 PERISHABLE ITEMS

When stolen perishable items, such as food or beverages, have been recovered and a victim can be identified, the items shall be photographed and returned to the victim. Perishable items shall not be booked.

[REDACTED]

When edible marijuana infused products are seized but no prosecution is desired, they shall be considered perishable items and not booked but disposed of by the member.

#### 804.19.8 SEXUAL ASSAULT EVIDENCE

Items should be booked in the following order:

- (a) The large white box (main Sexual Assault kit) should be listed as your first item in FileOnQ. Kit shall be placed into a locked container [REDACTED]
- (b) Victim clothing, give brief description of contents, (e.g., shirt, shorts, bra, etc.). Each bag is a separate item and placed into the locked container with the Kit.
- (c) Victim SA exam photos shall be labeled as such to distinguish them from other photo CDs. Attach the barcode to the upper left corner opposite side of the CHAIN OF CUSTODY label. [REDACTED]
- (d) [REDACTED]
- (e) [REDACTED]
- (f) The Hospital Medical Report is NOT to be booked or left with the evidence. All medical reports are to be added as an attachment to the supplemental CHAIN OF EVIDENCE report, with the case number written at the top of each page.

Repeat the above process for the suspect kits. Any questions can be directed to the Property Section [REDACTED]. Messages can be left after hours. Emergency property requests can be made after hours by contacting the Property Section supervisor through the Duty Office.

#### 804.19.9 SHARP OBJECTS

Sharp or pointed objects shall be carefully wrapped with a piece of cardboard or paper envelope to ensure safe handling. The object shall then be placed in a sturdy container **clearly marked as containing sharp objects**. Sharp objects that are too long to put into an envelope or box shall have a property hang tag with a property label attached to it.

#### 804.19.10 OPEN CONTAINERS OF LIQUID

Containers of liquid which have no lids shall be sealed when possible, or the contents shall be transferred to a sealable container (KAPAK pouch or metal can) available in the PECS. Liquids sealed in their original containers shall be packaged so as to prevent spillage if they are knocked over.


#### 804.19.11 BLOODY OBJECTS

Members shall use cardboard, paper, or similar porous material to securely package any bloody objects being booked into evidence.

- (a) Members shall note the presence of blood in the item description section of FileOnQ.
- (b) Wrapping materials can be obtained from the CSI.
- (c) The container shall be clearly marked with bio-hazard material labels.

#### 804.19.12 WET ARTICLES

When members possess articles which must be dried prior to booking, a separate entry in FileOnQ shall be completed for the wet item(s). The item(s) shall be delivered to a CSI technician who shall book the item(s) when dry. A notation in the Item Description line in FileOnQ shall be made describing that "The wet items were delivered to the CSI for drying".



#### 804.19.14 SEARCH WARRANT EVIDENCE

When booking items seized in a search warrant, members shall list the search warrant number in the Search Warrant # line in FileOnQ, and the address where the search warrant was served in the Item Description line in FileOnQ. This facilitates later case review.

Members writing narcotic search warrants which involve the seizure of multiple implements of cultivation or drug processing equipment should attempt to obtain judicial approval for prompt disposal of those items when there is more than one item of each type (e.g., keeping one lamp, fan, meter, generator, etc. but disposing of the remaining items of each type).

When members book excess marijuana and/or cultivation implements that are authorized for destruction by court order/search warrant, they shall note in the Item Description line in FileOnQ that the item(s) is being "Booked for destruction per court authorization".

### 804.20 DIGITAL / ELECTRONIC EVIDENCE COLLECTION

#### 804.20.1 TYPES OF DIGITAL / ELECTRONIC EVIDENCE

When investigating crimes involving the use of technology or computers, members may encounter electronic devices or media that contain digital evidence recoverable through forensic examination. These items include, but are not limited to, computer systems (desktop, laptop, servers), external hard disk drives, floppy disks, Jaz/Zip disks, CD/DVD's, PCMCIA cards, digital tape cassettes, personal digital assistants (PDA's), flash memory drives, flash memory cards, MP3 players, smart cards, digital cameras, network routers/switches/hubs, wireless routers/access points, cell phones, pagers, digital answering machines, and fax machines. Many of these items will contain digital/electronic evidence of the crime.

**Note:** Fax Machines and similar devices may lose information in memory if unplugged. Make note of any telephone numbers or similar information located in memory prior to disconnecting the power source.

#### 804.20.2 DIGITAL / ELECTRONIC EVIDENCE COLLECTION

Digital/Electronic evidence is, by its very nature, fragile. It can be altered, damaged, or destroyed by improper handling or improper examination. Special precautions should be taken to document, collect, and preserve this type of evidence. Members shall observe the following when collecting computers and/or digital/electronic evidence:

- (a) Immediately restrict access to the evidence upon discovery. Digital/electronic evidence can be easily altered, damaged, or destroyed;
- (b) Document and photograph the scene as you found it;
- (c) Treat all digital/electronic evidence as fragile and package/transport accordingly;
  - 1) Avoid using materials that can produce static electricity such as plastic bags;
  - 2) Avoid folding, bending, or scratching computer media such as diskettes;
  - 3) Keep evidence away from magnetic sources;
  - 4) Avoid storing evidence in vehicles for prolonged periods of time. Conditions of excessive heat, cold, or humidity can damage digital/electronic evidence; and
  - 5) Ensure that computers and other components that are not packaged in containers are secured in the vehicle during transportation to avoid shock and excessive vibrations;
- (d) Some electronic devices such as PDA's will lose all information stored in memory if the battery is discharged. If this type of item is seized, immediately notify a high-tech crimes investigator so the item may be examined in a timely manner; and
- (e) If a home or business network is encountered immediately notify a high-tech crimes investigator for assistance. Improper handling of these often-complex environments may result in loss of evidence and create potential civil liability.

#### 804.20.3 COMPUTER EVIDENCE

For computer systems, observe the system and determine if it is on or off.

If the computer is on:

- (a) Do not turn it OFF;
- (b) Photograph the screen and record information displayed. If the screen is blank (sleep mode) or is displaying a screen saver, move the mouse slightly to display what is on the screen. If the mouse movement does not work, do not perform any keystrokes or additional mouse operations. Do not attempt to view information contained within the computer's hard disk drive;
- (c) Remove the power source cable from the back of the computer - not from the wall outlet. For laptops, also remove the battery pack. Do not perform a normal shutdown of the computer. This will modify operating system files and may alter potential digital evidence; and
- (d) Photograph, diagram, and label the connections of the computer and corresponding cables to allow for exact reassembly at a later time.

If the computer is off:

- (a) Do not turn it ON. Powering on the system will alter system files and potential digital evidence. Do not open closed laptops as they may power on simply by opening the lid;
- (b) OFFICER SAFETY: Sophisticated computer users have been known to booby-trap their systems. The power switch, the boot-up electronic signals or the hard drive controller card could be wired to an explosive; and
- (c) Remove the power source cable from the back of the computer, document and photograph the system as outlined above.

In most cases, not all computer components need to be collected and booked as evidence. Generally, only the computer tower, containing the central processing unit (CPU) and related components, needs to be collected. Only in the most serious cases should all of the components (monitor, keyboard, mouse, etc.) be collected.



**Note:** Any questions regarding the collection of computer systems or any other digital/electronic evidence should be directed to the high-tech crimes investigators of the Felony Theft Unit. These investigators are also available to respond to requests for assistance with the approval of the unit supervisor.

#### 804.20.4 TYPES OF NON-DIGITAL / ELECTRONIC EVIDENCE

When investigating crimes involving the use of technology or computers, members may encounter items of non-digital/electronic evidence that are very important to the case. These items include but are not limited to diaries, handwritten notes containing usernames/passwords/IP numbers, hardware/software manuals, calendars, literature, text or graphical printouts, and printed photographs. A cooperative suspect will often give usernames, passwords and other useful information if requested. This information is very useful to the forensic examiner and will often expedite the examination process.

#### 804.20.5 NON-DIGITAL / ELECTRONIC EVIDENCE

Recovery of non-digital/electronic evidence can be crucial in the investigation of crimes involving technology or computers. Proper care should be taken to ensure that such evidence is identified, recovered, and preserved. The items listed above are frequently found in close proximity to the computer or related hardware items. All evidence should be secured and collected in compliance with standard evidence collection policy.

#### 804.20.6 DIGITAL / ELECTRONIC EVIDENCE EXAMINATION

The high-tech crimes investigators have the ability to forensically examine all items listed under section 804.20.1-Types of Digital / Electronic Evidence. Evidence that can be recovered through examination may include, but is not limited to:

- (a) Deleted/hidden files;
- (b) Photographs/image files;
- (c) Internet/network activity logs;
- (d) E-mails/notes/letters;
- (e) Instant messages;
- (f) Chat logs;
- (g) Address books;
- (h) Calendar/appointment information;
- (i) Financial/accounting information;
- (j) Movie files;
- (k) Diaries;
- (l) Legal documents;
- (m) Cellular telephone call history;
- (n) Router logs; and
- (o) Usernames/passwords.

Members wanting electronic items forensically examined for digital evidence shall complete a Request for Service package and submit it to the Felony Theft Unit supervisor for review and assignment. The package shall include:

- (a) Completed Computer Forensics Lab Request for Service form;
- (b) Copy of search warrant or signed Consent to Search form; and
- (c) Copies of applicable police reports including property/evidence forms.

Evidence submitted for forensic examination must be booked into the Property/Evidence Section prior to submitting the Request for Service package. The assigned high-tech crimes investigator will retrieve the evidence from the Property/Evidence Section and return it when the examination is completed. A detailed report of findings will be given to the requesting member upon completion.

## **804.21 FIREARMS**

### **804.21.1 TELETYPE INQUIRY**

Members booking a firearm shall check it through CLETS and NCIC for stops and registration information. When CLETS and/or NCIC are down, the member shall log into Axon Records on their next business day and ensure the property information is transmitted to Teletype electronically.

### **804.21.2 TELETYPE ENTRY**

Members shall minimally include the mandatory information needed for Teletype entries: serial number, make/country of origin, model ("X" can be used when unknown), caliber, type, date of incident, and case number.

All items of property (serialized/uniquely marked) booked as Evidence, Found, and/or Safekeeping shall be submitted to Teletype for entry via electronic means (Axon Records). Questions related to Teletype entries can be directed to [REDACTED]. Any type of recovered/located outside agency property shall be called into Teletype.

### **804.21.3 RAP SHEET SUBMISSION**

When a suspect is placed into custody for a firearms violation, a criminal history printout of the suspect shall be obtained and reviewed for appropriate prior convictions, so the charges on which the subject is booked are based upon any prior convictions discovered on the criminal history printout.

### **804.21.4 BOOKING**

The firearm shall be unloaded prior to placing it in an evidence locker. The firearm shall not be concealed or packaged but shall be placed in the locker in plain view. Rifles and shotguns booked with a gun case shall be removed from the case and booked as separate items in FileOnQ. If the case is locked, an attempt to unlock the container shall be made. If unable to locate a key, the lock shall be cut, and the guns removed. Members shall attach a property tag with the item label affixed to the trigger guard using wire or string, so that it does not dangle loosely.

Members taking possession of a firearm with removed/obliterated serial numbers shall book the firearm into property following standard procedures. The member booking the firearm shall indicate in FileOnQ in the Item Description line that serial numbers have been removed or obliterated.

When the firearm has a magazine or clip, the magazine or clip shall be unloaded and placed back into the firearm prior to being booked.

#### **Exceptions:**

- (a) When a firearm must be booked in a loaded condition (e.g., jammed weapons), or if the booking member is unable to determine if it is loaded, on duty PECS members shall be notified that it is loaded and/or possibly loaded when it is booked.
  - 1) When PECS personnel are not on duty, a note shall be attached to the outside of the evidence locker in which the firearm is placed.
  - 2) The memo shall detail the condition of the loaded firearm including whether or not it is jammed.
  - 3) PECS personnel shall not attempt to unload the weapon.
  - 4) PECS personnel shall contact a Department Armorer and make arrangements for them to clear the weapon prior to it being processed for storage; or
- (b) When a firearm is collected as evidence and is contaminated with bio-hazard material (e.g., bodily fluids), the booking member shall enter the firearm into FileOnQ, print out the booking label and leave the firearm and the label at the CSI for drying. Once the bio-hazard material on the firearm has dried, the CSI Technician will package the firearm, mark it as a possible biohazard, book it into PECS, and write a follow-up report.

### **804.21.5 FIREARMS AND/OR OTHER DEADLY WEAPONS HELD FOR SAFEKEEPING**

When members take or receive firearms and/or other deadly weapons for safekeeping (e.g., mental health incidents, domestic violence incidents, restraining order incidents, etc.), they shall give the

person a Fresno Police Department Receipt and Notice of Rights for Confiscated Firearms/Other Deadly Weapons Form. The current revision date of the form to be used is 01/2010 which is found at the bottom right of the form. All firearms and/or deadly weapons seized pursuant to this paragraph shall be booked as 'EVIDENCE' and not safekeeping to avoid inadvertent destruction.

#### 804.21.6 FIREARM TESTING

All firearms in the legal possession of the Department should be test fired for identification verification purposes by utilizing e-Trace and NIBIN. This is to include firearms being held for safe keeping. If the firearm is suspected to have been involved in a crime and the firearm was not seized pursuant to a warrant, then a search warrant should be obtained prior to any test firing.

#### 804.21.7 DISPOSITION

All firearm dispositions will be coordinated by the SVB firearms clerk. Prior to release, an Authorization for Release Form shall be signed by the SVB Commander or a designee.

Ammunition that is booked with a weapon shall not be released the same day the weapon is released. The owner can return the next business day to claim the ammunition.

The Department shall not return any firearm, magazine, or ammunition taken as evidence or for safekeeping to any individual unless all requirements of Penal Code § 33855 are met.

#### 804.22 EVIDENCE TO COURT

When members anticipate appearing in a court proceeding where booked evidence may be required members or CLO shall attempt to notify [REDACTED]

When receiving narcotics from the PECS, members checking out narcotics for court will be required to show their subpoena to the PECS Technician.

- (a) At the time evidence is removed from the PECS for court, members shall procure a Receipt of Evidence Form in addition to signing for the evidence.
- (b) When the evidence is left in court, the form must be completed by the member and signed by whomever takes custody of the evidence (i.e., the Deputy DA or the Court Clerk).
- (c) The completed form shall be returned to the PECS.
- (d) When evidence is listed on the Receipt of Evidence Form, the description should be the same as it appears in the FileOnQ entry.

All evidence not used in court shall be returned to the PECS immediately after the completion of the court hearing or at the time the member is advised the evidence will not be used.

When the PECS is closed, members shall place the returned evidence in an evidence locker with the Receipt of Evidence Form and a note stating that the property is being returned from court.

#### 804.23 UNIDENTIFIED PROPERTY

Property in the custody of the PECS that cannot be identified or is unclaimed by the owner shall be disposed of as provided for in PC §12028, FMC §§4-202, 4-304 through 4-306.

#### 804.24 SALE OF PROPERTY

Members may not obtain for personal use any item that has been in the possession or control of the PECS, or other City divisions, whether legally sold or auctioned, unless the member has not had control over or participated in the decision that the property was surplus and could be sold.

#### 804.25 RELEASE OF PROPERTY

When authorizing the release of property, members shall advise the party to [REDACTED]

When a victim is notified that their stolen property has been recovered, they shall be provided with the case number.

They shall also be informed that due to investigative requirements the property may not be immediately available for release.

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 60 days. During such a 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).

A property and evidence technician shall release the property upon proper identification being presented by the owner for which an authorized release has been received.

Under no circumstances shall any firearm, magazine, or ammunition be returned to any individual unless and until such person presents valid identification and written notification from the California Department of Justice that conforms to the provisions of PC § 33865.

The Department 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 Fresno Police Department is not required to retain any firearm, magazine, or ammunition longer than 180 days after notice has been provided to the owner that such items are available for return. At the expiration of such period, the firearm, magazine, or ammunition may be processed for disposal in accordance with applicable law (PC § 33875).

#### **804.26 REQUEST FOR DOJ ANALYSIS**

Members wishing to have a DOJ laboratory examination of any item of evidence shall complete a DOJ Bureau of Forensic Services Form (BFS-4), and submit it to the CSI, along with a copy of the original case report.

- (a) A CSI member shall then check the item(s) out of the PECS and transport same to the DOJ Regional Laboratory for analysis.
- (b) When a case is assigned for follow-up investigation, only the assigned investigator or their designee shall request a DOJ examination.
- (c) The DOJ Laboratory will provide the results of the analysis to the requestor in writing.

#### **804.27 EVIDENCE REQUIRING SPECIAL PROCESSING**

Members who wish to have an item of evidence processed in a special manner (e.g., chemical processing for latent prints, number restoration, etc.) shall:

- (a) Enter the item(s) in FileOnQ, Deliver the item(s), any packaging container(s), and label(s) to the CSI;
- (b) Complete a Request for Identification Services Form specifying the type of processing requested; and
- (c) Specify in their police report any special processing requested (e.g., finger printing, document or DNA processing, etc.).

When CSI members are unavailable, or when there is insufficient temporary storage space for the evidence, members shall book the item into the PECS with a copy of the completed request form and forward the original request form to CSI.

The CSI member who conducts the processing shall prepare an FR describing the results of the processing and the disposition of the evidence.

#### **804.28 RIGHT OF REFUSAL FOR BOOKED PROPERTY / EVIDENCE**

PECS will refuse incorrectly booked property/evidence. When property/evidence is booked incorrectly, the PECS supervisor may be notified and, depending on the severity of the error(s), the following actions may occur:

- (a) The PECS Supervisor or Property Tech will review the problem and contact the person by phone or email who booked the item to make arrangements to have the item booked properly.
- (b) PECS personnel will store the item(s) needing correction in a separate location until the contacted member responds to make the corrections.
- (c) Contacted members shall respond no later than their next workday or when PECS is open next to make the correction(s). Members consistently working during PECS closed hours will need to flex their work schedule to make the correction(s) during PECS open hours.

#### **804.29 INVESTIGATORS RESPONSIBILITIES**

Investigators shall:

- (a) When contacted by person(s) wanting a release of property/evidence:
  - 1) Determine the status of the case, (i.e., Dismissed, on Appeal, FTA);
  - 2) Identify the rightful owner(s) of the property/evidence;
  - 3) Decide if property/evidence can be released; and
  - 4) Advise PECS if the property can be released by appropriate notations in FileOnQ.
- (b) If approved for release, the investigator shall complete the release information in FileOnQ for the individual items, or by Request Monitor for multiple items. The Return to Owner Listed box shall be checked and the owner's information completed in the Owner section. The Save button shall be clicked to save the entry;
- (c) Review their assigned cases that are sent to their unit weekly by FileOnQ and determine if property/evidence may be disposed of using the following guidelines:
  - 1) Cases with property/evidence that have been adjudicated, 90 days past sentencing has lapsed, and no appeals filed;
  - 2) Cases with property/evidence that have been NCF'd with no charges to be re-filed;
  - 3) Cases with property/evidence that have been unfounded; and
  - 4) Cases with property/evidence that have been suspended with no further investigation.
- (d) When a determination has been made to release or dispose of property or evidence, investigators shall make every attempt to identify all property and evidence associated with the case and clear all evidence for release.

#### **804.30 REPORT DOCUMENTATION BY MEMBERS**

When members book property, they shall note in their report the reason(s) why the item(s) was booked to facilitate later case review and evidence disposal.

When booking **cell phones**, members should describe in their report the reason(s) for booking the phone and the necessity for keeping it as '**EVIDENCE**' to facilitate later case review. When cell phones or their contents have no evidentiary value, they should not be booked as evidence. Members shall ensure that cell phones are turned off before booking them.

When booking **bicycles** as evidence, members should describe in their report the reason(s) for booking the bicycle and the necessity for keeping it as evidence to facilitate later case review. When bicycles are found at crime scenes and they are of no evidentiary value in the case (e.g., owner unknown, processed for prints/DNA with negative results, etc.) they should be booked as '**FOUND**' and not evidence.

#### **804.31 DISCRETION WITH BOOKING ITEMS**

When items are not anticipated to be needed for court procedures (i.e., suspect not cited or arrested and the case will not be submitted to the DA for consideration of prosecution), members should use

discretion when considering whether to book an item. The necessity for keeping an item and any evidentiary value in the item should also be considered when determining whether to book an item.

### **805.1 POLICY**

The Department will collect and store photographic evidence in the best manner possible within the limitations of equipment available, conditions of collection, and the time frames of the investigation.

#### **805.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to establish guidelines for the collection, storage and archiving of photographic evidence. In order to be qualified in the future as competent evidence, the protocols in this policy are intended to create a photographic evidence collection system that meets the highest standards possible. This policy is intended to ensure the integrity and security of digital photographic evidence, to include proper processing, storage, distribution, control and dissemination practices.

### **805.2 INTENDED PURPOSE OF DIGITAL IMAGES**

Digital photography and the use of digital imaging technologies shall be the primary collection method used by Fresno Police Department personnel for the following purposes:

- a) The documentation of crime scenes in order to create a visual record of evidence found, and the overall conditions at the scene of crimes; and
- b) The capture and storage of images depicting latent fingerprints, trace evidence and other objects of an evidentiary nature, for comparison or analysis purposes.

All digital images captured as evidence shall be handled, stored, and processed with due regard to the chain of evidence. Any such evidence shall be subject to the guidelines set forth in Policy §810 – Release of Records and Information and the Code of Civil Procedure §129. Official Department photographs, as well as photographs taken by members in the course and scope of their duties, shall not be used, shared, or displayed in any manner other than for official Department business.

Traditional 35mm film photographic evidence may be utilized by CSIB personnel only, when digital imaging equipment becomes inoperative or is otherwise unavailable.

#### **805.2.1 PHOTOGRAPHIC EVIDENCE HANDLING - GENERAL**

Digital images for evidentiary purposes should only be taken with a Department issued camera or tablet. Images captured with a digital camera or tablet are considered original images and are equivalent to a negative in film based photography. Non-CSI digital cameras and tablets should be set at the highest resolution allowed.

Under no circumstances may digital images be deleted in the field. All photographs taken will be preserved regardless of quality, composition or relevance. The contents of any non-department issued device (personal cell phone, camera, etc.) used to take evidentiary photographs may be subject to disclosure and examination pursuant to a court order.

All photographs of evidence or of a crime scene taken in the field shall be part of the case file which is provided to the District Attorney's Office for prosecution purposes.

#### **805.2.2 PHOTOGRAPHIC PROCEDURES**

Prior to taking evidence photographs in a case, the member shall write the following in large print on a 3X5 size card:

- (a) Case number;
- (b) Crime type;
- (c) Date and time;
- (d) Camera number; and
- (e) Name and badge number of the member taking photographs.

A close up photograph of the above described "case ID card" shall be taken at the beginning of each series of photographs for every case. The card's image should fill the camera's view frame. Photographs of a close-up nature should include a ruler or other appropriate item to establish a reference scale.

### 805.2.3 RESPONSE FOR EVIDENTIARY PHOTOGRAPHS

Investigations requiring the response of a CSI technician include the following:

- (a) Homicides, attempt homicides and suspicious deaths;
- (b) Officer involved shootings;
- (c) Rapes; ADW's; robberies; gun violence
- (d) Kidnappings (where a possibility of evidence exists);
- (e) Bombings;
- (f) Fatal or probable fatal vehicle accidents;
- (g) Aircraft accidents; and
- (h) Incidents where there is a probability of future litigation against the City.

CSI should also be used for taking evidentiary photos, and processing crime scenes, under the following circumstances:

- (a) When officers have used force against an individual (injuries or lack of injuries);
- (b) Crimes of violence involving weapons, including ADW, Penal Code §246, etc. (e.g. for collection of shell casings, expended rounds, or edged weapons containing blood evidence);
- (c) Crimes resulting in significant injury or hospitalization;
- (d) Sexual assault with visible injury;
- (e) Child abuse with visible injury;
- (f) Injuries of a sensitive nature;
- (g) Commercial or home invasion robbery;
- (h) Situations in which a personnel complaint has been made or appears likely to be made;
- (i) City vehicle involved collisions; and
- (j) When requested by a sergeant.

Circumstances under which CSI shall respond for photographs include:

- (a) Incidents of domestic violence involving strangulation; and
- (b) Child neglect cases resulting from unsanitary conditions in the household.

Non-CSI members assigned a Department camera or tablet are responsible for taking photographs of evidence related to:

- (a) Property crimes (vandalism, burglary, etc);
- (b) Injuries of a non-sensitive nature, such as obvious bruises, scrapes, cuts, etc., that are the result of domestic violence or other assault;
- (c) Contraband (narcotics, illegally possessed weapons, etc.);
- (d) Recovered property prior to release; and
- (e) Photographs intended to demonstrate lack of injury (not related to use of force by officers).

Investigating members, who request a CSI technician for the purpose of taking photographs in incidents not listed above, shall retain the responsibility for the latent print processing as well as the collection and booking of any other evidence at the scene.

When members are unsure whether or not CSI should respond for photographs, they should contact their immediate supervisor. The supervisor should contact the on-duty CSI supervisor to discuss the circumstances involved and determine the appropriate response.

When CSI responds to crime scenes that require processing for evidence (latent prints, blood samples, etc.), CSI should also take any required evidentiary photographs.

Any crime scenes that require video recording should be handled by CSI. Non-CSI personnel should not utilize their cameras or tablets for video recording of crime scenes. Refer to Policy §450 for guidelines on digital recordings.



### 805.2.3 CRIME SCENE DOCUMENTATION

The purpose of digital photography at a crime scene is to visually document evidence and the crime scene itself. Images captured with a digital camera are original images equivalent to a negative in film-based photography. Under no circumstances may digital images be deleted in the field.

The use of digital photography by field and investigations personnel is intended to document evidence in non-technical cases where the expertise of CSIB personnel is not required.

### 805.2.4 LATENT FINGERPRINTS AND OTHER TRACE EVIDENCE

Photographs of fingerprints and trace evidence for analysis shall be taken by CSIB personnel only. Fingerprints and other trace evidence should be photographed in an uncompressed file format of either TIFF or RAW. Photographs of the crime scene, showing where a fingerprint or other trace evidence was found are only supplemental to images taken for analytical purposes and do not call for more stringent capture requirements for analysis.

## 805.3 STORAGE / TRANSFER / PROCESSING OF DIGITAL EVIDENCE

When possible or practical, all digital evidence will be kept in its original native file format as to not lose any digital information during a conversion process. Forensically processed or clarified evidence may be saved in a different file format, but in all cases, the original source file shall be kept as original evidence.

Digital images captured in relation to an investigation shall be uploaded into the Digital Media Management System (DMMS) via Axon Records. No photographic images will be enhanced, altered or modified prior to entry into DMMS. All photographs taken in the field regardless of evidentiary value shall be downloaded into DMMS and documented in the member's police report.

Under no circumstances should original digital photographs be stored on an employee's Department assigned or personal computer. Digital images may be stored temporarily on a desktop computer to facilitate the process of uploading them into DMMS. Digital copies of evidentiary photographs should not be stored on any shared computers after they have been successfully uploaded into DMMS.

All evidentiary photographs shall be uploaded into DMMS before the end of the member's shift. Prior to deleting any digital images from the camera, members shall verify they were uploaded successfully into the DMMS system. Department personnel using digital photography for evidentiary purposes will document the collection and storage of the photographs in a police report.

Digital photographs may be stored on archival quality CD's and booked into Property and Evidence when a member is unable to successfully upload them into DMMS. When digital photographs are booked into evidence, it shall be documented in the member's police report. Refer to Appendix E for instructions on uploading tablet digital images into DMMS.

## 805.4 MEMBERS ASSIGNED DIGITAL CAMERAS AND/OR TABLETS

Members assigned digital cameras or tablets should take evidentiary photographs during their own investigations, as well as investigations they assist with, provided they meet the criteria for non-CSI response. Members assigned digital cameras or tablets may volunteer to assist other personnel by taking evidentiary photographs for them, but should not be required to respond solely for the purpose of photographs, unless directed by a supervisor. Members will be required to document the collection and storage of evidentiary photographs in a supplemental report when they are not the primary investigator.

Photographs which have been downloaded and/or emailed to a supervisor to be used for the Fresno Police Department Facebook page or End of Watch Report shall be identical to those photographs that were downloaded into DMMS.

## 805.5 REFERENCES

Policy §406 - Crime Scenes and Major Incidents

Policy §450 – Use of Recording Devices

### **806.1 POLICY**

The Records Section will provide timely, accurate criminal history information, crime reports and professional service to Department members, all law enforcement agencies, residents of Fresno, and other legitimate consumers.

#### **806.1.1 PURPOSE AND SCOPE**

The purpose of the Records Section is to act as a central repository for certain Department records which may be accessed by members of the public, law enforcement, government agencies, and other legitimate consumers as appropriate.

### **806.2 REQUISITION OF DEPARTMENT FORMS**

The Records Section maintains a supply of the various forms used by members.

Members needing Departmental forms shall contact a Records Supervisor, who will arrange for the forms to be made available. The requesting party or designee may pick up the forms, when ready, at the Records Section.

Only Records Section personnel shall issue forms from the supply room as directed by the Records Section Commander and/or Records Supervisor.

### **806.3 RECORDS SECTION ACCESS**

Access to the Records Section is restricted to Records personnel only.

**Exception:** When approved, non-assigned personnel may enter the Records Section with an escort by the Records Manager/Supervisor or a Records Clerk.

## Fresno Police Department Policy Manual

# Release of Records & Information

### 810.1 POLICY

Any information possessed by the Department or any member that comes into possession because of the official status as a member of the Department, shall be treated as confidential and shall not be released except as provided herein. These provisions specifically include information available to members from Department files, computer inquiries, and police investigations.

#### 810.1.1 PURPOSE AND SCOPE

The purpose of this section is to establish a comprehensive reference and procedure for the maintenance and release of Department information, reports, and records in accordance with applicable law.

### 810.2 MEMBER ACCESS

Member's access to Department files, reports, documents, procedures, evidence, details of investigations, computer databases, or other confidential information is limited to situations where the information sought assists in the performance of the member's assigned duties. Requests for other uses of this information shall be routed through the member's chain of command. Information may, however, be provided to a member's legal counsel within the confines of the attorney client relationship, but shall not be further disclosed without a court order.

Except as otherwise provided by law or in the Policy Manual, access to or use of the above categories of information for the personal interest or benefit of the member or any other person is prohibited.

Members shall not request or examine vehicle registrations, driver's license history, local criminal history or information from an online database service such as LexisNexis on any individual unless the member can substantiate a legitimate official need to know.

Members shall not transfer, copy, or delete any Department files, reports, documents, procedures, evidence, details of investigations, computer databases, digital photographs, E-mails, or other confidential information upon transfer out of the Department, resignation, or termination. Additionally, any disabled computer accounts will be:

- (a) Purged after two years; or
- (b) Held indefinitely pending investigative needs.

The release of information by the Public Information Officer or other members designated by the Chief of Police or designee to hold news conferences, or otherwise address the public with respect to Department operations, shall be governed by the California Public Records Act (Government Code §6250, et seq.).

### 810.3 CLETS INFORMATION

Members shall not copy or reproduce confidential information obtained from the CLETS system. This includes copying this information verbatim into police reports prepared by the member.

### 810.4 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 the exemptions set forth below in the Act or otherwise established by statute. Public requests for records of this Department shall proceed as follows:

#### 810.4.1 PROCESSING OF REQUESTS

Any member of the public, including the media, may request access to unrestricted records of this Department by submitting a request to the Records Section via mail, in person, or online at [www.fresno.gov/police/records-and-reports/](http://www.fresno.gov/police/records-and-reports/) pursuant to (GC §6253).

Requests for exempted records from involved individuals, their authorized representatives and other agencies are addressed below. The processing of requests is subject to these limitations:

- (a) The authorized receiving employee shall determine if the requested record is available and/or subject to any exemption from disclosure. This determination may take up to 10 days and an additional 14-day extension may be authorized by the Department head or designee [GC §6253(c)].
- (b) The requesting party shall be required to pay in advance any established fee for each record sought [GC §6253(b)]. Victims of certain offenses (e.g., domestic violence, sexual assault, stalking, human trafficking, elder and dependent adult abuse) or their representatives shall be provided, upon request and without charge, one copy of all incident reports, a copy of any accompanying or related photographs of the victim's injuries, property damage, or any other photographs that are noted in the incident report, and a copy of 9-1-1 recordings, if any, pursuant to the requirements and time frames of Family Code § 6228.
- (c) The Department shall not be required to create records which do not otherwise exist in order to accommodate any request under the Public Records Act. When practicable, however, existing records may be copied in such a manner as to provide the requesting party with unrestricted portions of any record.
- (d) When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released.
  - 1) A copy of the redacted release shall be maintained in the case file for proof of what was actually released and as a place to document the reasons for redactions. If the record is audio and/or video, a copy of the redacted audio and/or video released shall be maintained in the department-approved media storage system and a notation should be made in the Public Records Act request log to document the release and the reasons for the redacted portions.
- (e) If a record request is denied in whole or part, the requester shall be provided a written response that includes the statutory exemption for withholding the record or facts that the public interest served by nondisclosure outweighs the interest served by disclosure (GC §6255). The written response shall also include the initials and identification number (e.g., AA/T123) of each person responsible for the denial.

#### 810.5 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:

##### 810.5.1 GENERAL, BODY CAMERA VIDEO CASE AND CRIME REPORTS

Reports or video 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. PC §841.5 makes it a misdemeanor to release confidential victim information to any potential criminal defendant.
- (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 exempted from disclosure.
  - 2) If it has been noted in any report that any individual wishes to protect their 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/Molest (PC §11167.5), Elder Abuse (Welfare and Institutions Code §15633) and Juveniles (WIC §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 GC §6254(f).

#### 810.5.2 ARREST REPORTS

Arrestee information shall be subject to release in the same manner as information contained in other reports as set forth above.

In addition to the restrictions stated above, all requests from criminal defendants and their authorized representatives (including attorneys) shall be referred to the District Attorney, City Attorney or the courts pursuant to PC §1054.5.

#### 810.5.3 CRIMINAL HISTORY INFORMATION

Local summary criminal history information including, but not limited to, arrest history and disposition, fingerprints and booking photos shall only be subject to release to those agencies and individuals set forth in PC §§11105 and 13300. Members without prior training and authorization to access criminal history directly, shall request criminal history information via the Records Section.

Criminal history information is not to be released to any private person for any reason without a court order or authorization from DOJ. Releases on all court orders are to be cleared through the Records Section Commander or designee before the information is released.

Criminal history information shall not be released to anyone who is seeking its use for employment reasons. Criminal history information may be released to authorized investigators conducting criminal investigations only. Members shall ask the reason for the request.

#### 810.5.4 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, other law enforcement agencies and those individuals and their authorized representatives set forth in Vehicle Code §20012.

Traffic Collision reports that are not investigative, involve a crime, (e.g., hit and run or fatal) or involve juveniles may be available at <https://buycrash.lexisnexisrisk.com/ui/home>. Members of the public can reach Records at 559-621-2534 for further assistance or additional information.

All other requests for traffic collision reports shall go through the Records Section.

#### 810.5.5 PERSONNEL RECORDS

Personnel records, medical records and similar records which would involve an unwarranted invasion of personal privacy shall not be made public, except as allowed by law (GC §6254 PC §832.7; PC §832.8; Evidence Code §1043 et seq).

Peace officer personnel records that are deemed confidential (PC §832.7, et seq.) shall not be made public or otherwise released to unauthorized individuals or entities absent a valid court order (EC 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. These records are kept secure in the Personnel Bureau. See Policy §1026 for the specific process of the release of personnel records.

#### 810.5.6 POLICY AND PROCEDURE RELEASES

Policy and procedures are confidential documents and not subject to general public release. All requests for release of policy and procedure shall be routed through the Department's Legal Advisor/CAO for approval. Upon approval from the Department's Legal Advisor/CAO, the request will be routed to the Policy & Procedures Unit for preparation of the approved documents.

**Note:** Department legal counsel (City and contracted) and outside law enforcement agencies may be exempted from the above restrictions with approval from the Chief of Police.

#### 810.5.7 CONCEALED WEAPONS PERMITS (CCW)

Information contained in CCW permit applications or other files which would tend to reveal where the applicant is vulnerable, or which contains medical or psychological information shall not be made public [GC §6254(u)].

#### 810.6 RELEASE OF AUDIO OR VIDEO RECORDINGS RELATED TO CRITICAL INCIDENTS

Video and audio recordings related to critical incidents shall be released upon a proper public record request and subject to delayed release, redaction, and other release restrictions as provided by law (GC §6254(f)(4)).

For purposes of this section, a video or audio recording relates to a critical incident if it depicts an incident involving the discharge of a firearm at a person by an officer, or in which the use of force by an officer against a person resulted in death or in great bodily injury (as defined by PC §243(f)(4)) (GC §6254(f)(4)).

The Chief of Police should work as appropriate with the Internal Affairs Bureau (IAB) Commander, with input from the City Attorney's Office (CAO), in determining what recordings are subject to disclosure when a request for a recording is received and if the requested recording is subject to delay from disclosure, redaction, or other release restrictions.

##### 810.6.1 DELAY OF RELEASE

Disclosure of critical incident recordings during active criminal or administrative investigations may be delayed as follows if disclosure would substantially interfere with the investigation, such as by endangering the safety of a witness or a confidential source:

- (a) Disclosure may be delayed up to 45 days from the date the Department knew or reasonably should have known about the incident.
- (b) Delay of disclosure may continue after the initial 45 days and up to one year if the Department demonstrates that disclosure would substantially interfere with the investigation.
- (c) Any delay of disclosure longer than one year must be supported by clear and convincing evidence that disclosure would substantially interfere with the investigation (GC §6254(f)(4)).

##### 810.6.2 NOTICE OF DELAY OF RELEASE

When there is justification to delay disclosure of a recording, the IAB Commander shall provide written notice to the requester as follows (GC §6254(f)(4)):

- (a) During the initial 45 days, the IAB Commander shall provide the requester with written notice of the specific basis for the determination that disclosure would substantially interfere with the investigation. The notice shall also include the estimated date for the disclosure.
- (b) When delay is continued after the initial 45 days, the IAB Commander shall promptly provide the requester with written notice of the specific basis for the determination that the interest in preventing interference with an active investigation outweighs the public interest in the disclosure, and the estimated date for the disclosure. The IAB Commander should work with the Chief of Police in reassessing the decision to continue withholding a recording and notify the requester every 30 days.

Recordings withheld shall be disclosed promptly when the specific basis for withholding the recording is resolved.

##### 810.6.3 REDACTION

If the IAB Commander, in consultation with the Chief of Police or authorized designee, and the CAO, determines that specific portions of the recording may violate the reasonable expectation of privacy of a person depicted in the recording, the Department should use redaction technology to redact portions of recordings made available for release. The redaction should not interfere with the viewer's ability to

fully, completely, and accurately comprehend the events captured in the recording, and the recording should not otherwise be edited or altered (GC §6254(f)(4)).

If any portions of a recording are withheld to protect the reasonable expectation of privacy of a person depicted in the recording, the IAB Commander shall provide in writing to the requester the specific basis for the expectation of privacy and the public interest served (GC §6254(f)(4)(B)(i)).

#### **810.6.4 RECORDINGS WITHHELD FROM PUBLIC DISCLOSURE**

If the reasonable expectation of privacy of a person depicted in the recording cannot adequately be protected through redaction, and that interest outweighs the public interest in disclosure, the Department may withhold the recording from the public, except that the recording, either redacted or un-redacted, shall be disclosed promptly, upon request, to any of the following (GC §6254(f)(4)(B)(ii)):

- (a) The person in the recording whose privacy is to be protected or their authorized representative.
- (b) If the person is a minor, the parent or legal guardian of the person whose privacy is to be protected.
- (c) If the person whose privacy is to be protected is deceased, an heir, beneficiary, designated immediate family member, or authorized legal representative of the deceased person whose privacy is to be protected.

If the Department determines that this disclosure would substantially interfere with an active criminal or administrative investigation, the IAB Commander shall provide the requester with written notice of the specific basis for the determination and the estimated date of disclosure (GC §6254(f)(4)(B)(iii)).

The Department may continue to delay release of the recording from the public for 45 days with extensions as provided in this policy (GC §6254(f)(4)(A)).

#### **810.7 OTHER RECORDS**

Any other record not addressed in this policy shall not be subject to release where such record is exempted or prohibited from disclosure pursuant to state or federal law, including, but not limited to provisions of the EC relating to privilege [GC §6254(k)].

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 (GC §6255).

Any record which was created exclusively in anticipation of potential litigation involving this Department shall not be subject to public disclosure [GC §6254(b)].

When release of a record is questionable, members shall route the request to the Legal Advisor/[CAO](#).

#### **810.8 SUBPOENA DUCES TECUM**

Any Subpoena Duces Tecum should be promptly provided to a supervisor, or authorized designee, 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 or appearance.

All questions regarding compliance with any Subpoena Duces Tecum should be promptly referred to the Legal Advisor/[CAO](#) so that a timely response can be prepared.

#### **810.9 RELEASE OF INFORMATION TO HOUSING AUTHORITY**

The Patrol Division Commander shall designate a member to act as the Housing Authority Liaison Officer (HALO). Pursuant to PC §11105.03, the HALO may release criminal history information to the Housing Authority. Releasable information includes only those sections described in PC §11105.03 for which the subject was convicted within the last ten years during which time they were 18 years of age or older.

Information is confidential and may only be released to the Housing Authority Director or designee. The HALO shall maintain a secure file system containing a record, including any printouts, of each criminal history request and response. Files shall be maintained for a period of three years.

### **810.10 SECURITY BREACHES**

The Information Services Manager shall ensure notice is given anytime there is a reasonable belief an unauthorized person has acquired either unencrypted personal identifying information or encrypted personal information along with the encryption key or security credential stored in any Department information system (Civil Code §1798.29).

Notice shall be given as soon as reasonably practicable to all individuals whose information may have been acquired. The notification may be delayed if the Department determines that notification will impede a criminal investigation or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

For the purposes of this requirement, personal identifying information includes an individual's first name or first initial and last name in combination with any one or more of the following:

- (a) Social Security number;
- (b) Driver license number or California identification card number;
- (c) Account number or credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual's financial account;
- (d) Medical information;
- (e) Health insurance information;
- (f) A username or email address, in combination with a password or security question and answer that permits access to an online account; and
- (g) Information or data collected by Automated License Plate Reader (ALPR) technology.



## Fresno Police Department Policy Manual

# Criminal Offender Record Information (CORI)

### 812.1 POLICY

Members are authorized to access criminal history systems only when the member has both a right to know and a need to know.

#### 812.1.1 PURPOSE AND SCOPE

This policy provides guidelines for the release of criminal offender information, security of that information, and persons authorized to release that information.

#### 812.1.2 AUTHORITY

This policy is established pursuant to the mandate of the Regulations Regarding Security of Criminal Offender Record Information in California, Title 11, California Administrative Code. Other authority includes Penal Code §11105, which delineates who has access to Criminal Offender Record Information (CORI), and PC §§11140 through 11144, which establishes penalties for the improper use of rap sheets.

### 812.2 DEFINITIONS

**Authorized Recipient** - Any person or agency authorized by court order, statute or case law to receive CORI.

**Criminal Justice Agency** - A public agency or component thereof which performs a criminal justice activity as its principal function.

**Criminal Offender Record Information (CORI)** - Includes CII manual/automated rap sheets and abstracts, CII crime summaries, CII criminal history transcripts, FBI rap sheets, and any FPD documents containing a list of prior arrests.

**Need to Know** - A necessity exists to obtain CORI in order to execute official responsibilities.

**Right to Know** – A persons or agencies authorized by court order, statute or decisional case law to receive the information.

### 812.3 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.

#### 812.3.1 CRIMINAL RECORD SECURITY OFFICER

The Records Manager is the designated Criminal Record Security Officer for the Fresno Police Department. The commander is responsible for ensuring compliance with this policy 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.

### 812.3.2 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 Manager
- (c) Fulltime employees of the Records Bureau
- (d) Personnel specifically designated in writing by Division Commanders with the concurrence of the Criminal Records Security Officer

### 812.3.3 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 be transmitted by radio broadcast or through computer terminals to field personnel or vehicles. Nothing in this policy is intended to prohibit broadcasting warrant information concerning wanted persons.

### 812.4 JUVENILE RECORDS

Nothing in this policy 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 §324 for more specific information regarding cases involving juveniles.

### 812.5 REVIEW OF CRIMINAL OFFENDER RECORD

PC §§11120 through 11127 provide the authority and procedure whereby an individual may review their 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.

### 812.6 PROTECTION OF CORI

CORI shall be stored in the Records Bureau where constant personnel coverage will be provided. CORI stored elsewhere shall be secured in locked desks, locked file cabinets, or in locked rooms. Direct access to CORI stored in the Records Bureau shall be restricted to the Records Bureau personnel authorized to release it. Direct access to CORI stored in desks, file cabinets, and rooms outside the Records Bureau shall be restricted to those persons who possess both the right to know and the need to know the information.

#### 812.6.1 COMPUTER TERMINAL SECURITY

Computer terminal equipment capable of providing access to CORI is located in the Records Bureau, the Communications Center and in the Investigation Bureau to preclude access by unauthorized persons. No member shall be authorized to operate computer terminal equipment with access to CORI until the operator has completed the appropriate training.

With the introduction of AXON Respond to the agency, officers now have the ability to access Criminal Justice Information (CJI) (Criminal History) from their mobile terminals. Officers and detectives must take necessary precautions to protect CJI in any environment, just as the agency does. When CJI is transmitted outside the boundary of the physically secure location, the user must use Cisco Anyconnect to connect to the agency's network before transmitting any data. This will ensure that any data that is transmitted will be encrypted.

#### 812.6.2 DESTRUCTION OF CORI

When any document providing CORI has served the purpose for which it was obtained, it shall be destroyed by shredding. Each member shall be responsible for destroying the CORI documents they receive.

### **812.7 TRAINING PROGRAM**

Members 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.

### **812.8 PENALTIES FOR MISUSE OF RECORDS**

PC §§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 CORI in California may lose direct access to CORI maintained by the California Department of Justice.

Divulging the content of any criminal record to anyone other than authorized personnel is a violation of Policy §341.27. Members 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 are in violation of Policy §341.27.

**Fresno Police Department  
Policy Manual**

**Chapter 9: Custody**

### **900.1 POLICY**

The Department shall maintain the custody of prisoners in accordance with the laws as established by the California Department of Corrections and Rehabilitation.

#### **900.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide guidance for securing and maintaining custody of persons in temporary holding cells.

### **900.2 DEFINITIONS**

**Temporary Holding Cell** - Any physical space used for detaining, processing, questioning, or testing of prisoners.

**Prisoner** - An arrestee, detainee, or other person that is lawfully in the custody of a Department member.

### **900.3 SUPERVISION OF PRISONERS**

Any member who places a prisoner into a temporary holding cell shall maintain or arrange for supervision of that person and be accountable for the safety, custody, and care of the prisoner while on the premises.

Prisoners shall have access to water and restroom facilities as mandated by law, while they are in the temporary holding cell.

#### **900.3.1 SEARCH / WANDING OF PRISONER(S)**

Prior to placing a prisoner in a temporary holding cell the prisoner shall be searched.

Primary responsibility for searching prisoner(s) rests with the transporting member who delivered the prisoner to HQ/Prisoner Processing Section.

Members shall pat search and utilize a metal detector to wand every prisoner prior to entering the Prisoner Processing Section. This will occur inside the fenced area of the Prisoner Processing Section and prior to members securing their firearms and edged weapons. After the prisoner has been searched, wanded, walked through the stationary metal detector and has entered the Prisoner Processing Section, they shall be placed into a temporary holding cell.

#### **900.3.2 SECURITY INSPECTION OF TEMPORARY HOLDING CELL**

Prior to placing a prisoner into, and after removal from the temporary holding cell, members shall conduct an inspection of the cell.

#### **900.3.3 ORTHOPEDIC / PROSTHETIC APPLIANCES**

Prisoners will be allowed to keep prescribed orthopedic or prosthetic appliances, including hearing aids and glasses, unless there is an immediate risk of bodily harm to any person or the security of the facility. Appliances removed from prisoners shall be returned when the risk of bodily harm or security risk no longer exists, they are released, or transported to another facility.

### **900.4 SECURING A PRISONER TO A FIXED OBJECT**

A prisoner may only be secured to a fixed object when there are no other suitable methods of detention available, and only to an object that is specifically designed and intended for that use (e.g., McLane H.S. SRO office fixed post).

A prisoner secured to a fixed object shall not remain secured in that position for more than two hours and they shall be under constant supervision. See Policy §324 for time limits when securing juveniles to a fixed or stationary object.

### **900.5 NON-CONTACT REQUIREMENTS BETWEEN ADULT AND JUVENILE PRISONERS**

There shall be no contact (verbal, non-verbal, or visual communications) between juveniles held in temporary custody (either non-secure or secure detention) and adult prisoners.

California Code of Regulations, Title 15, Article 9, Section 1144, specifies situations in which a juvenile and an adult prisoner may be in the same room, area, or corridor. This may occur only if the member maintains a side-by-side presence with the juvenile to ensure that no communications occur between the juvenile and adult prisoner. The contact shall be limited to the following as it relates to the Fresno Police Department:

- (a) Booking; and
- (b) During the movement of prisoners within Department facilities.

### **900.6 DETENTION OF JUVENILES**

#### **900.6.1 TEMPORARY DETENTION OF JUVENILES**

When a member takes a juvenile into custody, that juvenile must be handled in a different manner than adults. Policy §324 is incorporated as a part of this Manual and should be consulted regarding the policies for the temporary custody of juveniles.

#### **900.6.2 SECURE DETENTION OF JUVENILES**

Juveniles requiring secure detention shall be placed in the temporary holding cells located in the Street Violence Bureau Detective offices. Officers shall retrieve the key to the temporary holding cells and the secure detention log from the SVB Night Detective Office.

Officers will be responsible for the following:

- (a) Completion of all appropriate entries on the detention log;
- (b) Maintaining constant auditory contact with any juvenile;
- (c) Performing random visual checks of any person detained within a cell at least once every 15 minutes (which must be noted by officers writing their initials on the log);
- (d) Ensuring that juveniles are not detained longer than six hours for any reason;
- (e) Restricting contact between juveniles and adults in accordance with Welfare & Institutions Code §208; and
- (f) Informing the juvenile of the reason for secure detention and the expected length of the detention.

Officers shall provide written justification in their police report when they place a juvenile in secure detention.

#### **900.6.3 SEPARATION OF MALE AND FEMALE JUVENILES**

Male and female juveniles shall not be placed in the same temporary holding cell or interview room unless they are under constant, in-person, observation by an officer.

### **900.7 OFFICERS' DUTIES AT THE SVB INTERVIEW ROOMS**

#### **900.7.1 INTERVIEWS / INTERROGATIONS**

Prior to conducting an interview / interrogation, officers shall ensure that only those items necessary to safely conduct the interview / interrogation remain inside the location. In-custody suspects shall be secured to the restraint devices installed in the interview room. In-custody suspect interviews/ interrogations shall not be conducted in the Homicide Unit.

To prevent the appearance of a coercive effect during lengthy interviews, officers conducting interviews should:

- (a) Provide reasonable breaks as needed;
- (b) Provide water and/or food as appropriate; and
- (c) Inform the interviewee that they have access to restrooms and water if needed.

When the interview will last over three (3) hours, officers shall provide food if requested.

#### 900.7.2 SECURITY CONCERNS

Assisting officers shall monitor all interviews for security and safety unless there are two interrogators present during the interview. Due to the size of the interview rooms and for security purposes, it is recommended that only a total of three persons be in the room while conducting the interview. If there is a need to have more people assisting with the interview, (e.g., interpreters) then a larger room will be used. Members shall frequently monitor any unattended detainees / interviewees that are secured within an Interview Room.

#### 900.8 MEMBERS' DUTIES AT THE CSIB TEMPORARY HOLDING CELLS

Any in-custody prisoner transported to the CSIB shall remain under the control and supervision of the arresting/transporting officer until the prisoner is released from custody or transported to FCJ. Any prisoner brought into the CSIB for identification verification or processing purposes shall be accompanied by a minimum of two personnel. This includes sworn officers, Cadet II's, or Criminology 108 Reserves. Both personnel shall remain with the prisoner at all times during the identification process to provide prisoner security for Identification personnel and Department members. While at CSIB the officer's duties shall include:

- (a) Documenting the reason, date/time in and out of the facility, and any meals provided;
- (b) Maintaining constant supervision of prisoners within the CSIB;
- (c) Maintaining control of unruly or combative prisoners as necessary to prevent physical harm to themselves or others;
- (d) Walking the prisoner through the stationary metal detector located in the holding cell area;
- (e) Visually inspect prisoners every 30 minutes for signs or symptoms which would result in the need for immediate medical or mental health attention and document observation time and initial on the Fresno Police Department Adult Prisoner Log;
- (f) Visually inspect all cells both prior to placement and after removal of a prisoner from a cell;
- (g) Ensure persons entering the CSIB are in compliance with weapons restrictions; and
- (h) Ensure that prisoner property is properly disposed of (e.g., returned to prisoner after being cited or released, accompanies prisoner to FCJ, etc.)

Members transporting prisoners from FCJ to HQ at the request of Detectives shall take the prisoner directly to the temporary holding cells located on the ground floor near the SVB work area and interview rooms.

#### 900.9 SECURITY IN PRISONER PROCESSING SECTION / TEMPORARY HOLDING CELLS

Any prisoner brought into the Prisoner Processing Section for identification verification or processing purposes shall be accompanied by a minimum of two field personnel. This includes sworn officers, Cadet II's, or Criminology 108 Reserves. Both personnel shall remain with the prisoner at all times during the identification process to provide prisoner security for Prisoner Processing Section personnel and Department members.

##### 900.9.1 PRISONER ACCESS

Only members, authorized personnel, or prisoners shall be allowed access to the temporary holding cell areas.

Juvenile prisoners shall not be brought into contact with adult prisoners or the adult temporary holding cell area.

Members from the public who are on a Department tour may only access the temporary holding cell area when there are no prisoners and only with permission of the on duty Crime Scene Bureau Supervisor. Persons on ride-a-longs are exempt from this restriction.

## **900.10 IN-CUSTODY HEALTH SCREENING QUESTIONS**

The following questions shall be asked by the member completing the arrest report to determine an arrestee's need for medical / mental health assistance.

- (a) Are you currently sick or under a doctor's care?
  - 1) Evaluate for emergency medical needs. Note responses on the arrest details portion of the arrest tag and notify CSIB and jail personnel.
- (b) Do you have any communicable diseases such as Tuberculosis or Hepatitis?
  - 1) If 'yes', note responses on the arrest details portion of the arrest tag and notify CSIB and jail personnel.
- (c) Do you have lice, crabs, or scabies?
  - 1) If 'yes', note responses on the arrest details portion of the arrest tag and notify CSIB and jail personnel.
- (d) Do you feel like harming yourself?
  - 1) Carefully evaluate need for WIC 5150 using observations and subject's response (see Suicide Prevention below for details).
- (e) Have you ever been diagnosed as being developmentally disabled?
  - 1) If "yes", note responses on the arrest details portion of the arrest tag and notify CSIB and jail personnel.

### **900.10.1 EMERGENCY FIRST-AID**

Department approved first-aid kits shall be available for use in the CSIB. CSIB personnel will inspect and maintain first-aid kits and replenish supplies as needed.

### **900.10.2 SUICIDE PREVENTION OF ARRESTEES IN CUSTODY**

The arresting officer should be alert to potential symptoms based upon exhibited behavior that may indicate the arrestee is a suicide risk.

The officer shall notify a supervisor if they believe the arrestee may be a suicide risk. The officer will arrange for transportation to a mental health facility for evaluation or to FCJ and arrange for the booking of the arrestee, providing the arrestee meets the intake criteria. The arrestee shall be under constant supervision until the transfer is completed.

## **900.11 TIME LIMITATION**

It is the policy of the Fresno 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. A prisoner shall have continuous supervision by a member when they are held in a temporary holding cell.

When a prisoner is detained in excess of 6 hours, they shall be offered a meal. If the detainee chooses to accept a meal, it shall be purchased from a local restaurant the Department has contracted with to provide these services (See Policy §600 – Investigation and Prosecution).

## **900.12 ARRESTEE PHONE CALLS**

Both juvenile and adult arrestees have the right to make telephone calls prior to booking under the provisions of Penal Code §851.5. Refer to Policy §§355 – Custody of Adults and 324 – Temporary Custody of Juveniles for additional requirements. The right of arrestees to make phone calls is also referenced in RCTB 13-08.

## **900.13 USE OF RESTRAINT DEVICES**

Arresting officers shall use only those restraining devices authorized by policy when deemed necessary for the safety of the arrestee and/or members. When safe or practical, restraint devices should be removed while prisoners are secured in a temporary holding cell, to allow freedom of movement within the cell. Arrestees with leg restraint devices applied shall be monitored for signs/symptoms of positional asphyxia as referenced in RCTB 99-14.



**900.14 WEAPONS CONTROL**

Members shall be required to secure all firearms and edged weapons in the secured lock boxes, located in the locked fenced area of the sally port, CSIB main office and in SVB, prior to entering the temporary holding cell areas and SVB Interview Rooms.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**900.18 FIRE PREVENTION, EVACUATION & SUPPRESSION PLAN**

Pursuant to Health & Safety Code §13146.1 and CCR Titles 19 and 24, all temporary holding cells will meet or exceed state fire code standards. All temporary holding cells will be subject to annual inspection to ensure compliance. A copy of the inspection report will be retained in the Investigative Services Division office. The inspection shall include the following:

- (a) All exits and fire escapes are properly maintained, illuminated with appropriate signs, and free of obstructions;

- (b) Supervisory personnel are continually on duty and effective provisions are made to remove occupants in case of fire or other emergencies;
- (c) All first-aid, fire fighting equipment, and fire extinguishing equipment is properly located and maintained;
- (d) An automatic fire suppression system is properly maintained and working; and
- (e) Fire drills that are conducted quarterly for each shift.

In addition, the Department shall ensure that at least one person is on duty who meets the training standards established for general fire and life safety specific to the facility.

All persons responsible for prisoners held in temporary holding cells shall be made aware of the fire & evacuation safety plans and receive training in prisoner searching and transportation techniques during the new officer orientation and police training program.

#### **900.19 STATE SECURITY HOLDING FACILITY AUDIT**

A security inspection of the temporary holding cell areas shall be conducted by the Department of Corrections or their designee to ensure the Department complies with Local, State and Federal regulations. A copy of the most recent inspection report is available from the shift supervisor in the Crime Scene Bureau.

##### **900.19.1 ADMINISTRATIVE REVIEW**

The department will ensure an administrative review of temporary detention areas and procedures is conducted at least once every three years.

### **901.1 POLICY**

Members shall seek the mode of transportation which provides the most efficient response while ensuring adequate security for the type of prisoner(s) involved. The number of prisoners transported at any one time shall not exceed the manufacturer's suggested occupancy rate of the vehicle.

**Note:** Transportation requests from outside agencies must be approved by the On-Duty Supervisor responsible for the transportation wagons / vehicles.

#### **901.1.1 PURPOSE AND SCOPE**

It is the purpose of this policy to establish guidelines for the safe and efficient transportation of prisoners.

### **901.2 DEFINITIONS**

**Prisoner** – An arrestee, detainee, or other person that is lawfully in the custody of a Department member.

### **901.3 TRANSPORTING OF PRISONERS**

#### **901.3.1 MALE PRISONERS**

Male prisoners shall be transported in security vehicles to the extent it is practical.

It is permissible to transport males in transportation wagons/vans when:

- (a) There are multiple prisoners;
- (b) When the prisoner is violent;
- (c) When the prisoner is extremely dirty; or
- (d) When approved by the On-Duty Supervisor responsible for the transportation wagons/vehicles.

#### **901.3.2 FEMALE PRISONERS**

Female prisoners shall be transported in security vehicles to the extent it is practical.

Transportation wagons/vans may be used under the same circumstances as provided for males.

Male Department members transporting females (prisoners and non-prisoners alike) shall, prior to moving their vehicle from the location of the pick-up, give the ESD a mileage check and receive a time check as acknowledgment. On arrival at their destination, the transporting member shall give the ESD the arrival mileage and shall be acknowledged with an arrival time check.

#### **901.3.3 JUVENILE PRISONERS**

The same guidelines listed in this policy which govern the transportation of adult prisoners shall apply to the transportation of juvenile prisoners.

#### **901.3.4 TRANSGENDER PRISONERS**

Transgender prisoners will be transported alone in security vehicles to the extent it is practical. In situations with multiple prisoners, mass arrests, or where individual transport is not practical, transgender prisoners will be transported by gender classification. Refer to Policy §455.

#### **901.3.5 SEPARATION OF MALES / FEMALES / JUVENILES**

Male prisoners may only be transported with female prisoners in vehicles equipped with separate compartments that allow for no contact between separated prisoners.

**Exception:** Combinations of related prisoners such as father/daughter, mother/son, husband/wife, boyfriend/girlfriend, brother/sister, etc., may be transported together when they were together at the same incident leading to their arrests.

#### **901.4 MEMBER / PRISONER SEPARATION**

For safety reasons and to reduce escape attempts, prisoners shall not be transported in the front of a prisoner transport vehicle (e.g. patrol unit or transportation wagon / van).

All prisoners shall be seated behind the protective screen in the secured seated area where they may be observed by the transporting Department member(s). The Department member(s) shall be seated in front of the protective screen portion of the vehicle (e.g. driver in driver's seat, and if applicable, assisting officer in the front passenger seat).

**Exception:** With supervisor approval, a prisoner may be transported in other than secured areas within the vehicle where this is the most efficient and safe way to transport the prisoner (e.g., where the age of the prisoner or physical condition would limit their ability to safely enter the rear prisoner transport compartment of the vehicle and there is no other practical mode of transportation).

A prisoner may only be transported in the rear passenger seat of an uncaged vehicle (e.g. plain vehicle) when another sworn member is sitting next to the prisoner and there is no other practical mode of transportation.

#### **901.5 RESPONSIBILITY DURING TRANSPORT / DELIVERY OF PRISONERS**

Members are responsible for the safe delivery of prisoners and the prisoner's property under the member's control. Members shall exercise due care and caution in transporting and processing prisoners to prevent personal injury or property loss by any prisoner for whom they are responsible.

**Note:** When any arrest is made, it will be the responsibility of the arresting member to standby with their prisoner once delivered to FCJ/JJC, unless alternate arrangements are made / authorized by the On-Duty Supervisor responsible for the transportation wagons/vehicles.

Personal property belonging to a prisoner which is not booked as evidence shall be taken from them by the arresting officer or designee at the time of arrest and prior to transportation. Additionally:

- (a) This property shall be put in a prisoner property envelope.
- (b) A prisoner's money shall be placed in a prisoner money envelope.
- (c) The spaces on the envelopes shall be thoroughly completed, including the arrestee's signature.
- (d) When an arrestee refuses to sign the envelope, the member shall write Refused To Sign on the signature line.
- (e) The envelopes shall be delivered to the FCJ booking officer.

Any property belonging to an arrestee that is not accepted by the FCJ booking officer shall be booked into the PECS.

- (a) Members booking property from a prisoner into the PECS shall give a copy of the Property for Safe Keeping Receipt to the prisoner before they are booked.

A brief description of all property removed from the suspect shall be included in the Arrest Report.

#### **901.6 SEARCH & ADMONISHMENT OF PRISONER(S) PRIOR TO TRANSPORT**

Extreme care will be used in the search incident to arrest of a person before placing the person in a police vehicle. Absent exigent circumstances, members shall utilize a Department issued metal detecting wand to search all prisoners prior to placing them in a police vehicle. When practical, members shall provide an admonition to prisoners advising them that they will be charged with a felony if they take a weapon into a jail facility. The search and admonition should be recorded with a body camera when feasible.

Members receiving custody of a prisoner from another member/agency shall thoroughly search the prisoner before placing them in a transportation wagon/van or a patrol unit.

### **901.7 TRANSPORTING PRISONERS WITHOUT DELAY**

Members transporting prisoners shall:

- (b) Proceed directly to their destination as soon as circumstances allow;
- (c) Not engage in traffic pursuits, make traffic stops, or respond to any calls except other transportation calls;
- (d) Not make unscheduled stops during the prisoner transport, except in those emergency situations which require immediate police action; and
- (e) Deliver them to their appropriate destination as soon as practicable.

When the transporting member identifies a situation necessitating police action, they shall notify ComCen of the problem.

### **901.8 ARRIVAL AT HQ WITH PRISONER(S)**

Members and authorized persons who have access to temporary holding cells shall secure all firearms and edged weapons in the secured lock boxes in the fenced area of the Prisoner Processing Section or in the SVB prior to entering.

When members are transporting prisoners to HQ, the ramp entrance to the Prisoner Processing Section shall be used.

- (a) All prisoners shall be detained in the temporary holding cells until they are processed or delivered directly to the custody of a detective.
- (b) The back (West) stairway shall be used to move prisoners from Prisoner Processing to HQ detective's offices.

#### **901.8.1 PARKING ON RAMP**

Department vehicles SHALL NOT be parked along the ramp entrance or adjacent to the trash receptacles during 0500-0630 hours daily.

During all other times, members may park their vehicles on the ramp temporarily when engaged in the delivery/pick up of prisoners, when booking evidence, or obtaining equipment and/or supplies from the PECS.

### **901.9 SEARCH OF PRISONER(S) AT HQ / PRISONER PROCESSING**

Primary responsibility for searching prisoner(s) rests with the transporting member who delivered the prisoner to HQ or the Prisoner Processing Section.

Members shall pat search and utilize a metal detector to wand every prisoner prior to entering the Prisoner Processing Section.

- (a) This will occur inside the fenced area of the Prisoner Processing Section and prior to members securing their firearms and edged weapons.
- (b) After the prisoner has been searched, wanded, walked through the stationary metal detector and has entered Prisoner Processing, they shall be placed into a temporary holding cell.

### **901.10 IDENTIFICATION OF TRANSPORTED PRISONER(S)**

Prior to transferring prisoners from Prisoner Processing to FCJ/JJC, transporting members shall make every attempt to affirm the prisoner's proper identity, and ensure that the AR/JAR is completed. Proper identification will be verified by:

- (a) Prisoners verbally providing their identity;
- (b) The physical appearance of prisoners being the same as the physical description in RMS;
- (c) The photo ID from a prisoner's property matches the prisoner;
- (d) The mug photo matches the prisoner; or

- (e) Identification by the arresting member or Crime Scene Investigation Section personnel who processed the prisoner.

Where practical, multiple steps to identify a prisoner should be utilized prior to releasing or transferring them to FCJ/JJC. Transporting members shall also ensure that the prisoner processing, where appropriate, has been completed.

When transporting a prisoner from another agency to a Fresno Police Department facility, the transporting member will attempt to confirm the identity of the prisoner with the agency personnel releasing the prisoner to their custody prior to transport.

### **901.11 PRISONER TRANSPORTS TO FCJ / JJC**

When a member transports a prisoner(s) to FCJ / JJC, they are responsible for the safety and security of the prisoner(s) until they are turned over to the receiving agency.

Upon arrival at the receiving agency, Department members will:

- (a) Secure their firearm and other weapons where required in an authorized gun locker;
- (b) Remove the restraining devices only after prisoner is secured in the facility but prior to placing them in a holding cell;
- (c) Provide the receiving agency with required report forms, arrest records, medical records when appropriate, and court documents; and
- (d) Advise the receiving agency of any medical hazards and security risk or escape potential.

#### **901.11.1 COMBATIVE PRISONERS TRANSPORTS**

Should members need to transport a medically cleared combative prisoner to HQ or FCJ/JJC who they cannot safely transport in a patrol vehicle, they should consider using a transport wagon/van and utilize auxiliary restraint devices (See Policy §306). Only Department approved devices may be used and any person in auxiliary restraints should be monitored during transport as reasonably appears necessary. Members utilizing auxiliary restraint devices on a combative prisoner should also;

- (a) Contact a supervisor prior to applying the auxiliary restraints for approval;
- (b) Once applied, absent a medical or other emergency, restraints should remain in place until the member arrives at the jail or other facility or the person no longer reasonably appears to pose a threat; and
- (c) Once secured, the person should be placed in a seated or upright position, and shall not be placed on their stomach, as this could reduce the person's ability to breathe (e.g. "positional asphyxia");

Upon arrival at the FCJ/JJC, members shall inform the staff that auxiliary restraints were used. This notification should include information regarding any other circumstances the member reasonably believes would be potential safety concerns or medical risks to the prisoner (e.g., prolonged struggle, extreme agitation, impaired respiration) that may have occurred prior to, or during transportation to the jail. The member who utilized the restraints shall also document the use per Policy §306.

#### **901.11.2 DISRUPTIVE/COMBATIVE PRISONERS INSIDE FCJ/JJC**

When encountering a prisoner who becomes disruptive / combative towards officers or other prisoners during the booking process, members shall request immediate processing for the prisoner from Jail staff. For officer safety and civil liability reasons, absent an emergency circumstance, members shall not utilize unmonitored rooms, such as the Intoxilyzer Room, to separate combative or disruptive prisoners.

### **901.12 RESTRAINT OF PRISONERS**

#### **901.12.1 HANDCUFFS**

Refer to Policy §306

#### **901.12.2 LEG RESTRAINT (I.E. "RIPP" HOBBLE RESTRAINT)**

Refer to Policy §306

### 901.12.3 TEMPORARY PLASTIC RESTRAINING STRAPS

When a large number of persons are arrested at one location, they may be handcuffed with plastic restraints (e.g. Flex Cuffs) available from the PECS. Suspects arrested in this manner should be restrained with their hands behind their back, with the wrists crossed and the palms facing outward. Caution should be taken to ensure that the straps are adjusted to restrict movement and prevent removal with allowance for adequate circulation. Refer to Policy §306

### 901.12.4 EXPECTORANT SHIELD (I.E. SPIT HOOD/MASK)

When a prisoner attempts to bite and/or spit on members the Department approved expectorant shield may be used to protect the safety of the member. Refer to Policy §306.

### 901.12.5 SEATBELTS

All prisoners shall wear available safety restraints while the vehicle is in motion unless physical conditions would prevent such from being applied.

## 901.13 PRISONER COMMUNICATIONS

Prisoners may, at the Department member's discretion, be allowed to talk briefly with family or significant others at the scene of their arrest to make necessary arrangements for the control of property, vehicles, etc.

Delays or special concessions for prisoners to communicate with attorneys, family members or others will not be made during transportation.

## 901.14 VEHICLE INSPECTION

Department members assigned to prisoner transportation duties shall inspect prisoner transportation vehicles for weapons, contraband, and evidence, prior to transporting any prisoners and after transporting any prisoner.

## 901.15 PRISONER ESCAPES

When a prisoner escapes custody during transportation the Department member will:

- (a) Immediately notify ComCen providing a description, location and direction of travel and any other information necessary for a search for the prisoner and any accomplices;
- (b) Notify a field supervisor; and
- (c) Take reasonable steps to locate the prisoner including, but not limited to:
  - 1) Assignment of appropriate perimeter positions;
  - 2) An organized search in the immediate area; and
  - 3) Request assistance from K-9 units and air support where available.

### 901.15.1 ESCAPE REPORTING REQUIREMENTS

When the escape is accomplished subsequent to an arrest for which a crime report will be completed, the details will be included in the original report.

When the escape is accomplished during transport after the original report has been completed, a Supplemental Report will be completed to include the details of the escape.

If, at any time, a member has knowledge that a particular prisoner is a security risk, in that the prisoner may attempt to escape custody, a note such as "Security Risk" shall be written on the AR or JAR above the form heading.

- (a) Department members shall also verbally inform the receiving personnel of the escape or security risk.

## 901.16 SICK OR INJURED PRISONERS

Members transporting prisoners who require medical attention will transport the prisoner to Community Regional Medical Center (CRMC) for treatment.

Upon arrival at FCJ members shall provide a complete synopsis of the circumstances surrounding the arrest to the pre-book nurse.

- (a) In some cases, contrary to the prisoner's refusal to accept medical treatment, the nurse may require the Department member to transport the prisoner to CRMC prior to booking.

**901.17 SPECIAL NEEDS TRANSPORTATIONS SITUATIONS**

Prisoners with special needs such as non-ambulatory prisoners, limited ambulatory prisoners (e.g. those utilizing crutches), prisoners utilizing wheel chairs, special medical treatment needs, or other special circumstances shall be brought to the attention of a field supervisor. Where warranted, EMS may respond to assist in these special circumstances where transportation in a patrol wagon/van or patrol vehicle creates an unreasonable risk of harm to the person being transported.

**901.18 SUICIDAL PRISONERS**

Suicidal prisoners shall be handled consistent with Policy §418.



**Fresno Police Department  
Policy Manual**

**Chapter 10: Personnel**

## **1000 Recruitment and Selection**

### **1000.1 POLICY**

Candidates for job openings and promotions will be selected based on job qualifications, merit, ability, competence, and experience.

#### **1000.1.1 PURPOSE AND SCOPE**

In accordance with applicable federal, state, and local law, the Fresno Police Department shall provide equal opportunities for applicants and its employees regardless of race, sex, sexual orientation, gender, gender identity or expression, age, pregnancy, religion, creed, color, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, military and veteran status, or any other protected class or status. The Department does not show partiality or grant any special status to any applicant, employee, or group of employees unless otherwise required by law.

The Department will recruit and hire only those individuals who demonstrate a commitment to service and who possess the traits and characteristics that reflect personal integrity and high ethical standards. The rules governing employment practices are maintained by the Fresno Police Department.

### **1000.2 RECRUITMENT**

The Department will actively recruit and utilize a selection strategy to reach all appropriate sources to obtain qualified employees, including minorities, females, disabled veterans, and older workers, on a nondiscriminatory basis. Efforts toward equal opportunity shall be designed to meet the City of Fresno's staffing needs at all levels.

The strategy should include:

- (a) Identification of racially and culturally diverse target markets;
- (b) Use of marketing strategies to target diverse applicant pools;
- (c) Expanded use of technology and maintenance of a strong Internet presence. This may include an interactive department website and the use of department-managed social networking sites if resources permit;
- (d) Expanded outreach through partnerships with media, community groups, citizen academies, local colleges, universities and the military;
- (e) Employee referral and recruitment incentive programs; and
- (f) Consideration of shared or collaborative regional testing processes.

The Department shall avoid advertising, recruiting, and screening practices that tend to stereotype, focus on homogeneous applicant pools, or screen applicants in a discriminatory manner.

The Department should strive to facilitate and expedite the screening and testing process, and should periodically inform each candidate of their status in the recruiting process.

### **1000.3 SELECTION PROCESS**

The Department shall actively strive to identify a diverse group of candidates that have in some manner distinguished themselves as being outstanding prospects. Minimally, the Department should employ a comprehensive screening, background investigation, and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

- (a) A comprehensive application for employment (including previous employment, references, current and prior addresses, education, and military record);
  - 1. The personnel records of any applicant with prior peace officer experience in this state shall be requested from the appropriate law enforcement agency and reviewed prior to extending an offer of employment (Penal Code § 832.12).

2. This includes a review of prior law enforcement employment information maintained by POST (Penal Code § 13510.9).
- (b) Driving record;
- (c) Reference checks;
- (d) Employment eligibility verification, including U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form I-9 and acceptable identity and employment authorization documents consistent with Labor Code §1019.1;
- (e) Information obtained from public Internet sites;
- (f) Financial history consistent with the Fair Credit Reporting Act (FCRA) (15 United States Code §1681 et seq.);
- (g) Local, state, and federal criminal history record checks;
- (h) Polygraph/CVSA test (when legally permissible) (LC §432.2);
- (i) Medical and psychological examination (may only be given after a conditional offer of employment);
  1. The Medical Suitability Declaration (POST form 2-363) provided by the evaluating physician shall be maintained in the candidate's background investigation file (11 CCR 1954).
  2. The Psychological Suitability Declaration (POST form 2-364) provided by the evaluator shall be maintained in the candidate's background investigation file (11 CCR 1955); and
- (j) Review board or selection committee assessment.

#### 1000.3.1 VETERAN'S PREFERENCE

Qualifying veterans of the United States Armed Forces who receive a passing score on an entrance examination shall be ranked in the top rank of any resulting eligibility list. The veteran's preference shall also apply to a widow or widower of a veteran or a spouse of a 100 percent disabled veteran (Government Code § 18973.1).

#### 1000.4 BACKGROUND INVESTIGATION

Every candidate shall undergo a thorough background investigation to verify their personal integrity and high ethical standards, and to identify any past behavior that may be indicative of the candidate's unsuitability to perform duties relevant to the operation of the Fresno Police Department (11 California Code of Regulations §1953).

The narrative report and any other relevant background information shall be shared with the psychological evaluator. Information shall also be shared with others involved in the hiring process if it is relevant to their respective evaluations (11 CCR §1953).

#### 1000.4.1 INVESTIGATOR TRAINING

Background investigators shall complete POST certified background investigation training prior to conducting investigations (11 CCR 1953; 11 CCR 1959).

#### 1000.4.2 BACKGROUND INVESTIGATION UPDATE

A background investigation update may, at the discretion of the Chief of Police, be conducted in lieu of a complete new background investigation on a peace officer candidate who is reappointed within 180 days of voluntary separation from the Department, or who is an interim police chief meeting the requirements contained in 11 CCR 1953(f).

#### 1000.4.3 NOTICES

Background investigators shall ensure that investigations are conducted, and notices provided in accordance with the requirements of the FCRA and the California Investigative Consumer Reporting Agencies Act (15 USC § 1681d; Civil Code § 1786.16).

#### 1000.4.4 STATE NOTICES

If information disclosed in a candidate's criminal offender record information (CORI) is the basis for an adverse employment decision, a copy of the CORI shall be provided to the applicant (Penal Code § 11105).

#### 1000.4.5 REVIEW OF SOCIAL MEDIA SITES

All peace officer candidates shall be subject to a social media search for statements, postings, and/or endorsements made by the candidate that are relevant to suitability for peace officer employment, including bias-relevant information consistent with the requirements of 11 CCR 1955(d)(3) and any public expression of hate made in an online forum, as defined in Penal Code § 13680(g) (11 CCR 1953(e)(12)).

Due to the potential for accessing unsubstantiated, private, or protected information, the candidates shall not be required to provide passwords, account information, or access to password-protected social media accounts (Labor Code § 980).

#### 1000.4.6 DOCUMENTING AND REPORTING

The background investigator shall summarize the results of the background investigation in a narrative report that includes sufficient information to allow the reviewing authority to decide whether to extend a conditional offer of employment. The report shall include sections that summarize relevant Background Investigation Dimensions and include any findings of behaviors, traits, and/or attributes relevant to bias per the Bias Assessment Framework as described in the POST Background Investigation Manual. The report shall identify the data sources reviewed for the findings, regardless of weight given. The report shall include narrative information in the format described in 11 CCR 1953(g)(1). The report shall also include whether the candidate has engaged or is engaging in membership in a hate group, participation in hate group activity, ~~or~~ advocacy, or public expressions of hate, pursuant to Penal Code § 13680 et seq. (11 CCR 1953).

The report shall not include any information that is prohibited from use, including that from social media sites, in making employment decisions. The report and all supporting documentation including relevant documentation of bias-related findings and documentation obtained through the social media search shall be included in the candidate's background investigation file (11 CCR 1953).

The background investigator shall document proof of verification of qualification for peace officer appointment on the Verification of Qualification for Peace Officer Appointment form and forward it to the Division Commander for final review and submission to POST (11 CCR 1953).

The background investigation file shall be made available during POST compliance inspections (11 CCR 1953).

#### 1000.4.7 RECORDS RETENTION

The background report and all supporting documentation shall be maintained according to the established records retention schedule and at a minimum as follows (Government Code § 12946; 11 CCR 1953):

- (a) Reports and documentation for candidates hired by the Department shall be retained for the entire term of employment and for a minimum of four years after separation from the Department.
- (b) Reports and documentation for candidates not hired by the Department for a minimum of four years.

#### 1000.5 DISQUALIFICATION GUIDELINES

As a general rule, performance indicators and candidate information and records shall be evaluated by considering the candidate as a whole, and taking into consideration the following:

- (a) Age at the time the behavior occurred;
- (b) Passage of time;
- (c) Patterns of past behavior;
- (d) Severity of behavior;
- (e) Probable consequences if past behavior is repeated or made public;
- (f) Likelihood of recurrence;
- (g) Relevance of past behavior to public safety employment;
- (h) Aggravating and mitigating factors; and

- (i) Other relevant considerations.

A candidate's qualifications will be assessed on a case-by-case basis, using a totality of the circumstances framework.

### **1000.6 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 Fresno Police Department and the City of Fresno maintain standards for all positions.

The dilemma facing the Department is one of developing a job and nondiscriminatory set of policies, which will allow it to lawfully exclude persons who do not meet the Fresno Police Department, City of Fresno, the State of California, and Federal (ADA) hiring standards. The California Commission on Peace Officer Standards and Training (POST) developed a job dimensions list, which are used as a professional standard in background investigations.

The following standards have been adopted for some public safety applicants:

- (a) Operation of a motor vehicle;
- (b) Integrity;
- (c) Credibility as a witness in a court of law;
- (d) Dependability;
- (e) Learning ability;
- (f) Personal sensitivity;
- (g) Judgment under pressure; and
- (h) Illegal use or possession of drugs.

#### **1000.6.1 STANDARDS FOR OFFICERS**

Candidates shall meet the minimum standards established by POST and/or required by state law (Government Code § 1029; Government Code § 1031; 11 CCR 1950 et seq.):

- (a) Free of any felony convictions;
- (b) Be legally authorized to work in the United States under federal law;
- (c) At least 21 years of age except as provided by Government Code § 1031.4;
- (d) Fingerprinted for local, state, and national fingerprint checks;
- (e) Good moral character as determined by a thorough background investigation (11 CCR 1953);
- (f) High school graduate, passed the GED or other high school equivalency test, or obtained a two-year, four-year, or advanced degree from an accredited or approved institution;
- (g) Free from any physical, emotional, or mental condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation which might adversely affect the exercise of police powers (11 CCR 1954; 11 CCR 1955);
- (h) Free of hate group memberships, participation in hate group activities, or advocacy of public expressions of hate within the previous seven years, and since 18 years of age, as determined by a background investigation (Penal Code § 13681);
- (i) Candidates must also satisfy the POST selection requirements, including (11 CCR 1950 et seq.):
  - 1. Reading and writing ability assessment (11 CCR 1951)
  - 2. Oral interview to determine suitability for law enforcement service (11 CCR 1952)
- (j) POST certification that has not been revoked, denied, or voluntarily surrendered pursuant to Penal Code § 13510.8(f); and
- (k) Not identified in the National Decertification Index of the International Association of Directors of Law Enforcement Standards and Training or similar federal government database that reflects revoked certification for misconduct or reflects misconduct that would result in a revoked certification in California.

In addition to the above minimum POST required standards, candidates may be subjected to additional standards established by the Department (Penal Code § 13510(d)).

### **1002.1 POLICY**

Employee performance evaluations will be written based on job related factors specific to the position occupied by the employee without regard to actual or perceived race, sex, sexual orientation, gender, gender identity or expression, age, ethnicity, pregnancy, religion, creed, color, national origin, ancestry, disability, medical condition, genetic information, marital status, military and veteran status, or any other classification or status protected by law.

#### **1002.1.1 PURPOSE AND SCOPE**

The purpose of the evaluation system is to record work performance for both the Department and the employee giving recognition for good work and providing a guide for improvement where needed. The employee performance evaluation report is a gauge in measuring performance and is used for making personnel decisions relating to merit increase, promotion, reassignment, discipline, demotion and termination. The report also provides a guide for mutual work planning and review and an opportunity to convert general impressions into a more objective history of work performance based on job standards.

### **1002.2 ANNUAL EVALUATION DUE DATES**

Performance evaluations are required annually or quarterly for all Department members. Performance evaluations shall be completed by the member's supervisor and submitted to the District Commander/Bureau Manager within 30 days of the due date. The due dates for evaluations are as follow:

- (a) **Probationary** - All sworn and non-sworn members shall have quarterly evaluations; (Exception: Officers currently in the Field Training Program will not have quarterly evaluations, Daily Observation Reports only)
- (b) **Non-Sworn** – Non-sworn members shall have evaluations annually, based on their hire date/promotion;
- (c) **Recruit Police Officer** – An evaluation is required at the end of the recruit status so the recruit can be promoted to police officer (probationary). This is generally twelve months after date of hire. The evaluation should state if promotion is recommended;
- (d) **Sworn** – All sworn members, except staff, shall have annual evaluations due upon the ending date of the Matrix period;
- (e) **Management** – All sworn staff (except Deputy Chiefs) shall have annual evaluations due after April 30th. Deputy Chiefs are due after December 31<sup>st</sup>. Non-sworn management personnel are due after their hire/promotion date.

### **1002.3 EXIT EVALUATIONS**

When a member changes assignment resulting in a new supervisor more than 90 days before the end of a rating period, that member's current supervisor shall complete an exit evaluation for the partial rating period. Similarly, when a supervisor changes assignment more than 90 days before the end of a rating period, the supervisor is required to complete exit evaluations on all personnel assigned to them at the time of their reassignment. Complete annual evaluations shall be completed by the assigned supervisor for all assigned personnel when a change of assignment occurs 90 days or less from the end of the rating period. All required exit evaluations shall be completed by the member's supervisor within 30 days of the member's or supervisor's change in assignment.

#### **1002.3.1 RESERVE OFFICER EVALUATIONS**

Reserve officer evaluations are required annually or quarterly for probationary reserve officers.

#### **1002.4 PERSONNEL BUREAU RESPONSIBILITY**

Once an evaluation has been completed and issued to the member, the original shall be sent to the Personnel Bureau within five days of signing by the last approving staff member. The Personnel Bureau will maintain a personnel database which includes the date the performance evaluation was issued.

The Personnel Bureau will provide District Commanders/Bureau Managers with a quarterly list of evaluation due dates for recruit officers, probationary members, and non-sworn members. The Personnel Bureau will conduct regular compliance checks to ensure evaluations are submitted by the deadlines established in this order. Should the Personnel Bureau fail to receive an evaluation by its due date the affected District Commander/Bureau Manager will be so notified.

#### **1002.5 RATER RESPONSIBILITIES**

All raters shall receive initial training in performance evaluations, as provided within Departmental supervisory orientations, formalized training courses, and/or in-service training, prior to completing their first performance evaluation. Once the training is received, the rater shall:

- (a) Conduct a driver's license status check via CLETS for those members where driving is a requirement of their job (as allowed in Section 1.6.1(B) of the CLETS Policies, Practices, and Procedures);
- (b) Review the performance evaluation with the member being evaluated. This review should include, but is not limited to, the following:
  - 1) Results of the performance evaluation;
  - 2) Performance expectations and rating goals and/or objectives for the next rating period; and
  - 3) Where appropriate or requested, career counseling to include individual career plans for advancement, specialization, and training;
- (c) Provide the member being rated an opportunity to sign the performance evaluation and to make comments as part of the official record of the evaluation;
- (d) Ensure all performance evaluations are reviewed and signed, at a minimum, by the rater's immediate supervisor;
- (e) Provide the evaluated member with a copy of the completed, signed, and reviewed evaluation; and
- (f) Not include any specific references to Letter(s) of Counseling (LOC) or Documented Oral Reprimand(s) (DOR) received by the employee during the evaluation period. The rater may describe the conduct that resulted in corrective action and indicate that corrective action was taken, but shall not reference the specific type of corrective action taken (e.g. LOC, DOR or Supervisory Observation Log entry).

#### **1002.6 EVALUATION FORMAT**

Evaluation formats are based upon the member's job classification. The criteria used for performance evaluations shall be specific to the assignment(s) of the member during the rating period. Copies of the proper evaluation forms may be accessed through the Department's electronic library.

##### **1002.6.1 EXPLANATORY COMMENTS**

The rater shall provide explanatory comments to substantiate performance ratings which are unsatisfactory or outstanding. The explanatory comments should include specific examples of observed or reported behavior of the member being rated during the period covered by the evaluation.

#### **1002.7 PRE-EVALUATION REQUIRED NOTIFICATIONS**

Less than satisfactory performances by a member should be brought to the attention of that member. Where a member's performance could result in a less than satisfactory rating on their performance evaluation, a written notice of the unsatisfactory or needs improvement performance shall be given to the member. This written notice shall describe the less than satisfactory performance and what actions should be taken to improve the member's performance. The written notice may be in the form of a memo, Supervisor's Observation Log, formal discipline, or other appropriate means.

### 1002.7.1 NON-PROBATIONARY EMPLOYEES

Less than satisfactory performance ratings may only be included in a performance evaluation when:

- (a) The member receiving the less than satisfactory performance rating was given written notice, as defined above, of the deficiency at least 90 days prior to the rated member's evaluation date, or
- (b) The less than satisfactory performance occurs less than 90 days from when an evaluation is due and would result in an unsatisfactory/needs improvement rating for the rating period. Under these circumstances, the required written notice shall be delivered to the member as soon as possible after the less than satisfactory performance is identified.

Supervisors shall be responsible for knowing the annual evaluation dates for all subordinates and for calculating the 90 day notice date for each member.

### 1002.7.2 PROBATIONARY EMPLOYEES

Probationary members shall receive a performance evaluation every quarter. The required written notice shall be delivered to the probationary member as soon as possible after the less than satisfactory performance is identified. The 90-day notice requirement shall not apply to probationary members.

### 1002.8 PERFORMANCE EVALUATION APPEAL PROCESS

When a member disagrees with the performance evaluation, that member may prepare and attach to the evaluation a written memorandum outlining the reason(s) for the disagreement. This attachment shall be submitted by the member to the rater within 30 calendar days of the member receiving the evaluation. This memorandum will be forwarded through the chain of command to the Division Commander for consideration.

### 1002.9 RATER EVALUATIONS

Supervisors and management staff shall be evaluated on the objectivity, accuracy, timeliness, and overall quality of ratings for performance evaluations they prepare. This information shall be included in their performance evaluation under supervisory performance.

### 1002.10 PERFORMANCE IMPROVEMENT PLANS

When it is determined a performance improvement plan (PIP) should be implemented for an employee, the employee's direct supervisor will be responsible for its completion, and for the monitoring of the employee during the PIP period. The Division Commander shall review the PIP prior to it being presented to the employee. When the PIP is presented to the employee, the employee should sign the document before it is placed into the employee's divisional file until the employees next evaluation. The employee shall also be provided a copy of the PIP. Generally, any PIP should contain the following elements:

- (a) An overview of the circumstances leading to the PIP, including a description of any prior efforts to address the substandard performance;
- (b) A specific description of the substandard performance;
- (c) A specific description of the expected performance standard;
- (d) If applicable, a description of specific tasks, or benchmarks the employee is required to complete to successfully complete the PIP;
- (e) Guidance or direction to the employee to assist them in achieving the desired performance;
- (f) A timeframe for completion of the PIP.

The PIP shall have a specified timeline that is reflective of the behavior to be improved. The preset time frame may be altered, or extended, based on the individual needs of the situation, or if the employee is not performing at a competent level at the end of the PIP. The employee's direct supervisor shall submit monthly progress reports to the proper manager, after the employee has signed a copy of the progress report and has been provided a copy of it.



### **1006.1 POLICY**

All grievances will be handled as quickly and fairly as possible without discrimination against members who file a grievance whether or not there is a basis for the grievance.

#### **1006.1.1 PURPOSE AND SCOPE**

Our Department's philosophy is to promote free communication between members and supervisors when a dispute arises while seeking a timely but equitable resolution.

### **1006.2 DEFINITION**

**Grievance** - A grievance is any dispute concerning the interpretation or application of this article, or rules or regulations governing personnel practices or working conditions. A grievance involves the claimed misapplication or misinterpretation of a rule or regulation relating to an existing right or duty; it does not relate to the establishment or abolition of a right or duty ([Fresno Municipal Code §3-618](#))

### **1006.3 GRIEVANCE PROCEDURE**

Grievances may be brought by an individual member or by a group representative.

If the affected member(s) is(are) under a Memorandum of Understanding (MOU) containing a section for grievances, then all applicable guidelines shall apply. If no applicable MOU is in place, the [FMC §3-618](#) shall apply.

If a member believes that they have a grievance as defined above, then that member shall observe the following procedure:

- a) Attempt to resolve the issue through informal discussion with their immediate supervisor;
- b) A grievance must be initiated within fifteen days after the member first knew or should have known of a grievable action or event. If the initiation of the grievance does not occur within fifteen days, the grievance is void;
- c) If the grievance cannot be settled by the immediate supervisor, the member may attempt to resolve the grievance with the next level of supervision, following the chain of command of the affected member;
- d) If a successful resolution is not found with the District, Bureau or Division Commander, the member may request a meeting with the Deputy Chief of Police;
- e) If the member and the Deputy Chief are unable to arrive at a mutual solution, then the member shall proceed as follows:
  - 1) Within ten (10) calendar days of the last day of the informal process, the member will submit in writing a written statement of the grievance and deliver one copy to the Chief of Police and another copy to the immediate supervisor and include the following information:
    - I. The basis for the grievance (i.e., the facts of the case) including the specific rule, regulation, policy, practice, or MOU provision violated ;
      - a. Allegation of the specific wrongful act and the harm done; and
      - b. What the member would like to accomplish from the grievance.
- f) The member shall receive a copy of the acknowledgment signed by the supervisor including the date and time of receipt; and
- g) The Chief of Police will receive the grievance in writing. The Chief of Police and City Manager will review and analyze the facts or allegations and respond to the member within 14 calendar days.
  - 1) The response will be in writing, and will affirm or deny the allegations.
  - 2) The response shall include any remedies if appropriate. The decision of the City Manager is considered final.

**1006.4 EMPLOYEE REPRESENTATION**

Members are entitled to have representation during the grievance process. The representative may be selected by the member from the appropriate employee bargaining group.

**1006.5 GRIEVANCE RECORDS**

At the conclusion of the grievance process, all documents pertaining to the process shall be dispensed as outlined in the applicable MOU or as outlined in FMC §3-618.

**1006.6 LABOR RELATIONS**

Labor Relations is a division of the City's Personnel Services Department and is responsible for the coordination of grievance procedures and the control and maintenance of grievance records.

The forms necessary for filing a grievance are available at Labor Relations as well as the Personnel Bureau in the Administrative Services Division.

### **1008.1 POLICY**

Any member who believes that they came into contact with bodily fluids of an individual shall contact a supervisor and complete the required forms.

#### **1008.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide for the reporting of contacts with the bodily fluids of individuals and an HIV testing procedure in accordance with the Legislature's declaration of a public health crisis in Penal Code §7500, et seq.

### **1008.2 REPORTING REQUIREMENTS**

Any member who believes that they came into contact with bodily fluids of an individual shall complete a Fresno/Kings/Madera Emergency Medical Services form titled Confidential Communicable Disease Exposure Report (herein referred to as Confidential Report).

The Confidential Report includes the names of persons involved in the underlying incident and type of exposure. The Confidential Report shall be in addition to any other reports related to the underlying incident (PC §7510).

#### **1008.2.1 CONFIDENTIALITY OF ALL REPORTS**

All information obtained and reported pursuant to this policy shall be kept confidential and may not be released except as provided by law (PC §7517).

#### **1008.2.2 MISDEMEANOR TO FILE FALSE REPORT**

Any member who willfully files a false Confidential Report or a false request for HIV testing may be subject to discipline as well as misdemeanor criminal sanctions (PC §7540).

### **1008.3 SUPERVISORY RESPONSIBILITY**

Upon exposure of a member to blood or body fluids or possible exposure to a reportable disease (i.e., HIV, Hepatitis C, etc), supervisors shall:

- a) Ensure that members receive proper medical care for the exposure injury, including communicable disease counseling;
- b) Have the confidential "Communicable Disease Exposure Report" prepared:
  - 1) Ensure the treating physician completes Section II of the form, if applicable;
  - 2) Ensure the member has signed the completed form;
  - 3) The above form shall be submitted/faxed to the Department of Community Health, Communicable Disease Investigation office, by the end of the shift during which the incident occurred;
  - 4) Forward the form to the Workers' Compensation Coordinator in the Personnel Bureau; and
- c) Complete a Confidential Administrative Review Memo;

Members receiving treatment at the scene by EMS personnel, that do not require treatment at a hospital, may respond to the contracted Worker's Compensation Walk-in Clinic or the appropriate hospital after hours to obtain a blood test. The clinic/hospital will forward the results to the County Health Department who will contact the member with the results.

### **1008.4 AVAILABLE COUNSELING**

In addition to any other available employee assistance programs, personal counseling maybe available through the Fresno County Health Services Agency to any law enforcement employee who has filed a Confidential Report.

### **1008.5 PROCEDURE TO DETERMINE TESTING**

Within three calendar days of receipt of the Confidential Report, regardless of whether or not a request for testing was made, the Fresno County Health Services Agency shall determine whether or not the involved individual shall be required to submit to HIV testing.

Any individual ordered by the Fresno County Health Services Agency to submit to HIV testing has three calendar days to appeal such an order. If no appeal is filed in a timely manner, the order of the Fresno County Health Services Agency shall become final.

Any Fresno County Health Services Agency order may be appealed by the individual or the involved employee to the Superior Court which is required to review the matter as expeditiously as possible (PC §7516.5).

### **1008.6 TESTING PROCEDURE**

In the event that an individual is ordered to be tested for HIV, such tests shall consist of a blood sample withdrawn in a medically approved manner by a licensed physician, nurse, medical technician, or phlebotomist (PC §7530).

All test samples shall be submitted to Fresno County Health Services Agency for the conducting of HIV testing.

#### **1008.6.1 REFUSAL TO SUBMIT TO TESTING**

Any person who has been ordered to submit to HIV testing and, who refuses to submit to such testing shall be subject to revocation of bail, probation, or other sentence [PC §7519(a)]. The department must then process a Confidential Report of Court-Ordered HIV Testing through the Legal Advisor in order to obtain a specimen.

The refusal of any probationer or parolee to submit to required HIV testing shall be considered a violation of probation or parole.

### **1010.1 POLICY**

All members shall be required to notify the Department of any past and current criminal convictions.

#### **1010.1.1 PURPOSE AND SCOPE**

Convictions of certain offenses and/or restraining orders that may restrict or prohibit a member's ability to properly perform official duties must be reported to the employee's immediate supervisor or the Chief of Police or designee as soon as practicable.

### **1010.2 NOTIFICATION REQUIREMENTS**

The Administrative Division Commander or their designee shall submit within 30 days 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 California Code of Regulations §1003).

The Administrative Bureau Commander or their designee shall submit within 30 days of final disposition a notice to the Commission on Peace Officer Standards and Training (POST) of a felony conviction or Government Code §1029 reason that disqualifies any current peace officer employed by this department or any former peace officer if this department was responsible for the investigation (11 CCR §1003).

### **1010.3 DOMESTIC VIOLENCE CONVICTIONS, OUTSTANDING WARRANTS AND RESTRAINING ORDERS**

California and federal law prohibit individuals convicted of, or having an outstanding warrant for, certain offenses and individuals subject to certain court orders from lawfully possessing a firearm. Such convictions and court orders often involve allegations of the use or attempted use of force or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 United States Code §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.

### **1010.4 OTHER CRIMINAL CONVICTIONS**

GC §1029 prohibits any person convicted of a felony from being a peace officer in the State of California. This prohibition applies regardless of whether the guilt was established by way of a verdict, guilty or nolo contendere plea.

Convictions of certain violations of the Vehicle Code and other provisions of law may also place restrictions on a member's ability to fully perform the duties of the job.

Outstanding warrants as provided in PC §29805 also place restrictions on a member's ability to possess a firearm.

Moreover, while legal restrictions may or may not be imposed by statute or by the courts upon conviction of any criminal offense, criminal conduct by members of this Department may be inherently in conflict with law enforcement duties and the public trust.

### **1010.5 REPORTING PROCEDURE**

All members of this Department and all retired officers with a CCW endorsement shall promptly (within 24 hours) notify their immediate supervisor (or the Chief of Police in the case of retired officers) in writing of any past or current criminal arrest, outstanding warrant or conviction regardless of whether or not the matter is currently on appeal and regardless of the penalty or sentence, if any.

All sworn employees and all retired officers with a CCW endorsement shall further promptly (within 24 hours) 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 or becomes the subject of an outstanding warrant.

Any member whose criminal conviction unduly restricts or prohibits that member from fully and properly performing their 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 their own time and expense.

Any member failing to provide prompt written notice pursuant to this procedure shall be subject to discipline.

### **1010.6 PROCEDURE FOR RELIEF**

Pursuant to PC §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 PC §12021 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.

**1012.1 POLICY**

It is the policy of the Department to provide a drug- and alcohol-free workplace for all members.

**1012.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to establish clear and uniform guidelines regarding drugs and alcohol in the workplace.

**1012.2 GENERAL GUIDELINES**

Alcohol and drug use in the workplace or on Department time can endanger the health and safety of Department members and the public. Such use shall not be tolerated (41 United States Code §8103). 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 who have consumed an amount of an alcoholic beverage or taken any medication, or combination thereof, that would tend to adversely affect their mental or physical abilities shall not report for duty. Affected members shall notify their supervisor as soon as the member is aware that they will not be able to report to work. If the member is unable to make the notification, every effort should be made to have a representative contact the supervisor in a timely manner. If the member is adversely affected while on-duty, they shall be immediately removed and released from work (see Work Restrictions in this policy).

**1012.2.1 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 their 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, including an employee's personal vehicle used for City business, while taking any medication that has the potential to impair their abilities, without a written release from their physician.

**1012.2.2 USE OF MARIJUANA**

Possession of marijuana, including medical marijuana, or being under the influence of marijuana on- or off-duty is prohibited and may lead to disciplinary action.

**1012.3 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) except in the performance of a supervised special assignment. Members who consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance. The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

Members shall not ingest any substance that may impair the member's physical or mental capabilities while on duty or less than four hours prior to reporting for duty without express permission of a supervisor. Such substances shall include prescription or nonprescription drugs, alcohol, inhalants, etc.

Members are specifically prohibited from reporting for duty with the odor of any alcoholic beverage on their breath.

Members shall notify a supervisor immediately if they observe behavior or other evidence that they believe demonstrates that a fellow member poses a risk to the health and safety of the member or others due to drug or alcohol use.

Members are required to notify their immediate supervisors of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction (41 USC §8103). Insurance coverage that provides treatment for drug and alcohol abuse also may be available.

#### **1012.4 EMPLOYEE ASSISTANCE PROGRAM**

Members 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 member to seek assistance before alcohol or drug problems lead to performance problems.

#### **1012.5 WORK RESTRICTIONS**

If a member informs a supervisor that they have 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 their 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 they are safely transported away from the Department.

#### **1012.6 CONFIDENTIALITY**

The Department recognizes the confidentiality and privacy due members, 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 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.

#### **1012.7 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).

#### **1012.8 TESTING REQUIREMENTS**

Sworn members of the Department (excluding probationary employees) may be required to submit to drug testing under particular circumstances as outlined in the members applicable MOU.

In addition to any testing requirements as described in the applicable MOU, members may be subject to the "Identification and Consent Procedures" outlined in Administrative Order § 2-25.



### **1013.1 POLICY**

Employees shall be allowed to take time off in accordance with their applicable MOU.

#### **1013.1.1 PURPOSE AND SCOPE**

To describe and outline to employees the circumstances and conditions under which leave will be afforded to an employee.

*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; such as leave for victims of crime or abuse, or for organ or bone marrow donor procedures (Labor Code § 230.1; Labor Code § 1510).*

### **1013.2 TIME OFF**

Employees shall be allowed to take time off in accordance with their applicable MOU.

### **1013.3 ANNUAL VACATION**

Employees shall be allowed to take at least one annual vacation during the time period they have reserved on the vacation signup list.

Employees may sign up for as many consecutive weeks as each employee accrues in one year. All vacation time requested, other than the one annual vacation, shall be treated as any other request for time off.

When an employee transfers from one unit/bureau to a different assignment, they shall be allowed to take annual vacation leave during the time period reserved while in the previous unit/bureau regardless of the employee's previous assignment.

Requests for annual vacation, including a calendar, must be submitted to the employee's immediate supervisor, Court Liaison Office, and the Duty Office, if applicable, at least 30 days prior to the first day of absence.

If an employee on annual vacation volunteers to work order back created by their absence, but cancels their vacation day when not awarded the order back shift which results in the cancellation of the order back, the remainder of the employee's annual vacation shall be forfeited and the employee shall return to their regular duty schedule. This shall not apply to Contract Law Enforcement Services or Absent with Substitute assignments.

### **1013.4 OTHER TIME OFF REQUESTS**

Requests for unscheduled time off may be made up to 14 days in advance of the requested date. If the unscheduled time off is granted, employees must submit an Over Time / Time Off (OTTO) request to their supervisor before the date of the time off.

The Duty Officer may authorize time off when the citywide staffing level for the specific shift is above the minimum level. Only the Patrol Division Commander or designee can approve requests for time off at/below the minimum staffing buffer.

### **1013.5 LEAVE WITHOUT PAY**

#### **1013.5.1 LESS THAN 10 CONSECUTIVE DAYS**

Employee requests for leaves without pay (LWOP) for less than 10 consecutive days shall be forwarded to their division commander for consideration of approval. Upon approval, the request shall be forwarded to the Fiscal Affairs Bureau for processing.

#### 1013.5.2 10 OR MORE CONSECUTIVE DAYS

Use of LWOP for periods longer than 10 or more consecutive days must be submitted through the member's chain of command with final approval consideration by the Chief of Police.

Leave without pay shall not be approved if the employee has a balance of vacation, compensatory time or holiday time unless prior authorization has been obtained from the City manager.

When an employee will be on LWOP for 10 or more consecutive days, the following is required:

- a) The employee shall submit an LWOP request memo (found on the L drive) through their chain of command to the Chief of Police for approval;
  - 1) The memo must be submitted prior to taking the requested leave, or as soon as the employee is aware their leave balances are or will become depleted;
- b) The memo shall be forwarded to the Long-Term Absence Coordinator (LTA), where it will be processed and forwarded to the Chief of Police for review;
- c) The Chief's Office will review the memo and return it to the LTA;
- d) The LTA will forward the LWOP determination to the Fiscal Affairs bureau and notify the employee of the approval or denial.

Leave without pay shall not be approved if the employee has a balance of vacation, compensatory time or holiday time unless prior authorization has been obtained from the City Manager.

**Exception:** Members covered under FCEA Unit 3 MOU working a 4/10 shift who are off on a holiday which falls on a regular workday shall receive eight hours base pay for the holiday, and may elect to take two hours vacation, holiday or CTO to provide for a full 10 hours pay, or may elect to receive two hours leave without pay.

#### 1013.6 ABSENCE WITH SUBSTITUTE (AWS)

As provided in the Basic Unit 4 MOU and FCEA Unit 3 MOU, employees may provide a substitute employee to work for another when staffing levels do not permit the employee to take time off. The substitute must be satisfactory to the Department.

All AWS shifts must be documented using the OTTO system. This shall include when employees trade shifts with no time transfer. The substitute employee shall not give away, sell or redistribute the AWS shift in any fashion.

The employee who is assigned to the shift is responsible for ensuring the shift is covered until both employees sign the OTTO entry. This step is an acknowledgement by the substitute employee that they are responsible for the shift.

Should the substitute employee become unable to work the AWS shift:

- a) The involved personnel should first attempt to resolve the matter between themselves to ensure the shift is covered;
- b) If the matter cannot be resolved between the involved personnel, the substitute employee will notify their District Commander or the on-duty Field Commander, as well as the Duty Office; and
- c) When the AWS cancellation is within 72 hours of the agreed upon shift and results in order back to fill the shift, the substitute officer will be suspended from working AWS for the following 90 days.

Time transfers in OTTO for shifts or time not worked is strictly prohibited, other than approved time donations.

#### 1013.7 MILITARY LEAVE

Military leave requests will be handled in accordance with Fresno Municipal Code §3-111.

Employees shall provide a copy of all military orders to their immediate supervisor, the LTA Coordinator, Business Office and the Duty Office, if applicable, within a week of receipt. Employees

who receive military activation order that exceed 90 days will be directed to contact the Employee Services Coordinator (ESC). The ESC will:

- a) Conduct exit and re-entry interviews with the employee to facilitate transition to and from active duty;
- b) Make arrangements for the storage of the employee's Department issued equipment;
- c) Be the point of contact for the employee and the employee's family while the member is deployed; and
- d) Facilitate any initial/refresher training needed by the employee.

The employee will continue to have access to Department email to facilitate communication.

Sworn members' range training/qualification status must be current prior to resuming their regularly assigned duties (Refer to Policy 312-Firearms, 403-Reintroduction to Patrol, and 432-Patrol Rifles).

### **1013.8 GUARANTEED LEAVE**

Two times during each patrol matrix semester, employees assigned to patrol, may submit a request for guaranteed leave as outlined in the Basic Unit 4 MOU.

Two times during each fiscal year, employees covered under the FCEA Unit 3 MOU may take time off to attend a major family or social event, subject to the conditions listed under the "Family Events" section of this MOU.

The Duty Office will be responsible for tracking an employees' usage of guaranteed leave request.

### **1013.9 LEAVE OF ABSENCE DURING PROBATION**

Time spent on any leave of absence shall not be considered as a part of any probationary period, and such time will be added to the probationary period.

### **1013.10 FAMILY MEDICAL LEAVE ACT / CALIFORNIA FAMILY RIGHTS ACT**

Requests for protected leaves under the Family Medical Leave Act (FMLA) and the California Family Rights Act (CFRA) shall be made with LTA Coordinator 30 calendar days prior to the start of the leave time, when foreseeable. Employees shall also notify their District or Unit Commanders when requesting FMLA/CFRA. Exceptions to the minimum 30 day notice will be considered for unforeseeable medical emergencies, lack of knowledge, or for chronic medical conditions. Otherwise, the employer can delay the start of the leave to a date that would yield a 30 day notice. FMLA/CFRA shall be applied for and renewed each fiscal year.

A maximum of twelve (12) weeks of FMLA/CFRA protected leave will be available per fiscal year and shall be run concurrently; with the exception of pregnancy. Baby bonding time shall be taken within the first year following the birth, adoption or foster care placement of a child. The time off must be taken in two week increments or more, except on two occasions you may take less than 2 weeks. Only non-sick leave balances may be used for baby bonding.

Sick leave may be used during an FMLA protected leave absence. Employees may use sick, vacation, holiday, comp, or special holiday for wage continuance during an FMLA/CFRA qualified absence.

Employees that do not have sufficient leave time balances to cover the duration of the FMLA/CFRA leave need to request leave without pay pursuant to section D above.

### **1013.11 PREGNANCY DISABILITY LEAVE**

Pregnancy Disability Leave (PDL) is available to all employees who are currently pregnant, regardless of length of employment. This protected leave can be taken before birth or at any time a pregnant employee is physically unable to work due to pregnancy or a pregnancy related condition. A maximum of 17.33 aggregate weeks will be available per pregnancy.

This leave may be taken as needed or consecutively and shall run concurrently with FMLA leave only. Any request for PDL absence must be submitted to the LTA Coordinator 30 calendar days prior to the start of the pregnancy disability. It shall include the start date of the leave and an estimated duration of the leave. When 30 days' notice is not possible due to lack of knowledge or medical emergency, notice must be made as soon as practical.

An employee may use sick leave, vacation, holiday, comp, or special holiday for wage continuance. Employees that do not have sufficient leave time balances to cover the duration of the PDL need to request leave without pay pursuant to section 1013.5 above.

### **1013.12 FAMILY AND SCHOOL PARTNERSHIP ACT**

The Family-School Partnership Act allows parents, grandparents, and guardians to take time off from work to participate in their children's school or child care activities. To qualify, the employee must be a parent, guardian, or grandparent who has custody of a child enrolled in a California public or private school, kindergarten through grade twelve, or licensed child day care facility. Full time employees are allowed to take up to 40 hours per year with a maximum of 8 hours per calendar month. Part time employees are allowed a proportionate number of hours; e.g. half time employees are allowed 20 hours per year.

Any request for time off must be submitted one week in advance to their immediate supervisor or the Duty Office. Employees shall submit an OTTO request using the appropriate Family/School Act code. Members may use any of their available leave accounts excluding sick leave.

If both parents are employees of this Department, priority will be given to the parent that submitted the request first. The other employee may be approved if staffing allows. Employees are required to provide written proof of having participated at their child's school or child care facility upon the supervisor's request.

### **1014.1 POLICY**

Sick Leave usage and absenteeism can adversely affect the Department's ability to provide service to the public. Excessive absenteeism is costly, time-consuming, and hinders Departmental operations. Sick-leave usage will be monitored, and subject to verification, if necessary. Sick Leave is not to be used for reasons other than illness, injury, or a medical/dental/ocular appointment for the member or their family members, as defined in this policy. Abuse of Sick Leave may result in discipline.

#### **1014.1.1 PURPOSE AND SCOPE**

Employees are provided with Sick Leave that provides continued compensation during times of personal or family illness, injury, or for medical/dental/ocular appointments. The specified numbers of hours are detailed in each member's Memorandum of Understanding (MOU). Sick Leave may only be used when a member is unable to work due to personal injury (off-duty), illness, medical/dental/ocular appointments or for the illness, injury, or medical/dental/ocular appointment of a member's immediate family (child, parent, spouse, registered domestic partner, parent-in-law, grandparent, grandchild, or sibling). Sick Leave shall be administered in accordance with the provisions of Fresno Municipal Code §3-107, Sick Leave and Special Leave, current MOU's, City Administrative Orders, and any applicable federal and state statutes.

#### **1014.2 SICK LEAVE ACCRUAL AND USE**

Sick Leave is a benefit to be used when a member is absent because they are unable to work due to illness or injury. Legitimate uses for Sick Leave include medical/dental/ocular appointments and any time when illness, injury, or the use of medication inhibits a member's ability to perform their job tasks. It is the responsibility of every member to maintain their physical and mental wellbeing so that they are capable of assuming an equal share of the workload. It is also the member's responsibility to come to work healthy and able to work safely. Members are expressly prohibited from utilizing Sick Leave for reasons other than illness, injury, or a medical/dental/ocular appointment for themselves or their family members, as defined in this policy.

Sick Leave shall accumulate during the probationary period but may not be used until the member has completed 90 days of employment. Members who are unable to come to work due to illness or off-duty injury during this period will have the time deducted from their Comp or Holiday Leave balances, if there is time available (Vacation Leave is not available for use during the first six months). When no Comp or Holiday Leave is available, such time off will be designated as leave without pay, subject to the approval of the Appointing Authority or designee. Following the first six months of employment, members must exhaust all accumulated paid leave balances before leave without pay will be granted.

#### **1014.3 CARING FOR FAMILY MEMBERS**

Members covered by this policy are allowed to use Sick Leave to care for the member's child, parent, spouse, registered domestic partner, parent-in-law, grandparent, grandchild or sibling. Sick Leave may be used to care for, or arrange for the care of family members who are ill, or to take family members, as defined by this policy, to medical/dental/ocular appointments.

Once a member uses one half of the total accumulated (non-exempt) Sick Leave per fiscal year, any Sick Leave taken will be deducted from the member's Vacation, Holiday or Comp accounts. Family Care Leave (Family Medical Leave Act / FMLA) is intended for long-term, serious medical care of the member or family member.

#### **1014.4 PHYSICAL OR MENTAL IMPAIRMENT**

A member suffering a physical or mental impairment that limits their ability to perform any aspects of their job assignment shall not report for duty without first advising a supervisor of their limitations.

Supervisors shall consider a temporary duty assignment, or allow the member Sick Leave, depending on the nature and duration of the impairment and the nature of the member's duties.

Members who report for duty and advise their supervisors that they are suffering a physical or mental impairment limiting their ability to perform any aspect of their job may be allowed Sick Leave or may be placed in a temporary duty assignment that shift.

Should a supervisor have objective facts to support the belief that a member is temporarily unfit for duty due to a physical or mental impairment, the supervisor shall consult their manager. If it is determined the member is physically or mentally impaired and cannot perform an essential function of their job, the member will be placed off work, using their own leave time, until the member is able to perform all essential functions of their job. The member will be required to submit medical documentation clearing them to resume all essential functions of their job upon their return to work.

If the supervisor and manager believes the member has contracted an ailment or disability which may substantially interfere with the performance of their duties, or endanger the safety of the member or the public, the Department shall notify the Personnel Services Department and consider whether a fitness for duty is warranted, pursuant to FMC §3-288.

## **1014.5 NOTIFICATION**

### **1014.5.1 NON-PATROL PERSONNEL**

When members assigned to units/bureaus other than patrol are unable to report for duty due to personal or family illness or injury, they shall report this fact to a person designated by their supervisor or commander not less than one hour prior to the member's required reporting time for duty. Non-patrol personnel having been on Sick Leave for any portion of their last scheduled work day shall notify the person designated as their supervisor of their return not less than one hour before the beginning of the member's returning shift.

### **1014.5.2 PATROL PERSONNEL**

When members assigned to patrol are unable to report for duty due to personal or family illness, or injury, they shall contact the District Operations Commander of the affected District in advance of all absences no less than one and one-half hours prior to the start of their shift. If after hours, the member shall contact the on-duty Field Commander. The District Operations Commander or Field Commander will then contact the Duty Officer to report the member calling in sick. Should the District Operations Commander or Field Commander have concerns with any member calling in sick, this should be discussed with the affected supervisor. This supervisor or commander may contact the member calling in sick to ensure compliance with policy. Prior to returning to work, patrol members having been on Sick Leave for any portion of their last scheduled work day shall notify the duty office of their return to duty no later than one and one-half hours before the beginning of the member's returning shift.

All members, regardless of duty assignments, shall adhere to any additional requirements outlined in this policy or their applicable MOU.

## **1014.6 MEMBERS RESPONSIBILITY**

When a member calls in sick, they shall advise the District Operations Commander or Field Commander (who will advise the Duty Office) whether they are ill or caring for a family member and if caring for a family member, stating both the relationship (e.g. "daughter") and the name of the ill family member. After calling in sick, members are prohibited from changing Sick Leave time to:

- a) Vacation;
- b) Holiday;
- c) CTO;
- d) Administrative leave; or
- e) Leave without pay.

Any adjustment required due to inadequate Sick Leave time to cover the absence(s) will be made by the Fiscal Affairs Bureau.

When a member assigned to patrol takes a partial shift off sick, they shall notify their supervisor or designee prior to leaving work. The supervisor or designee shall notify the Duty Office as soon as possible.

Upon return to work, members shall complete and submit an OTTO request describing whether the Sick Leave was for the member or a family member and, if for a family member, the relationship (e.g. "daughter") and the name of the family member, and the amount of time taken. .

#### **1014.7 EXTENDED MEDICAL INCAPACITY**

When an absence due to illness or injury exceeds 15 calendar days, the member must file with their supervisor, no later than the 18th calendar day, a statement from the member's medical care provider regarding the estimated length of medical incapacity.

If the length of absence exceeds the stated estimated period of medical incapacity, a new statement must be filed within three calendar days following the expiration of the original estimated date of return.

When an extended absence due to illness or injury is anticipated, the member shall provide a medical provider's statement in advance establishing the probable duration of the medical incapacity, when known. When an extended absence due to illness or injury is unanticipated, the member shall provide a medical provider's statement establishing the probable duration of the medical incapacity as soon as reasonably practical.

The Family Medical Leave Act (FMLA) and the California Family Rights Act (CFRA) leave provides up to twelve weeks of unpaid leave for the employee's own serious health condition or the serious health condition of a close family member, or for the birth, adoption, or placement of a child in foster care. Members should contact their supervisor, the Personnel Bureau, or the Personnel Services Department, to inquire about FMLA and/or CFRA leave.

If the member's medical incapacity is of long-standing duration, or becomes permanent, the member will be referred to the Personnel Services Department to initiate the interactive process, to determine whether the member is able to perform the essential functions of their job, with or without reasonable accommodation.

#### **1014.8 USE OF SICK LEAVE FOR OUTSIDE EMPLOYMENT**

Use of Sick Leave shall not be allowed where the cause of the injury or illness is directly traceable to any compensated employment or remunerative occupation of any kind unless the member has exhausted temporary disability insurance payments. If such temporary disability benefits and other disability insurance payments are exhausted, the member may use Sick Leave for such injury or illness.

#### **1014.9 SUPERVISOR RESPONSIBILITY**

Upon a member's return to work from any amount of Sick Leave, their supervisor will complete a review of the member's Sick Leave history and complete a Sick Leave Review Form. The supervisor shall determine if further action is warranted (e.g. possible Sick Leave abuse) and forward the form to the member's commander. These forms shall be maintained by the commander for the biannual review.

A member on Sick Leave may be contacted by a supervisor to determine when the member expects to return to work, the process for returning to work, the submission of any required documentation, and/or possible coverage under FMLA and/or CFRA.

If a member is contacted, this fact shall be documented on the Sick Leave Review Form, and shall include:

- a) Date;
- b) Time;
- c) Whether the contact was by phone or in person; and
- d) The name of the supervisor who made the contact.

A supervisor, with staff approval, may require a medical provider's verification of illness, which must be signed by a medical care provider, for any period of absence. Such verification shall be mandatory for any member absent for more than seven calendar days due to illness or non-job related injury. This verification of illness or injury must be provided to the member's supervisor immediately upon return to work.

Members who fail to provide a required verification may be required to use leave other than Sick Leave for their absence.

When a pattern or incident of Sick Leave use appears abusive or unauthorized, an immediate review shall be completed. In cases of suspected abuse or misuse of Sick Leave, the supervisor may, at their discretion, impose a physician's statement requirement without prior counseling.

When the findings of any such review support a violation of Department regulations, appropriate corrective action shall be taken.

#### **1014.10 SICK LEAVE USAGE LIMITS**

The acceptable limit for Sick Leave usage for all members is 80 hours per fiscal year. The allowable hours are divided so that a maximum of one half may be used in each semester: January through June and July through December. Members should review their applicable MOU for additional rules and regulations concerning Sick Leave usage and leave administration.

Division commanders, or their designees, will review Sick Leave usage biannually, in January and July, for any member exceeding the authorized limits in the previous six-month period. Records indicating Sick Leave usage in excess of the review limit will be examined further to determine compliance.

Leave of absence requests and Sick Leave review forms will be reviewed to determine how many hours of Sick Leave were hours that are to be considered exempt. Sick Leave hours are exempt from inclusion in the authorized limits for:

- a) A long-term illness or injury of 40 or more consecutive working hours. Members will be required to submit a physician's statement verifying the illness or injury. A member whose absence would otherwise be exempt under this section, who returns to work for up to four hours during their absence, will not lose the exemption (e.g., the member is absent from work for 36 hours of a 40-hour work period);
- b) Pre-approved, scheduled medical or dental appointments of less than four hours. Multiple appointments on the same day, such as those for lab tests and x-rays that take longer than four hours, will be considered exempt. For appointments of more than four hours, members will be required to submit a statement from the medical offices verifying the appointment(s). This does not preclude the Department from requiring verification notes for all medical/dental appointments as provided in FMC §3-107(f);
- c) Sick Leave used for Worker's Compensation absences;
- d) Special leave taken for death in the immediate family, hospitalization of a member of the immediate family, or care of a member of the immediate family who is critically ill or injured, though not hospitalized, subject to the limitations provided in FMC §3-107;
- e) An ongoing medical condition of a serious nature (e.g., diabetes or chemotherapy). Members will be required to submit a letter from the physician indicating the estimated length and frequency of absences;
- f) Surgery and/or hospitalization. Members will be required to submit a physician's statement; and
- g) Up to half of the total accumulated Sick Leave per fiscal year (including leave taken as sick and FMLA/CFRA) in accordance with State of California Labor Code, Chapter 164, Section 233.
- h) FMLA/CFRA leave, leave as an accommodation pursuant to the American with Disabilities Act and of the Fair Employment and Housing Act, and the leaves of absence protected by City, State or federal law.



### 1014.11 SICK LEAVE USAGE REVIEW

As part of this process the Department has instituted several levels of review for members who may be in violation of this policy. The steps and course of action are as follows:

- a) **Initial Review** - Members whose adjusted Sick Leave hours exceed the limit for the first time will be counseled and advised to reduce Sick Leave usage. Supervisory staff are not required to hold a counseling session or impose the physician's statement requirement in situations where the Sick Leave hours used, after the exempt hours are subtracted, do not exceed the authorized limits. Records of counseling will be maintained by the division commander, or designee, and will not be placed in member personnel files.
- b) **Three Month Follow-up Review** - Members who are counseled as part of an initial review will have their Sick Leave usage reviewed three months after being counseled to determine if their non-exempt Sick Leave usage has exceeded the limit of 16 hours (20 hours for 4/10 members). When the usage is at or below the limit, no further action is required. When it is above the limit, the division commander, or designee, will prepare a Letter of Understanding informing the member of a physician's statement requirement. The member will be required to provide written verification from the physician for every Sick Leave absence during a period of three months.
- c) **Failure to Submit a Physician's Excuse** - Should the member fail to submit a signed physician's excuse for any absence during this three-month period that absence will be treated as leave without pay. Supervisors should take action to ensure that members are placed on leave without pay for any unverified absences. When the supervisor fails to take such action, the leave will be deducted from the member's Sick or Vacation balance.
- d) **Cancellation of Physician's Excuse Requirement** - Should the member's Sick Leave usage fall below the 16-hour limit (20 hours for 4/10 members) at the conclusion of the three-month follow-up review period, the requirement for physician's verification will cease. This does not preclude the member's supervisor from requiring a physician's verification when individual circumstances warrant it. Should the member's Sick Leave usage remain above the limit, the physician's verification requirement shall be extended in three-month increments.
- e) **Two Year Compliance** - When a member's usage remains within the authorize limit for a 24-month period following removal from the physician's verification requirement or initial counseling session, the first step for any future action will be counseling, as provided in the initial review.
- f) **Non-Compliance** - When a member's Sick Leave usage continues to exceed the standard set by regulation, progressive corrective action may be taken. Before progressive corrective action is taken, a member's Sick Leave usage over their City career will be considered in determining the appropriateness of discipline.

Should the Sick Leave trend continue, the member may be subject to disciplinary measures, up to an including termination, and may be subject to a mandatory physical examination to determine the member's fitness for duty, as permitted in FMC §3-288.

### **1016.1 POLICY**

In actual or suspected exposure incidents, proper documentation and follow-up action must occur to care for member(s), limit potential liabilities, and ensure that the best protection is available.

#### **1016.1.1 PURPOSE AND SCOPE**

It is the purpose of this policy to assist members in minimizing the risk of contracting and/or spreading communicable diseases and to minimize the incidence of illness and injury by:

- a) Reducing exposures to bloodborne pathogens and other potentially infectious body fluids;
- b) Assisting members in making decisions concerning the selection, use, maintenance, limitations, storage, and disposal of personal protective equipment;
- c) Protecting the privacy rights of all members who may be exposed to or contract a communicable disease during the course of their duties; and
- d) Providing appropriate treatment and counseling should a member be exposed to a communicable disease.

### **1016.2 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. Caution should be taken when collecting evidence.

Some infectious diseases are viable up to two weeks, and can be transmitted from dried blood or other body fluids found on clothing, tools, etc.

### **1016.3 EXPOSURE TO BLOOD, BODILY FLUIDS OR AEROSOL TRANSMISSIBLE DISEASES**

All Department personnel who are exposed to another person's blood, bodily fluids, or a reportable aerosol transmissible disease (Tuberculosis or Ebola) shall follow these procedures and guidelines.

Exposure to blood or other potentially infectious material 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 California Code of Regulations §5193.

Exposure to aerosol transmissible disease is any event in which all of the above have occurred (8 CCR §5199):

- a) An employee has been exposed to an individual who has a case or a suspected case of a reportable aerosol transmissible disease, or to a work area or to equipment that is reportedly 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; and
- c) It reasonably appears from the circumstances of the exposure that transmission of disease is sufficiently likely to require medical attention.

### **1016.4 DESIGNATED INFECTIOUS CONTROL OFFICER (DICO)**

The Chief of Police will assign a person(s) as the Department's Designated Infectious Control Officer(s). The DICO shall be responsible for the following:

- a) The overall management of the bloodborne pathogen Exposure Control Plan (ECP);
- b) Implementing updates to 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; and
- e) Reviewing and updating the ECP annually.

Department supervisors are responsible for the exposure control in their respective areas. They shall work directly with the DICO and any affected employees to ensure that the proper exposure control procedures are followed.

#### **1016.5 PERSONAL PROTECTIVE EQUIPMENT**

Personal protective equipment is the last line of defense against communicable disease. Therefore, the following equipment is provided for all personnel to assist in the protection against such exposure:

- a) Disposable latex gloves;
- b) Isolation mask with eye shield;
- c) Rescue mask with one-way valve; and
- d) Alcohol based gel and/or alcohol wipes.

The protective equipment is to be kept in each police vehicle; inspected at the start of each shift and replaced immediately upon returning to the station if used or damaged during the shift, or as otherwise needed.

#### **1016.6 WORK PRACTICES**

Members shall use the appropriate barrier precautions to prevent skin and mucous membrane exposure when contact with blood or body fluid is anticipated.

Disposable gloves shall be worn on all medical emergency responses.

- a) 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.
- b) When disposable gloves become contaminated with blood or other body fluids, the gloves shall be disposed of as contaminated waste.
- c) 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.

#### **1016.7 IMMUNIZATIONS**

All department personnel who, in the line of duty, may be exposed to or have contact with a communicable disease shall be offered appropriate treatment immunization.

#### **1016.8 TRAINING**

In accordance with 8 CCR §5193 and §5199, all department personnel who, in the line of duty, may be exposed to or have contact with a communicable disease shall receive annual training.

#### **1016.9 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.

### **1016.10 DECONTAMINATION OF SKIN AND MUCOUS MEMBRANES**

Members 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.

In the event decontamination of the whole body is deemed necessary, members should seek attention either from a local hospital, fire department or ambulance services. Medical treatment should be obtained as soon as possible.

Contaminated non-intact skin (e.g., injured skin, open wound, acne) shall be cleaned using an approved disinfectant and then dressed or bandaged as required. Medical treatment is required.

### **1016.11 DECONTAMINATION OF CLOTHING AND EQUIPMENT**

Member's clothing that becomes contaminated with blood or other body fluids shall be removed as soon as possible and put in a disposable bag.

Normal washing, using regular detergents in a washing machine, will decontaminate clothing. It is recommended that laundering be done at a commercial laundry to ensure adequate precautions. When washed at home, two washes are recommended; the first in cold water to remove soilage, and the second in hot water to sanitize. Bleach is recommended when fabric permits.

As an added precaution, contaminated clothing should be washed separately from other items. Normal dry cleaning will decontaminate uniform items that must be dry-cleaned. Wet clothing should be sun dried prior to dry cleaning.

Equipment items that are contaminated with blood or other body fluids are to be thoroughly cleaned after exposure. A solution of one-part household bleach to ten parts water is sufficient to decontaminate equipment items.

### **1016.12 USE OF WASTE CONTAINERS**

Members shall dispose of biohazard with the on-scene fire response vehicle, or at the attending clinic/hospital with their approval.

### **1016.13 DECONTAMINATION OF VEHICLES**

Contaminated vehicles and components such as the seats, radios, and doors shall be "tagged" (details should be written on the tag) for decontamination.

### **1016.14 MEMBER RESPONSIBILITY TO REPORT EXPOSURE (SEE ALSO POLICY §1008 HIV)**

In order to provide appropriate and timely treatment should exposure occur, members shall verbally report the exposure to their immediate supervisor.

### **1016.15 SUPERVISOR REPORTING REQUIREMENTS**

The supervisor on duty shall investigate every exposure that occurs as soon as possible following the incident and take the following steps:

- a) Print out the 3 Exposure Forms located on the 'L' Drive, 'Library', 'Forms', "DICO", "Exposure Forms".
  - 1) Exposure Interview Report Form FPD-BBP01 (2 pages);
  - 2) Request for Notification: Communicable Disease Form FPD-BBP02; and
  - 3) Confidential Disease Exposure Report Form FPD-BBP03.
- b) Call the Duty Office to find out which Designated Infectious Control Officer (DICO Officer) is on duty.
- c) Contact the DICO officer on duty and relate the information.
- d) If the DICO officer advises that an exposure did NOT occur, no additional forms are needed.
- e) If the DICO officer advises that an exposure has occurred, you will be directed to have the exposed employee respond to Kaiser Hospital and the source patient respond to CRMC for testing.

- f) If the DICO officer is unavailable to respond, the supervisor shall complete the forms titled Exposure Interview Report Form FPD-BBP01 (2 pages), Request for Notification: Communicable Disease FPD-BBP02, and Confidential Disease Exposure Form FPD-BBP03 at Kaiser Hospital for exposed employee.
- g) Provide a copy of the completed forms to the ER nurse/doctor at Kaiser Hospital.
- h) Send the original completed forms to Personnel – Work Compensation Coordinator.
- i) Ensure the source patient is sent to CRMC for a blood draw and medical staff will attempt to obtain consent from the source patient.

Supervisors shall also complete the following forms and forward to Personnel-Work Compensation Coordinator:

For incidents of suspected exposure but the field supervisor or DICO officer determined an exposure did not occur:

- a) Exposure Interview Report Form FPD-BBP01

For incidents of confirmed exposure:

- a) Exposure Interview Report – Form FPD-BBP01
- b) Request for Notification: Communicable Disease Form FPD-BBP02
- c) Confidential Disease Exposure Report – Form FPD-BBP03
- d) SRI (Supervisor's Report of Injury)
- e) Signed DWC-1 (State carbon copy worker's compensation form)

For incident of potential HIV exposure, a Report of Potential HIV Exposure to Law Enforcement Employees form (CDPH 8749) must be completed.

#### **1016.16 COUNSELING**

The Department shall provide the exposed employee (and their family if necessary) the opportunity for counseling and consultation.

#### **1016.17 CONFIDENTIALITY OF REPORTS**

Most of the information involved in this process must remain confidential. Supervisors shall not include any information that could identify the exposed member in an Administrative Review Memo end of watch report, etc. If necessary, a confidential unusual report may be completed. The DICO shall ensure that all records and reports are kept in the strictest confidence.

The Employee Assistance Program Officer shall be responsible for maintaining the records containing the employee's treatment status and the results examinations, medical testing, and follow-up procedures.

**1018.1 POLICY**

Use of tobacco products are not permitted within any Department owned or occupied facility. Tobacco products shall not be used while in any Department vehicle.

**1018.1.1 PURPOSE AND SCOPE**

The Surgeon General has determined that tobacco smoke can be hazardous to the health of others. Tobacco products may also be offensive to some Department members and members of the public.

No person shall smoke tobacco products within 20 feet of a main entrance, exit, or operable window of any public building (including Department facility) (Government Code §7596 et seq.).

Members in uniform are prohibited from using any tobacco products while in public view.

Policy  
**1020**

Fresno Police Department Policy Manual  
**Personnel Complaints**

**1020 Personnel Complaints**

**1020.1 POLICY**

The Fresno Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state, and local law, municipal and county rules, and the requirements of any collective bargaining agreements.

It is also the policy of this Department to ensure that the community can report misconduct without concern for reprisal or retaliation. The Department encourages the public to come forward with any relevant facts pertaining to complaints or violations of policies against its members.

**1020.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide guidelines for the reporting, investigation, and disposition of complaints regarding the conduct of members of the Department.

**1020.2 DEFINITIONS**

**Accused** - Accused means the member or members against whom a complaint is filed. The accused may include the Department or any subdivision thereof.

**Blue Team** - Blue Team is the web interface that allows data to be entered into the IA Pro database related to inquiries, complaints, and supervisor reports on pursuits, vehicle accidents, and reportable use-of-force incidents. All recordkeeping is accomplished via the IA Pro database.

**Complaint** – Any allegation of misconduct or improper job performance against any Department member that, if true, would constitute a violation of Department policy, Federal, state, or local law.

**External Complaint** – A complaint against a member generated by a “member of the public” (Government Code §6252 (b)).

**Formal Complaint** – A complaint involving either a serious or general violation, which may lead to disciplinary measures, if sustained. Formal complaints should be documented in an ROC memo. Such complaints may be investigated by a Department supervisor or referred to Internal Affairs (IA), depending upon the seriousness and complexity of the investigation.

**Informal Complaint** – A matter which can be handled at a supervisor level within a district/division and is not reasonably likely to result in disciplinary measures. Generally, complaints handled via this process include minor allegations or general violations. A finding of sustained, not sustained, unfounded or exonerated is required. Informal complaints should be documented in a Complaint Attachment Form (CAF) and forwarded through the involved member’s chain of command via Blue Team.

**Inquiry** - An inquiry involves a question about the policy or procedures of the Department. Inquiries may be documented via an Inquiry Attachment Form (IAF) and Blue Team entry.

**Inquiry/Complaint Log** - The Inquiry/Complaint Log is maintained electronically within the IA Pro database and contains records of inquiries and complaints.

**Internal Complaint** - A complaint against a member generated by any member, agent, officer, or employee of the City of Fresno or any other member, agent, officer, or employee of a federal, state, or local agency acting within the scope of their membership, agency, office, or employment (GC §6252 (b)).

**Major Allegation** – An allegation involving a serious act of misconduct including, but not limited to, lack of integrity, excessive force, insubordination, abuse of authority, discrimination, harassment, or criminal misconduct that resulted in an arrest or formal criminal investigation. A major allegation should be documented via an ROC memo.

**Minor or General Allegation** - A minor allegation is general in nature, and may include violations involving missed court, minor collisions, pursuits, rudeness, and complaints regarding minor operational issues. Generally, complaints of this nature may be handled as an informal complaint but may require a Receipt of Complaint (ROC) if the circumstances are likely to result in discipline (e.g., Letter or Reprimand or higher).

**Personnel Complaints** - Consist of any allegation of misconduct or improper job performance against any Department member that, if true, would constitute a violation of Department policy, federal, state, or local law. A major allegation is any serious act of misconduct including, but not limited to, lack of integrity, excessive force, insubordination, abuse of authority, discrimination, harassment, or criminal conduct. Major allegations should be handled formally and documented as a Receipt of Complaint.

An inquiry involves a question about the policy or procedures of the Department. This type of communication usually stems from a lack of or faulty understanding of the circumstances of a member's conduct or of the policies, rules, and procedures of the Department. An inquiry may be resolved by the member in question or by their immediate supervisor, whereas a complaint may require a more extensive internal administrative investigation. A resolved inquiry may be documented on an IAF.

Inquiries about member conduct which, even if true, would not qualify as a personnel complaint may be handled informally by a Department supervisor and shall not be considered complaints.

An unresolved inquiry arises when the actions in question are within Department policy and procedure, or are disputed and cannot be determined, and the complainant is not satisfied with the supervisor's explanation. An unresolved inquiry shall be documented in an IAF and forwarded through the chain of command to Internal Affairs. Resolved inquiries may also be documented in an IAF and forwarded to Internal Affairs.

**Receipt of Complaint (ROC) Memo** – A memo documenting allegations of a serious nature, or circumstances likely to result in disciplinary measures against an employee. At a minimum, an ROC memo includes the allegations and a synopsis of the complainant's statement, or a summary of the allegations when the complaint is internally generated.

**Receiving Member** - A receiving member is any member who receives an inquiry or complaint from the public.

**Resolved Inquiry** - When the circumstances generating an inquiry appear to be within Department policy and an explanation produces understanding and/or satisfaction on the part of the complainant, it shall be deemed a Resolved Inquiry.

**Unresolved Inquiry** - When the circumstances surrounding an inquiry are within Department policy and procedure or are disputed and cannot be determined through further investigation, and the complainant is not satisfied with the supervisor's explanation, the incident shall be classified as an Unresolved Inquiry.

### 1020.3 CLASSIFICATION OF COMPLAINTS

Personnel Complaints shall be classified in one of the following categories depending on how they will be handled:

- a) **Informal** – A matter which can be handled at a supervisor level within a district/division and is not reasonably likely to result in disciplinary measures. Generally, complaints handled via this process include minor allegations or general violations. A finding of sustained, not sustained, unfounded or exonerated is required.
- b) **Formal** – A complaint involving either a serious or general violation, which may lead to disciplinary measures, if sustained. Formal complaints should be documented in an ROC memo. Such complaints may be investigated by a Department supervisor or referred to Internal Affairs, depending upon the seriousness and complexity of the investigation.

Personnel Complaints shall be classified in one of the following categories, depending on origin:



- a) **Internal** - A complaint by any member, agent, officer, or employee of a federal, state, or local agency (Including the City of Fresno) acting within the scope of their membership, agency, office, or employment.
- b) **External** - A complaint against a member generated by a "member of the public".

Personnel Complaints shall be classified in one of the following categories, depending on type of violation:

- a) **Non-Criminal** - An allegation of a violation of Department or City policy which, if true, would not constitute a misdemeanor or felony crime.
- b) **Misdemeanor** - As defined by California law.
- c) **Felony** - As defined by California law.

In determining whether to classify an allegation of criminal conduct to be a misdemeanor or felony, if the alleged criminal offense is a "wobbler" and can be charged as a misdemeanor or felony, it shall be classified as a felony.

#### **1020.4 PERSONNEL COMPLAINTS INVOLVING RACIAL OR IDENTITY PROFILING**

Any complaints involving racial or identity profiling, must document the specific type(s) of profiling alleged: based on race or ethnicity (including color), nationality, age, religion, gender, gender expression, sexual orientation, mental disability, or physical disability. Any such complaint must indicate one or more of the applicable categories:

- a) **Race or Ethnicity bias** - Defined as a preformed negative opinion or attitude toward a group of persons, such as Asians, blacks, or whites, based on physical characteristics or toward a group of persons of the same race who share common or similar traits in language, custom, and tradition.
- b) **Nationality bias** - Defined as a preformed negative opinion or attitude toward a group of persons based on their national origin.
- c) **Gender bias** - Defined as a preformed negative opinion or attitude toward a group of persons based on their gender.
- d) **Age bias** - Defined as a preformed negative opinion or attitude toward a group of persons based on their age.
- e) **Religion bias** - Defined as a preformed negative opinion or attitude toward a group of persons based on religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being. Examples are Catholics, Jews, Protestants, or Atheists.
- f) **Gender identity or Expression bias** - Defined as a preformed negative opinion or attitude toward a group of persons based on how that group chooses to identify or express their gender preference.
- g) **Sexual orientation bias** - Defined as a preformed negative opinion or attitude toward a group of persons based on sexual preferences and/or attractions toward and responsiveness to members of their own or opposite sexes.
- h) **Mental disability bias** - Defined as a preformed negative opinion or attitude toward a group of persons based on mental impediments/ challenges, whether such disabilities are congenital or acquired by heredity, accident, injury, advanced age, or illness.
- i) **Physical disability bias** - Defined as a preformed negative opinion or attitude toward a group of persons based on physical impediments/ challenges, whether such disabilities are congenital or acquired by heredity, accident, injury, advanced age, or illness.

#### **1020.5 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS**

##### **1020.5.1 AVAILABILITY OF COMPLAINT FORMS**

Personnel complaint forms will be maintained in a clearly visible location at the following Police locations:

- a) Fresno Police Headquarters, 2323 Mariposa Mall, Fresno, CA. 93721
- b) Southwest Policing District Station, 1211 Fresno St. Fresno, CA. 93706
- c) Northwest Policing District Station, 3074 W Shaw Ave. Fresno, CA. 93711
- d) Northeast Policing District Station, 1450 E Teague Ave. Fresno, CA. 93720
- e) Central Policing District Station, 3502 N. Blackstone Ave. Fresno, CA. 93726
- f) Southeast Policing District Station, 224 S. Argyle Ave. Fresno, CA. 93727

Forms may also be available at these other police, government, community facilities:

- a) Fresno City Hall, City Manager's Office, 2600 Fresno St. Fresno, Ca 93721
- b) Hinton Community Center, 2385 S. Fairview St. Fresno, CA 93706
- c) Mosqueda Community Center, 4670 E. Butler Ave. Fresno, CA 93702
- d) Ted C. Willis Community Center, 770 N. San Pablo Ave. Fresno, CA 93728
- e) Stone Soup Fresno, 1345 E Bulldog Lane, Fresno, CA 93710

Complaint forms are also available at the City of Fresno website at [www.fresno.gov/police/services-special-units/internal-affairs/internal-affairs-online-complaint-form/](http://www.fresno.gov/police/services-special-units/internal-affairs/internal-affairs-online-complaint-form/)

#### 1020.5.2 SOURCE OF COMPLAINTS

- (a) A Department member made aware of alleged misconduct shall immediately notify a supervisor.
- (b) A supervisor receiving a complaint from any source alleging misconduct of a member 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.

Supervisors assigned to handle an inquiry/complaint shall ensure that the complainant is re-contacted within two working days of the supervisor receiving the inquiry/complaint. The supervisor is responsible for updating the complainant on the outcome of their investigation and documenting their notification in the IAF/CAF. When an internal affairs investigation is completed, or a final disposition is reached on an informal complaint, Internal Affairs will notify the complainant of the disposition in writing.

#### 1020.5.3 ACCEPTANCE OF COMPLAINTS

A complaint may be filed in person, in writing, by telephoning the Department, or at the City of Fresno website at [www.fresno.gov/police/services-special-units/internal-affairs/internal-affairs-online-complaint-form/](http://www.fresno.gov/police/services-special-units/internal-affairs/internal-affairs-online-complaint-form/). Although not required, every effort should be made to have the complainant appear in person.

#### 1020.5.4 COMPLAINT DOCUMENTATION

When a Personnel Complaint form is completed in person, the complainant should legibly write a detailed narrative of their complaint. If circumstances indicate that this is not feasible, the complaint may be dictated to the receiving supervisor. In an effort to ensure accuracy in any complaint, a recorded statement should be obtained from the reporting party; however, a refusal by a party to be recorded shall not alone be grounds to refuse to accept a complaint. Whether handwritten or dictated, the complainant's signature should be obtained at the conclusion of the statement. Upon request, the complainant will be provided with a copy of their own original complaint per PC §832.7.

#### 1020.5.5 COMPLAINT PROCESS AUDITING

The Department will conduct periodic reviews of the complaint process. The audit will ensure the availability, acceptance, and completion of the complaint process is done in a timely, effective, and unbiased manner. The audit will be submitted to the Chief of Police for review.

#### 1020.6 DISPOSITION OF PERSONNEL COMPLAINTS

Each allegation shall be classified with one of the following dispositions:

- a) **Exonerated** – When the investigation clearly established that the actions of the personnel that formed the basis of the complaint are not a violation of law or agency policy.
- b) **Misconduct Not Alleged in Original Complaint** – “Misconduct Not Alleged” is a sustained finding of misconduct not originally alleged in a complaint.
- c) **Not Sustained** – When the investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation in the complaint.
- d) **Sustained** – When the investigation disclosed sufficient evidence to prove the truth of the allegation in the complaint by the preponderance of evidence.
- e) **Unfounded** – When the investigation clearly established that the allegation is not true. Complaints which are determined to be frivolous will fall within the classification of unfounded [PC §832.5(c)].

## **1020.7 BLUE TEAM – INQUIRY / COMPLAINT PROCESS**

Blue Team shall be accessed using the member's individually assigned login. Updates may be made to individual entries regarding the status or disposition of a case. Blue Team entries contain details of inquiries and complaints received by the Department, including a brief description of the type of contact and the disposition of the information received. Each completed Blue Team inquiry/complaint entry requires an IAF/CAF, unless an ROC memo is attached instead.

When any possible violation of policy or procedure is identified during the investigation of a complaint or inquiry, it shall be thoroughly investigated and reported via either the informal or formal complaint process. When handling an inquiry or complaint, the assigned member will consider if video evidence is potentially available and take steps to ensure that the evidence is preserved for inclusion in the investigation. However, it is not necessary to attach body camera video into Blue Team, as it can be accessed via Evidence.com.

Supervisors assigned to handle an inquiry or complaint shall ensure the complainant is re-contacted within two working days of the supervisor receiving the inquiry/complaint. The supervisor is responsible for updating the complainant on the outcome of their investigation and documenting the notification in the appropriate section of the IAF/CAF.

Investigating supervisors shall complete and submit the IAF/CAF within 30 days of the inquiry/complaint date or date assigned.

When completing an IAF/CAF, supervisors shall list the involved member's name(s) on the IAF/CAF and have the member review it, prior to forwarding it to Internal Affairs. A witnessing supervisor may be present to verify an involved member's opportunity to view the IAF/CAF.

When reportable force has been used and an unreasonable force complaint is also made regarding the same incident, separate inquiry and use of force entries must be made in Blue Team.

IA shall track and maintain the final disposition of all complaints and inquiries entered into Blue Team. The record maintained in IA Pro is the only official record.

### **1020.7.1 DIFFERENCE BETWEEN INQUIRY AND COMPLAINT**

All expressions of displeasure with the conduct of the Department or its members shall be carefully examined to determine whether or not the expressed sentiment is an inquiry or a complaint.

An inquiry involves a question about the policy or procedures of the Department. This type of communication usually stems from a lack of or faulty understanding of the circumstances of a member's conduct or of the policies, rules, and procedures of the Department. An inquiry may be resolved by the member in question or by their immediate supervisor, whereas a complaint may require a more extensive investigation. All Inquiries should be documented on an Inquiry Attachment Form, while complaints should be documented on a Complaint Attachment Form.

## **1020.8 INQUIRIES**

### **1020.8.1 RECEIPT OF INQUIRIES**

Any member who receives an inquiry regarding their performance from a person who has a reasonable standing to inquire (i.e., someone impacted by the actions of the member) should attempt to satisfy the inquiry as soon as circumstances permit. When the complainant is satisfied with the member's response, no further action is required. When the complainant is unsatisfied, a supervisor shall be immediately called to the scene to receive and handle the inquiry. When the supervisor who arrives to handle the inquiry is able to bring understanding to the complainant regarding the officer's actions, no further action is necessary.

## 1020.8.2 RESOLVED / UNRESOLVED INQUIRY DISPOSITION

Although some inquiries may be resolved in the field with no further documentation, other inquiries may require documentation in an IAF (e.g., when a supervisor is assigned to handle an inquiry originally entered into Blue Team by the Duty Office).

When the circumstances established by the investigating supervisor result in a resolved or unresolved inquiry, the investigating supervisor shall forward the completed IAF via Blue Team, noting the disposition. The IAF shall be forwarded through the member's bureau/district commander/manager, to the IA Secretary via Blue Team.

## 1020.9 COMPLAINTS

All complaints, regardless of the means by which they are conveyed, shall be received by any member of the Department to whom they are transmitted and processed according to the procedures contained in this order. Any member who receives a complaint regarding their performance shall notify their supervisor as soon as possible. The supervisor should respond to the location to contact the complainant and conduct an investigation into their allegations. Supervisors will ensure a Blue Team entry is made, attach an CAF or ROC memo and all supporting documents, then forward the Blue Team entry to their bureau/district commander. When AXON recordings of the involved incident exist, the investigating supervisor shall briefly summarize the video in the CAF.

All supervisory contact with complainants shall be made in person whenever possible. Interviews should be recorded, whether in person or by telephone. AXON cameras may be used for the purpose of recording statements during the investigation of complaints, although digital recordings are also acceptable.

### 1020.9.1 COMPLAINTS INVOLVING MINOR OR GENERAL ALLEGATIONS

The supervisor receiving or investigating a complaint shall discuss all allegations with the complainant to determine its validity. When it is determined the complaint can be appropriately handled via the informal complaint process, the supervisor will reach a disposition of Unfounded, Exonerated, Not Sustained, or Sustained and a CAF shall be completed. The CAF should contain details regarding the origin of the complaint, the specific allegations involved, and efforts made to investigate the complaint. The CAF shall be forwarded via Blue Team to the accused member's bureau/district commander/manager. Upon approval of the disposition, the CAF shall be forwarded via Blue Team to the IA Secretary, subject to final review by the IA commander. Formal complaints involving a minor or general violation should be documented in an ROC.

### 1020.9.2 RESOLUTION OF ROC'S INVOLVING MINOR OR GENERAL ALLEGATIONS

When the investigating supervisor documents an ROC regarding a minor violation where there is no probability of reaching a conclusion through further investigation (e.g., cases of a member's word against the complainant with no identifiable witnesses or evidence to support either position), they may recommend that the complaint be closed as "Not Sustained." With the concurrence of the bureau/district commander, such cases may be concluded at the ROC level without further investigation. The complainant shall be notified of the disposition of the complaint by Internal Affairs. If additional evidence or information is provided at a later time, the investigation may be reopened at the discretion of the bureau/district commander/manager. Command Staff has the discretion to bypass the Receipt of Complaint process and proceed directly to an investigation when the Administrative Service Division Commander concurs with the decision.

### 1020.9.3 COMPLAINTS INVOLVING A MAJOR ALLEGATION

When a complaint of a major allegation is received, the supervisor shall prepare an ROC memo, which shall be forwarded through the chain of command via Blue Team to the division commander, who will decide if the complaint is to be investigated at the division level or forwarded to IA. The Blue Team entry attachments shall include an ROC memorandum summarizing the complaint, copies of all relevant documentation (e.g., reports, call printouts, medical forms, photographs, IAF/CAF, non-AXON video, etc.), and recordings of all interviews.

#### 1020.9.4 FIREARM RELATED INCIDENTS

Unintentional firearm discharges by officers that do not result in injury should be documented in an ROC. Refer to Policy §310 regarding intentional firearm discharges/use of deadly force (OIS).

Incidents where an officer uses their firearm to subdue a vicious animal (Dog OIS), may be documented in an Administrative Review or ROC memorandum.

#### 1020.9.5 COMPLAINT INVOLVING RACIAL OR IDENTITY PROFILING

Complaints related to racial/identity profiling (or bias-based policing) generally require an ROC and are investigated via the formal complaint process. However, when the following conditions apply, such complaints may be handled via the informal complaint process and documented in a CAF:

- a) The entire contact between the complainant and officer(s) is captured via AXON body camera and;
  - 1) A review of the video demonstrates no conduct by the officer(s) that suggests, implies, or indicates bias-based policing; and
  - 2) Reasonable suspicion for the contact is not in question by the complainant or is captured on video, or
- b) The entire contact is not recorded via AXON body camera, but upon a supervisor discussing the matter with the complainant, the complainant chooses to voluntarily rescind their allegations/complaint. Under these circumstances, a recording (audio or AXON) of the complainant rescinding their complaint is required.

#### 1020.9.6 ANONYMOUS COMPLAINTS

Anonymous complaints shall be referred to a supervisor by the receiving member. The supervisor shall create a Blue Team entry and forward it to the accused member's bureau/district commander/manager. When the anonymous complaint contains sufficient information for investigation, the bureau/district commander/manager shall assign it for investigation. If the complaint does not contain sufficient information for follow-up, it shall be documented in a CAF, which shall be forwarded via Blue Team to the IA Secretary.

Under exceptional circumstances, where the nature of the complaint dictates a departure from the provisions of this section, the receiving member shall contact an appropriate supervisor or commander for assistance in the special handling of the complaint.

#### 1020.9.7 WRITTEN COMPLAINTS

Persons desiring to file a complaint, who do not want contact with or cannot wait for a supervisor, shall be provided with a "mail-in" complaint form. A form may be picked up in person at HQ, at designated locations throughout the City, or by calling the IA Office and requesting that a form be sent to the complainant by mail. Upon completion, the forms are to be mailed to the Duty Office. When preferred, complainant may access the Department's website at [www.fresno.gov](http://www.fresno.gov) and print the form to mail in or submit by e-mail. The receiving member shall forward the e-mail to the Duty Office.

A written complaint received by any member of the Department shall be forwarded to the Duty Office or the accused member's bureau/district commander/manager. A Blue Team entry shall be made prior to the accused member's bureau/district commander assigning the complaint for investigation.

#### 1020.9.8 DISPOSITION OF COMPLAINTS

When an internal affairs investigation is completed, or a final disposition is reached on an informal complaint, IA will notify the complainant of the disposition in writing.

#### **1020.10 ROLE OF DUTY OFFICE, SUPERVISORS AND COMMANDERS IN RECEIVING INQUIRIES AND COMPLAINTS**

All inquiries/complaints brought to the attention of a Duty Officer, by any means (i.e., phone, mail, e-mail, HQ walk-ins, etc.), shall be entered into Blue Team by the Duty Officer and/or the assigned supervisor dependent upon the type of violation.

When the inquiry/complaint is of a minor violation, and the accused member is on duty, the Duty Officer shall notify the member's supervisor. The supervisor shall respond to handle the inquiry/complaint, complete the IAF/CAF, and complete the Blue Team entry. When the accused member is off-duty, or a supervisor from the accused member's bureau/district is unavailable, the Duty Officer shall complete a Blue Team entry and forward it to the accused member's commander.

When the inquiry/complaint is of a major violation, whether the accused member is on or off-duty, the Duty Officer shall notify a supervisor from the accused member's bureau/district of assignment (e.g., unreasonable force, criminal conduct, etc.). The on-duty supervisor shall contact the complainant, handle the inquiry/complaint, and complete a Blue Team entry. An ROC should be completed by the on-duty supervisor. Whenever possible, efforts shall be made to obtain any pertinent evidence that may not be available at a later time, to include photographs of injuries, jail booking or surveillance video, and recordings of critical witness statements.

In all instances where the Duty Officer enters an inquiry/complaint into Blue Team, a Receipt for Personnel Complaint form shall also be completed. The receipt will be sent to the complainant via U.S. mail by Records. When mail-in complaint forms or email complaints are received, the receiving Duty Officer shall scan any original documents and complete a Blue Team entry, electronically attaching the scanned copies and any related emails. The original mail-in form shall be forwarded to IA. The Blue Team entry shall be forwarded to the bureau/district commander/manager of the involved member, who shall assign the inquiry/complaint the appropriate supervisor for investigation.

#### **1020.10.1 INQUIRIES AND COMPLAINTS WITH AXON RECORDINGS**

In the course of handling an inquiry or complaint in the field, a supervisor may review an officer's AXON video. In instances where the alleged misconduct did not occur and allowing the complainant to view the video may facilitate resolution of the inquiry or complaint, the supervisor may allow the complainant to view the video. When the inquiry/complaint is resolved, it shall be documented in an IAF/CAF and entered into Blue Team.

When the inquiry or complaint involves use of force and the video shows force being used by a(n) officer(s), an ROC will still be required. If the complainant rescinds their initial complaint after viewing the video, it shall be noted in the ROC. If the video clearly demonstrates no force was used by officers, the complaint may be documented in an IAF/CAF and entered into Blue Team, subject to review by the IA commander. The IA commander will make a determination as to whether or not further investigation is warranted (refer to Policy §450 for additional requirements related to AXON recordings and complaints).

#### **1020.10.2 COORDINATION OF INVESTIGATIONS**

When members from different bureaus are involved in the same inquiry, the Blue Team entry shall be sent to the bureau commander/manager of each accused member. The commanders/managers shall ensure that the investigation is coordinated by the assigned supervisor(s).

#### **1020.11 NOTIFICATION TO IA OF ASSIGNED COMPLAINTS**

When a division commander determines that a complaint should be formally investigated by IA, it will be forwarded to the Administrative Division Commander for review. Upon concurrence by the Administrative Division Commander, the complaint will be assigned to IA for investigation.

When a supervisor who is not assigned to IA is assigned any internal investigation, they shall contact IA within the next three workdays to provide the following information and obtain an IA case number. ~~Notification of the incident (if known),~~ via e-mail or voicemail.

- a) Date and time of the incident;
- b) Location of the incident;
- c) Case number or event number of the incident;
- d) First and last name of the accused member(s);
- e) Nature of complaint including a brief summary; and
- f) Whether the complaint was generated internally or by a citizen.

g) When complaint is citizen generated, provide name, race, age, and sex of citizen.

When an administrative investigation is handled by a supervisor outside of the Internal Affairs Bureau (IAB), it shall be forwarded to IAB upon completion. IAB is responsible for initiating and tracking the review process.

See Policy §340 for staffing and forwarding of administrative investigations.

#### 1020.11.1 INTERNAL AFFAIRS INVESTIGATION COMPLETION DEADLINES

Supervisors conducting IA investigations shall make reasonable efforts to complete assigned IA's in a timely manner. The target goal for IA investigations is completion within 30 days of assignment, not to exceed 60 days without an extension. Requests for extensions shall be made in writing to the investigating supervisor's bureau/district commander. The IA secretary shall be notified of the extension and its length. (Policy § 340.3). Extensions may be granted for investigations of a complex or difficult nature. Generally, those IA Investigations assigned to the Internal Affairs Bureau are complex and of a difficult nature. The target goal for IA investigations assigned to the Internal Affairs Bureau is completion within 90 days of assignment, however completion times will be subject to the discretion of the Internal Affairs Bureau Commander.

### **1022.1 POLICY**

All members shall wear available safety restraints whenever operating a Department vehicle as outlined in this policy.

#### **1022.1.1 PURPOSE AND SCOPE**

Vehicle Code §27315.5 requires law enforcement agencies to adopt a policy concerning the use of seat belts. Additionally, the use of seat belts and other safety restraints significantly reduces the chance of death or injury in case of a traffic collision.

### **1022.2 WEARING OF SAFETY RESTRAINTS**

Under unusual circumstances or if a potentially dangerous situation is either perceived or anticipated, safety restraints may be removed to allow for a more rapid response to the situation.

All nonmembers occupying the front seat of a police vehicle shall be required to wear available safety restraints.

All persons occupying the rear seat of a police unit, to include prisoners, shall wear available safety restraints unless physical conditions would prevent such from being applied.

This section shall not apply to prisoner transportation wagons or vans pursuant to VC §27315(g).

### **1022.3 CHILD PASSENGER RESTRAINT SYSTEM**

Members transporting children under 8 years of age or less than 4'9" tall should make every effort to utilize an appropriate child passenger restraint system meeting current federal motor vehicle safety standards, and should attempt to obtain these restraints through all available means (e.g., on-duty volunteers, family members of the child, or CPS). Where an appropriate child passenger restraint system is unavailable or impractical based on patrol vehicle design, and the circumstances warrant the immediate transportation of a child under 8 years or less than 4'9" tall, the member may, with supervisor approval, transport the child without the use of that system, but the child shall be secured by available means and transported in an authorized emergency vehicle only.



### **1024.1 POLICY**

The Department provides soft body armor for specified members in an effort to improve safety.

#### **1024.1.1 PURPOSE AND SCOPE**

Practical safety measures should be used to reduce the risks and hazards associated with police work.

### **1024.2 DEFINITIONS**

**Enforcement Activities** – Duty assignments and/or tasks that place or could reasonably be expected to place officers in situations where they are at risk of being involved in violent encounters.

**Extreme Climate Related Conditions** – Any time the local outside ambient temperature exceeds 95 degrees Fahrenheit, as listed on the National Weather Service Forecast at <http://www.weather.gov>.

### **1024.3 BODY ARMOR**

Soft body armor vests are issued to all sworn personnel because they have been shown to be effective in reducing deaths and life threatening injuries. Personnel are only authorized to wear Department issued or Department approved body armor.

### **1024.4 USE OF BODY ARMOR**

All officers assigned to a uniformed position are required to wear body armor while engaged in enforcement activities as defined above. Officers may be exempt from mandatory use when:

- (a) The officer provides written documentation from their physician indicating that the officer has a medical condition that precludes wearing body armor;
- (b) The Department determines that circumstances make it inappropriate to mandate wearing body armor based on job assignment; or
- (c) Extreme climate related conditions exist, as defined above.

All probationary officers are required to wear their issued ballistic vest while in uniform. Officers engaged in enforcement activities that are exempt from wearing their body armor shall have it readily available. Damaged vests should be replaced by the Equipment & Supply Unit as soon as possible.

Body armor use is mandatory for all sworn personnel involved in a pre-planned event where time and practicality allow officers to put on body armor in anticipation of encountering armed or dangerous suspects, serving any search warrant, or circumstances involving a felony suspect (i.e., arrest, field interview, SWAT operations, stake-outs, etc.). (See Policy §323)

Supervisors shall be responsible for ensuring that body armor is worn as required through routine observation.

### **1025.1 POLICY**

Members shall provide the Department with their current phone number and street (residence) address. Members using post office boxes or mailing addresses other than their street address shall also provide the Department with that information.

#### **1025.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to ensure the Department has the information necessary to effectively communicate with its members in a timely and appropriate manner.

### **1025.2 TELEPHONE REQUIRED**

Members shall maintain a functional telephone in their private residence and shall ensure that the Department has their telephone number(s) accurately recorded.

### **1025.3 ADDRESS REQUIREMENTS**

Members shall provide the Department with their current street (residence) address. Members using post office boxes or mailing addresses other than their street address shall also provide the Department with that information.

### **1025.4 CHANGE OF ADDRESS OR TELEPHONE**

Members who change their address and/or telephone number shall notify the Personnel Bureau of their new address and/or telephone number on the Department Change of Address/Telephone Form. This notification shall be made by the close of business on the day the change is to be made. Members shall also complete a yellow ADDRESS/PHONE NUMBER CARD in the Fiscal Affairs Bureau to ensure proper forwarding of payroll related documents. (i.e., W-2's, Payroll Advice Stubs, etc.)

### **1025.5 TELEPHONE & ADDRESS LIST DISTRIBUTION**

The Personnel Bureau shall maintain the master list of the addresses and telephone numbers of all members. Copies shall be distributed to the Office of the Chief of Police, or designee, all division, district, and section commanders, division managers, division secretaries, the Fiscal Affairs Bureau, the Duty Office, and the CLO. Lists may be copied by others only with permission of their commander/manager. Information contained on any of these lists is confidential and shall not be released except as provided in this order.

### **1025.6 HANDLING INQUIRIES**

Inquiries regarding the name, address, and/or phone number of a member shall be directed to that member's division secretarial staff during normal business hours of the division. Requests falling outside of normal business hours shall be directed to the Duty Office.

#### **1025.6.1 RELEASE TO MEMBERS**

The division secretarial staff member or duty officer may release the requested information to another member upon verification of the requesting member's identity.

#### **1025.6.2 RELEASE TO NON-MEMBERS**

Except for the release to District Attorney (DA) personnel, no member shall release name, phone number, and/or address information of a member to a non-member. When the requesting party wishes to contact a member for a personal emergency or urgent work related reasons, the division secretarial staff member or duty officer will immediately attempt to contact the member and deliver the message. When the request does not require an immediate attempt to contact the member or when the division secretarial staff member or duty officer is unable to contact the member, they may provide the

requesting party with the member's voice mailbox number. When there is no voice mailbox for the member, a written message shall be taken and forwarded as appropriate.

#### **1025.6.3 RELEASE TO DA PERSONNEL**

Members of the CLO are authorized to release address/phone number information to DA personnel when it is necessary to contact the member regarding a case and the contact cannot wait until, or be accomplished while, the member is on duty.

#### **1025.7 VOICE MAIL AND ELECTRONIC MAIL**

Members shall activate their assigned voice mailbox upon its issuance and prepare a professional greeting in the member's own voice. The greeting shall include the member's name, rank, assignment and a request that a message be left. No music or other evident background noise shall be included in the greeting. Members shall review their voice mail messages a minimum of once during each duty shift. This mandatory review shall take place at the beginning of the shift. Duty related messages received by members shall be acted upon as soon as practical or as circumstances dictate. Members who are assigned to positions which utilize e-mail shall review their e-mail messages a minimum of once during each duty shift they work. Duty related messages received by members via e-mail shall be acted upon as soon as practical or as circumstances dictate.

### **1026.1 POLICY**

It is the policy of this Department to maintain personnel records and preserve the confidentiality of member personnel records pursuant to Penal Code (PC) §832.7.

#### **1026.1.1 PURPOSE AND SCOPE**

This policy governs the maintenance, retention, and access to member personnel files in accordance with established law.

### **1026.2 DEFINITIONS**

**Brady Material** - In the *Brady v. Maryland* decision (373 U.S. 83 (1963)) the United States Supreme Court held that the prosecution has an affirmative duty to disclose to the defendant evidence which is both favorable and material to the guilt and/or punishment of the defendant.

**Note:** PC §1054.1 establishes a criminal defendant's right to access potentially exculpatory evidence.

**The Prosecution** - Refers to the District Attorney and all investigative agencies involved in the criminal prosecution of a defendant, including this Department.

#### **1026.2.1 PERSONNEL FILES DEFINED**

Pursuant to PC §832.8, member personnel records shall include any file maintained under an individual member's name relating to:

- (a) Personal data, including marital status, family members, educational and employment history, home addresses or similar information;
- (b) Original performance evaluations;
- (c) Medical history;
- (d) Election of employee benefits;
- (e) Employee advancement, appraisal, or discipline;
- (f) Complaints or investigations of complaints, concerning an event or transaction in which the member participated, or which the member perceived, and pertaining to the manner in which the member performed official duties; and
- (g) Any other information the disclosure of which would constitute an unwarranted invasion of personal privacy.

The personnel files described in this order are authorized by the Chief of Police. No other personnel files may be maintained with respect to any member without the knowledge of the member and the permission of the Chief of Police. This order does not, however, prohibit supervisors from keeping notes, attendance logs or similar documents, when these documents are to be used for periodic performance evaluations or will eventually be entered into an authorized file.

### **1026.3 EMPLOYEE RECORD LOCATIONS**

Employee records will generally be maintained in any of the following:

**Divisional File** - A separate, internal file maintained by each bureau, section, or unit commander that contains those documents that pertain to a member's performance within their area of assignment.

**Field Training Files** - The Field Training Coordinator maintains a file on each member who is in or has been in the Field Training Program. These files contain all the documents generated on each member while in the Field Training Program.

**Internal Affairs Files** - Files maintained by the Internal Affairs Bureau that contain complaints of member misconduct and all materials relating to the investigation into such allegations, regardless of

disposition. In addition, IA files contain Risk Management claim investigations, pursuit reviews, accident reviews, and discrimination and harassment dispositions.

**Master Personnel File** - That file which is maintained in the Personnel Bureau as a permanent record of a member's employment with this Department and may be subject to the provisions of Government Code (GC) §3305 and §3306. This file should contain documents relative to a member's employment and training by the Department except for pre-employment background information and Internal Affairs Unit investigative files. Documents which should be placed in this file include, but are not limited to, formal commendations, disciplinary actions, evaluations, training records, etc.

**Medical File** – Any file maintained by the Worker's Compensation Coordinator which contains documents related to a member's medical condition and history. These files shall be maintained separately from all other personnel records.

**Member Emergency Card Files** – Files maintained by the Communications Manager that contain Emergency Contact information for members. When there is a change of persons to contact, members shall complete a new card and forward it to the Communications Manager.

**Pre-employment File** - The Personnel Bureau maintains a separate file on each member that is restrictive to pre-employment background and history information. No other documentation may be placed in this file.

**Reserve Officer Personnel Files** – Files maintained by the Reserve Officer Coordinator which contain master personnel files on all reserve officers, including all of the information generated with respect to the reserve's service to the Department (except background investigation information).

**Supervisor Log Entries** - Any written comment, excluding actual performance evaluations, made by a supervisor concerning the conduct of a member of this Department.

**Training File** - Files maintained by the Training Manager which documents the training records of a member and contains original or photocopies of available certificates, transcripts, diplomas, and other documentation, along with education and firearm qualifications.

#### **1026.4 CONFIDENTIALITY OF ALL PERSONNEL FILES**

Pursuant to PC §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 the California Public Records Act and applicable federal discovery laws. Nothing in this section is intended to preclude review of personnel files by the City Attorney, other attorneys employed by and/or retained by the City, or representatives of the City in connection with official business. See Policy §1026.7 for member personnel files subject to release pursuant to a proper request under the California Public Records Act.

Information possessed by the Department regarding members is strictly confidential. This includes all personnel files, telephone and address information, and other personal information. The release of any information in a personnel file shall be controlled by Policy §1026 through the Internal Affairs Bureau Commander and the City Attorney's Office. The release of other personnel information about another is prohibited.

#### **1026.5 SECURITY**

Personnel records should be maintained in a secured location and locked either in a cabinet or access-controlled room. Personnel records maintained in an electronic format should have adequate password protection.

##### **1026.5.1 REQUESTS FOR DISCLOSURE**

Any request for a personnel record under Evidence Code (EC) sections 1043 et seq. (i.e., Pitchess motion process) shall promptly be forwarded to the City Attorney's Office (CAO). Upon receipt of any

such request, the affected member shall be notified as soon as practical that such a request has been made. The CAO shall further ensure that an appropriate response is made in a timely manner, consistent with applicable law. All requests for disclosure that result in access to a member's personnel records shall be logged in the corresponding file. Should the CAO or any other Department or representative of the City of Fresno receive a request for member personnel records, they will notify the Internal Affairs Bureau (IAB) Commander.

#### 1026.5.2 RELEASE OF CONFIDENTIAL INFORMATION

Except as provided by this policy or pursuant to lawful process, no information contained in any confidential member personnel file shall be disclosed to any unauthorized person(s) without the expressed prior consent of the involved member or written authorization of the Chief of Police or their 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 (PC §146(e)).

Pursuant to PC §832.7(f)(1), the disposition of any member of the public'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 member who is the subject of the investigation (or the member's representative) publicly makes a statement which is published in the media and which the member (or representative) knew to be false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement (PC §832.7(e)).

#### 1026.6 BRADY MATERIAL IN PERSONNEL FILES

The purpose of this section is to establish a procedure for releasing potentially exculpatory information (so-called Brady material) contained within confidential peace officer personnel files.

##### 1026.6.1 RELEASE OF PERSONNEL FILES TO DISTRICT ATTORNEY

Pursuant to PC §832.7(a), the only time the District Attorney (Attorney General or Grand Jury) is entitled to access confidential peace officer personnel files without filing a Pitchess motion is when they are investigating the conduct of an officer or this Department. Such access shall not be considered a waiver of the confidentiality of the information contained in these files. The Pitchess motion process does not apply to federal law.

Absent a specific investigation of identified officer(s) or a specific investigation of this Department (or the consent of an involved officer), no confidential information from any officer's personnel file shall be released to the District Attorney or Grand Jury without full compliance with the *Pitchess motion* process. The prosecution of a criminal defendant is not considered an investigation of any involved officer.

Should an officer's credibility or other issues related to an officer's personnel file arise in the context of an officer acting as a witness for the prosecution, access to that officer's personnel file by either the District Attorney or the criminal defendant shall be limited to that which is authorized by the process set forth in EC §1043, et seq.

##### 1026.6.2 PROCEDURE

If an officer is a material witness in a criminal case, a person or persons designated by the Chief of Police may examine the subject officer's personnel file to determine whether there are Brady materials contained therein (e.g., evidence which is both favorable and material to the guilt and/or punishment of the defendant). If Brady material is located, the following procedure shall apply:

- (a) In the event that a Pitchess motion has not already been filed by the criminal defendant or other party, the District Attorney shall be notified of the potential presence of Brady material in the officer's personnel file;

- (b) The District Attorney should be instructed to file a Pitchess motion in order to initiate an in-camera review by the court;
- (c) As with any Pitchess motion, and prior to any review of the files by the court, subject officer(s) shall be notified in writing that a Pitchess motion has been filed;
- (d) The responsible Custodian of Records shall accompany all relevant personnel files during any in camera inspection and address any issues or questions raised by the court in determining whether or not any material contained in the file is both material and favorable to the criminal defendant; and
- (e) If the court determines that there is relevant Brady material contained in the file(s), only that material ordered released will be copied and released to the parties filing the Pitchess motion.
  - 1) Prior to the release of any materials pursuant to this process, the Custodian of Records should request a protective order from the Court limiting the use of such materials to the involved case and requiring the return of all copies upon completion of the case.

**1026.7 RELEASE OF PERSONNEL RECORDS AND RECORDS RELATED TO CERTAIN INCIDENTS, COMPLAINTS, AND INVESTIGATIONS OF OFFICERS**

Personnel records and records related to certain incidents, complaints, and investigations of officers shall be released pursuant to a proper request under the Public Records Act and subject to redaction and delayed release as provided by law.

The IAB Commander and CAO shall determine what records may qualify for disclosure when a request for records is received and if the requested record is subject to redaction or delay from disclosure. The IAB Commander shall notify the affected member as soon as practical that such a request has been made.

Unless a record or information is confidential or qualifies for delayed disclosure as provided by PC §832.7(b)(7) or other law, the following records shall be made available for public inspection upon request (PC §832.7):

- (a) Records relating to the report, investigation, or findings of:
  - 1) The discharge of a firearm at another person by an officer.
  - 2) The use of force against a person resulting in death or in great bodily injury (as defined by PC §243(f)(4)) by an officer.
    - I. Should a request concern an incident for which there is no current or anticipated administrative or criminal investigation, the records requested will be provided by the Records Manager. The records will be forwarded to the CAO for review and redaction if necessary, and then to the IAB Commander who will be responsible for final review. If a member is identified as a focus of the request, or a substantial actor in the incident as determined by the IA Commander, the member will be notified prior to the release of records and given an opportunity to object and/or otherwise respond to the production. The FPOA will be provided a courtesy copy of the notice at such time as the member(s) is notified.
- (b) Records relating to an incident where a sustained finding was made by the Department:
  - 1) An officer engaged in sexual assault of a member of the public (as defined by PC §832.7(b)).
  - 2) Dishonesty of an officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another officer, including but not limited to any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.
  - 3) Involving a complaint that alleged unreasonable or excessive force.
  - 4) That an officers failed to intervene against another officer using force that is clearly unreasonable or excessive.
  - 5) That an officer engaged in conduct including, but not limited to, verbal statements, writings, online posts, recordings, and gestures, involving prejudice or discrimination against a person on the basis of race, religious creed color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex,

gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.

6) That an officer made an unlawful arrest or conducted an unlawful search.

For purposes of this section, a record includes:

- (a) All investigation reports;
- (b) Photographic, audio and video evidence;
- (c) Transcripts or recordings of interviews;
- (d) Autopsy reports;
- (e) All materials compiled and presented for review to the District Attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, or whether the officer's action was consistent with law and Department policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take;
- (f) Documents setting forth findings or recommending findings;
- (g) Copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the Skelly or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action (PC §832.7(b)(2));
- (h) To the complaining party, a copy of their own statements at the time the complaint is filed (PC §832.7(c));
- (i) Data regarding the number, type, or disposition of complaints (sustained, not sustained, exonerated, or unfounded) made against officers if that information is in a form which does not identify the individuals involved (PC §832.7(d)); and
- (j) Factual information (facts contained in the personnel file concerning the investigation that specifically refute the false statements) concerning a disciplinary investigation if the officer who is the subject of the disciplinary investigation or the officer's agent, publicly makes a statement they know to be false concerning the investigation by the employer unless the false statement was published by an established medium of communication, such as television, radio, or newspapers (PC §832.7(e)).

Upon receipt of a request for the inspection of records described in PC §832.7(b)(2), the Department (Internal Affairs Commander or designee) shall notify the affected member(s) and the designated FPOA representative of the request within three (3) business days, absent extenuating circumstances. The same members shall be notified five (5) business days prior to the anticipated release of the requested material and shall be provided with an opportunity to review said material at the CAO.

A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure (PC §832.7(b)(3)).

When an investigation involves multiple officers, the Department shall not release information about allegations of misconduct or the analysis or disposition of an investigation of an officer unless it relates to a sustained finding of a qualified allegation as provided by PC §832.7(b)(4) against the officer. However, factual information about the action of the officer during an incident or the statements of an officer shall be released if the statements are relevant to a sustained finding of the qualified allegation against another officer that is subject to release (PC §832.7(b)(4)).

#### 1026.7.1 REDACTION

The IAB Commander and CAO, in consultation with the Chief of Police or authorized designee, shall redact the following portions of records made available for release (PC §832.7(b)(5)):

- (a) Personal data or information (e.g., home address, telephone number, identities of family members, driver's license numbers, social security numbers, date of birth, and other identifying information that may be present in the investigative file) other than the names and work-related information of officers;
- (b) Information that would compromise the anonymity of complainants and witnesses, including non-sworn employees, however, the name of any criminal suspects will not be redacted unless



necessary to preserve their confidentiality as a confidential informant if they are acting in such a capacity;

- (c) Confidential medical, financial, or other information where disclosure is prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct and serious use of force (e.g. Social Security number, HIPPA, CLETS reports);
- (d) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the officer or another person;
- (e) Information will be redacted to prevent an unwarranted invasion of personal privacy that clearly outweighs the public interest as determined by the CAO;
- (f) Attorney-client privileged communication and/or attorney work product;
- (g) Documents maintained in the IA file that are not part of the IA or the disciplinary decision, such as internal memos or e-mails and internal logs;
- (h) Skelly meeting recordings and notes made by the Skelly Officer will be withheld, with only the letter of intent and final disciplinary documents being produced if discipline was actually imposed; and
- (i) The letter of intent/notice of proposed disciplinary documents will only be produced if the officer was served with the final order of suspension/demotion/removal.

Additionally, a record may be redacted, including redacting personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosing it (PC §832.7(b)(6)).

#### 1026.7.2 DELAY OF RELEASE

Unless otherwise directed by the Chief of Police, the IAB Commander should consult with the unit supervisor of the underlying investigation to determine whether to delay disclosure of records relating to the discharge of a firearm or use of force resulting in death or in great bodily injury due to any of the following conditions (PC §832.7):

- (a) Active criminal investigations;
  - 1) Disclosure may be delayed 60 days from the date the misconduct or use of force occurred or until the District Attorney determines whether to file criminal charges, whichever occurs sooner.
  - 2) After the initial 60 days, delay of disclosure may be continued if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an officer or against someone other than an officer who engaged in misconduct or used the force.
- (b) Filed criminal charges;
  - 1) When charges are filed related to an incident where misconduct or force was used, disclosure may be delayed until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to withdraw the plea has passed.
- (c) Administrative investigations;
  - 1) Disclosure may be delayed until whichever occurs later:
    - I. There is a determination from the investigation whether the misconduct or use of force violated law or Department policy, but no longer than 180 days after the date of the Department's discovery of the misconduct or use of force or allegation of misconduct or use of force.
    - II. Thirty days after the close of any criminal investigation related to the officer's misconduct or use of force.
- (d) Except to the extent temporary withholding is permitted in (a) – (c) above, records subject to disclosure shall be provided at the earliest possible time and no later than 45 days from the date of a request for their disclosure. ((PD 832.7(b)(11))

#### 1026.7.3 NOTICE OF DELAY OF RECORDS

When there is justification for delay of disclosure of records relating to misconduct, the discharge of a firearm or use of force resulting in death or in great bodily injury during an active criminal investigation,

the IAB Commander shall provide written notice of the reason for any delay to a requester as follows (PC §832.7):

- (a) Provide the specific basis for the determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. The notice shall also include the estimated date for the disclosure of the withheld information.
- (b) When delay is continued beyond the initial 60 days because of criminal enforcement proceedings against anyone, at 180-day intervals provide the specific basis that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding and the estimated date for disclosure.
  - 1) Information withheld shall be disclosed when the specific basis for withholding the information is resolved, the investigation or proceeding is no longer active, or no later than 18 months after the date of the incident, whichever occurs sooner, unless:
    - I. When the criminal proceeding is against someone other than an officer and there are extraordinary circumstances to warrant a continued delay due to the ongoing criminal investigation or proceeding, then the Department must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest for prompt disclosure of records about use of serious force by officers.

In cases where an action to compel disclosure is brought pursuant to Government Code § 6258, the Department may justify delay by filing an application to seal the basis for withholding if disclosure of the written basis itself would impact a privilege or compromise a pending investigation (PC §832.7(b)(7)).

### **1026.8 MEMBER ACCESS TO OWN FILE(S)**

A member may request access to their own personnel file(s) during normal business hours. A member may review any file maintained on them in the presence of whomever is responsible for maintaining the file, subject to the provisions of this section. Review of permanent files (i.e., master personnel and division level) may be conducted at no less than six-month intervals.

#### **1026.8.1 PRE-EMPLOYMENT BACKGROUND FILE REVIEW**

Members may not review their background investigation files.

#### **1026.8.2 INTERNAL AFFAIRS FILE REVIEW**

Members may review completed Internal Affairs investigation files in which they were an accused, with the exception of confidential information (e.g., informant identities, details about other accused members, etc.)

Members are restricted from accessing open internal investigations, pending final disposition or notice to the member of intent to discipline.

#### **1026.8.3 ACKNOWLEDGING REVIEW**

Members who review any personnel file will be asked to sign a notation in the file documenting the date the member reviewed the file. When the member refuses to do so, the member showing the file will note and sign the refusal.

### **1026.9 INFORMATION REMOVAL**

A member seeking the removal of any item from their 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 member with a written explanation why the contested item will not be removed (GC §3306.5).

- (a) If the contested item is not removed from the file, the member's request and the Department's written response shall be retained with the contested item in the member's personnel file.

### **1026.10 AUTHORIZATION FOR INTERNAL ACCESS TO FILES**

The Chief of Police and members of the Internal Affairs Bureau may access all personnel and internal investigation files maintained by the Department.

Members of the Personnel Section and staff members may access master personnel files but not Internal Affairs files.

Supervisory personnel may only access divisional files maintained on their subordinates.

Access to files other than stated above is prohibited except with the permission of the Chief of Police.

## **1026.11 DIVISIONAL PERSONNEL FILES**

### **1026.11.1 FILE ORGANIZATION**

Divisional Personnel Files shall be organized according to the protocols established in this order. Supervisors are responsible for ensuring that the files are current at all times and shall review Divisional File contents for each new employee assigned to them (e.g. patrol matrix change).

- (a) The file folder should be the red press board style with three divided sections.
- (b) The inside of the front cover should contain personnel file content logs (the top document) listing contents in chronological order, all other administrative documents not otherwise specified in the order, and the member's personal data sheet. These administrative documents do not need to be listed on the file content log.
- (c) The page opposite the inside of the front cover should contain evaluations only.
- (d) The center section should contain only documents which are going to be purged after being referenced in the member's next evaluation.
- (e) The inside of the back cover should contain all commendations, positive comments, and neutral documents.
- (f) The page opposite the inside back cover should contain documents including disciplinary actions, documented oral counseling, letters of counseling, etc.
- (g) Each new document entered into the folder shall be logged with the exception of the documents listed under #2 above.

Each supervisor responsible for completing the employee's performance evaluation shall determine whether the records of any prior sustained disciplinary actions should be retained beyond the statutory period for reasons other than pending litigation or other ongoing legal proceedings.

### **1026.11.2 MISCELLANEOUS FOLDER PROTOCOLS**

All documents, except those temporarily maintained in the center section, should be attached with the folder clasps in reverse chronological order (i.e., the most recent document on top).

All documents containing adverse comments must be signed and dated before being inserted. All documents with non-adverse comments should be signed to reflect that they were seen by the member, but signature is not mandatory.

Copies of supervisor's report of injury, sick leave correspondence, return to work documents, etc. need not be kept in the Divisional File unless they are related to some other problem (e.g., excessive sick leave; sick leave abuse, etc.).

Training documents are normally not included and should be forwarded to the Personnel Section. When a training document is of such significance that it should be retained in the Divisional File, it should be included with the administrative documents inside the front cover unless it is attached to another document as part of a disciplinary or other administrative action.

### **1026.11.3 TRANSFER OF DIVISIONAL FILES**

Within thirty days of a reassignment of a member to a different unit, section, or bureau, or District, Divisional Files, along with a current annual, or exit evaluation shall be forwarded to the member's new commander.

When a member terminates their employment with the Department, the contents of the Divisional File shall be forwarded to the Personnel Section within thirty days of the departure.

## **1026.12 FILE ENTRIES**

All adverse entries into personnel files shall be governed by the provisions of Policy §340. Commendations should contain the signature and date of review of the member before being entered into their file. At a minimum, signatures should be contained on the last page of multi-page documents. Neutral entries (e.g., training certificates, attendance logs, etc.) need not be signed or acknowledged before being entered into a file. Members may attach a response to adverse entries consistent with Policy §340.

Entries of other than neutral documents into divisional personnel files shall be made only after the member's commander has had an opportunity to review the document(s).

## **1026.13 RETENTION PERIODS AND PURGING OF FILES**

Formal citizen complaints, final orders of discipline, Inquiry or Complaint forms, pursuit review memos, collision review memos and all related files not the subject of pending litigation or other ongoing legal proceedings shall be purged after five years from the date the file was closed (PC §832.5).

The five-year retention period for not sustained, exonerated or unfounded internal affairs investigations shall begin on the date the file was closed.

All sustained investigations, not subject to pending litigation or other ongoing legal proceedings, shall be purged after 15 years from the date the file was closed.

All sustained investigations, of serious misconduct as defined in Policy § 376, not subject to pending litigation or other ongoing legal proceedings, shall be purged after 15 years from the date the file was closed.

The Internal Affairs Commander is responsible for tracking final orders of discipline and shall provide written notification via email to the Personnel Section (Master File), the affected Bureau/District (Divisional File), and City Hall Personnel advising them to purge relevant files not related to pending litigation or ongoing legal proceedings.

Documented Oral Reprimands (DOR's) unless otherwise noted in this Policy shall:

- (a) Include a date for review with the employee;
- (b) Be placed only in the employee's divisional file for a period of one year from the date of service;
- (c) Be removed from the member's file when the supervisor concludes that the intended objective of the reprimand has been achieved.

Letters of Counseling (LOC's) unless otherwise noted in this Policy shall:

- (a) Include a date for review with the employee;
- (b) Be placed only in the employee's divisional file for a period of one year from the date of service;
- (c) Not refer to any future corrective or disciplinary action(s) anticipated or threatened; and
- (d) Be removed from the member's file when the supervisor concludes that the intended objective of the counseling has been achieved.

Formal and medium level commendations shall be purged from all files after five years.

Minor commendations placed in the divisional file should be included in the annual evaluation and returned to the member at the end of the evaluation period. PIE forms which are not part of a more permanent disciplinary or commendatory action should not be retained beyond the conclusion of the evaluation period.

The dates that documents are purged, according to these criteria, should be listed on the content log and returned to the member.

### **1028.1 POLICY**

The Department will provide equal opportunity to all eligible employees to apply for assignments in the following divisions:

- (a) Office of the Chief Division;
- (b) Patrol Division;
- (c) Support Division;
- (d) Investigations Division; and
- (e) Administrative Division.

#### **1028.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide guidance and understanding for the special unit selection process within this Department.

### **1028.2 GUIDELINES FOR THE SELECTION PROCESS**

The selection process of officers for assignments shall consist, at a minimum, of an oral interview combined with a review of disciplinary history, and may be expanded to include testing components related to the unique nature of the assignment. Corrective measures taken against the employee, to include any Letters of Counseling (LOC) or Documented Oral Reprimands (DOR), may be considered during the selection process. However, LOC's or DOR's beyond the date of expiration may not be considered during the selection process.

Members shall be given reasonable notice prior to their interview.

Candidates shall not be numerically ranked as a result of the selection process, but shall be deemed "qualified" or "not qualified" for a specific position assignment. The results of the selection process, along with the selection panel's recommendations, shall be forwarded to the Chief of Police for approval/disapproval.

### **1028.3 FREQUENCY AND STATUS**

At a minimum, the selection process may be conducted once a year to coordinate the filling of pending vacancies and matrix processes. Candidates deemed "qualified" as a result of the selection process for a specific position assignment shall retain the "qualified" status for one (1) year from the date of the interview, which shall be tracked by the affected Bureau Commander.

### **1028.4 SELECTION PANEL COMPOSITION**

At a minimum, the selection panel shall consist of the following:

- (a) Two supervisors / commanders from the affected bureaus

### **1028.5 ORIENTATION**

Selection panel members shall receive orientation from the affected Bureau Commander on appropriate selection questions, related selection components, discussion topics, interviewing techniques, etc. Orientation shall be conducted prior to scheduled interviews and related selection components.

### **1028.6 RECORD KEEPING**

All announcements, interview questions, notes and rating sheets shall be submitted to the affected Bureau Commander, and shall be retained on file for three years.

### **1030.1 POLICY**

The Fresno Police Department rewards our members for creativity, hard work, and being responsive to the needs of the community and the Department. This policy identifies those valued members that make significant contributions through their work efforts.

#### *1030.1.1 PURPOSE AND SCOPE*

Special recognition may be in order when a member performs their duties in an exemplary manner. This policy provides general guidelines for the commending of exceptional member performance. Supervisors shall note all written and higher commendations in the member's performance evaluation covering the time period during which the commendation is awarded.

### **1030.2 ACHIEVEMENT AWARDS**

Achievement awards are commendations given in recognition of achieving an established level of proficiency, or for attaining an established level of performance.

### **1030.3 COMMENDATIONS**

#### *1030.3.1 WRITTEN COMMENDATIONS*

A written commendation may be given for an act or performance level that is deserving of special recognition. Written commendations shall be given to the receiving member, with a copy entered in the member's personnel file.

When a supervisor or manager is made aware of performance by a subordinate that appears deserving of a written commendation, the supervisor shall prepare a letter of commendation for the Chief of Police, or designee's signature. The supervisor shall forward the document through their commander to the Chief of Police, or designee.

When information is received from a citizen that a member has performed in an exemplary manner, the information shall be forwarded to the member's supervisor. The supervisor may prepare a recommendation for commendation, or may issue an oral commendation and enter copies of the information received in the member's personnel file.

#### *1030.3.2 PEER RECOGNITION PROCESS*

Any member may commend another member for an act or performance level that the observing member believes is deserving of special recognition. A Peer Recognition Form may be completed by the issuing member and given to the receiving member. The receiving member may sign the form and give a copy to their supervisor. The supervisor shall review the form and determine whether the recognition is warranted. The supervisor will then forward the form to their commander. The commander will determine whether or not the form will be placed in the receiving member's divisional file. The commander may also recommend a higher level of commendation.

### **1030.4 ACHIEVEMENT AWARDS**

Achievement awards are commendations given in recognition of achieving an established level of proficiency, or for attaining an established level of performance. Achievement awards shall be documented and entered in members' personnel file. The Special Awards Recognition Officer (SARO) has the authority to issue achievement awards upon the recommendation of a supervisor, with the approval of the Chief of Police, or designee.

#### *1030.4.1 VC 10851 PINS*

VC 10851 Pins are awarded to officers who either recover 12 stolen vehicles, three of which have suspects in custody, or, recover six stolen vehicles, all of which have suspects in custody. In addition,

the pin will be awarded to officers who develop information about an auto theft ring in which there are ten vehicles recovered and at least two suspects arrested. The recoveries must be within any 12 month period. When a member qualifies for a VC 10851 pin, they shall forward the relevant VC 10851 reports to the SARO for processing.

#### *1030.4.2 VC 23152 PINS (SEE RCTB 07-05)*

VC 23152 Pins are awarded to officers who make a designated number of arrests for DUI. Officers are awarded different pins based on the number of DUI arrests made during their career: 25 arrests (white pin); 100 arrests (blue pin); 200 arrests (red pin); 300 arrests (silver pin); and 500 arrests (gold medal and pin). The arresting officer listed on the DMV officer's statement/admin-per-se will receive credit for the arrest. DUI's will be tracked by the Traffic Bureau and the SARO will be notified when an officer qualifies for a pin or medal. The DUI Recognition is a career achievement award and is not subject to the 12 month time regulation as with the VC 10851 award.

#### *1030.4.3 LATENT PRINT PINS*

Latent Print Pins are awarded to members who have made six latent print lifts within a twelve month period resulting in suspect identification. When a member qualifies for a latent print pin, they shall forward a memo containing relevant case numbers to the SARO for processing.

#### *1030.4.4 RECOVERED FIREARMS PINS*

Recovered Firearms Pins are awarded to officers who recover firearms, involving 10 separate incidents, which led to arrests. The recoveries must be within any 12 month period, and eligibility is retroactive to January 1, 2012. When a member qualifies for a Recovered Firearms Pin, they shall forward the relevant reports to the SARO for processing.

**Note:** Firearms booked pursuant to a WIC 5150 hold, or for safekeeping (i.e. DV related incident), will not be counted towards eligibility for this award. Each incident, regardless of the number of firearms seized or involved suspect's, shall count towards one recovery. When a firearm recovery is made by a double unit, the credit will be equally divided between the officers (.5 each), or they may mutually decide to let one officer take the whole credit.

### **1030.5 MAJOR COMMENDATIONS**

A major commendation and award may be given for the outstanding performance of duty or for an action involving commendatory bravery. Such commendations shall include the conferring of a Department medal and citation, along with documentation placed in the member's personnel file. When a supervisor is made aware of performance by a subordinate that appears deserving of a major commendation, the supervisor shall prepare a recommendation describing the incident and forward it along with any related documentation through their commander to the Chairperson of the Commendation Board for consideration. The Commendation Board shall be convened as needed by the Chairperson to review recommendations for commendations.

The Commendation Board consists of the following personnel, who will serve at the pleasure of the Board Chairperson:

- (a) A deputy chief selected by the Chief of Police, or designee to act as Board Chairperson;
- (b) A captain selected by the Chief of Police, or designee;
- (c) A lieutenant selected by the Chief of Police, or designee;
- (d) A sergeant selected by the FPOA;
- (e) Two police officers selected by the FPOA;
- (f) A civilian manager selected by the Chief of Police, or designee; and
- (g) The SARO will act as secretary to the board, and who will coordinate meetings of the Board.

The board shall be responsible for evaluating the recommendation and for making their own recommendation to the Chief of Police, or designee as to the appropriate type and degree of commendation to be given. Their recommendation shall be forwarded to the Chief of Police, or designee for final approval.

When the Chief of Police or designee decides on a written commendation, it shall be issued from that office. When a major commendation is to be given, arrangements for the presentation shall be handled by the SARO. Below is a listing of the Fresno Police Department Major Commendations:

#### *1030.5.1 MEDAL OF VALOR*

The Medal of Valor is the highest commendation awarded by the Department. It may be awarded to members who display extreme courage while consciously facing mortal danger during a police action in an effort to provide protection or preservation of life.

#### *1030.5.2 MEDAL OF MERIT WITH VALOR*

The Medal of Merit with Valor may be awarded to members who distinguish themselves by bravery or heroism during a police action, which is above and beyond the normal demands of duty. It is differentiated from the Medal of Valor in that the element of mortal danger is not present.

#### *1030.5.3 MEDAL OF MERIT FOR MERITORIOUS SERVICE*

The Medal of Merit for Meritorious Service is awarded to members for exceptional performance in other than a police action. Unlike the Outstanding Achievement Award, the Medal of Merit is reserved for projects of a larger scope, such as the conception or development of a new unit, program, or process which has greatly benefited the City, Department, and/or the law enforcement profession.

#### *1030.5.4 OUTSTANDING ACHIEVEMENT AWARD*

The Outstanding Achievement Award is given to members for exceptional performance or career achievement in an assignment which is clearly above that which is normally expected and which has contributed materially to the success of a unit, project or operation.

#### *1030.5.5 EXCEPTIONAL PERFORMANCE RIBBONS*

An Exceptional Performance Ribbon is awarded to members who have performed above and beyond what is normally expected in the member's current assignment. Exceptional Performance Ribbons may also be given for the performance of a Unit which results in a significant accomplishment beyond the typical function of that unit. Exceptional Performance Ribbons include:

- (a) Tactical Ribbon awarded for a significant tactical operations or tactical incident(s);
- (b) Operational Ribbon awarded for a significant operational event or administrative function which appreciably improves some aspect of service delivery for the agency or enhanced safety to the Community; and
- (c) Investigative Ribbon awarded for a significant investigation, or series of investigations, resulting in a notable arrest and conviction.

**Note:** In the event a member receives more than one ribbon award of the same type, the second ribbon bar shall bear a bronze star in lieu of a second ribbon on the uniform. Upon the fifth bronze star being awarded, the pin will bear a silver star. Upon a fifth pin bearing a silver star being awarded, then a pin bearing a gold star will be issued.

#### *1030.5.6 TACTICAL DE-ESCALATION RIBBON*

The Tactical De-Escalation Ribbon is awarded to members who have distinguished themselves by employing exceptional tactical skills or verbal approach or techniques to de-escalate any deadly force situation resulting in the saving or sustaining of a human life. This award acknowledges our personnel's outstanding performance often volatile or dangerous encounters while displaying the values of our agency.

**Note:** In the event a member receives more than one ribbon award of the same type, the second ribbon bar shall bear a bronze star in lieu of a second ribbon on the uniform. Upon the fifth bronze star being awarded, the pin will bear a silver star. Upon a fifth pin bearing a silver star being awarded, then a pin bearing a gold star will be issued.



#### **1030.5.7 LIFESAVING MEDAL WITH VALOR**

The Lifesaving Medal with Valor is awarded to members who meet the lifesaving criteria and distinguish themselves by an act of bravery or heroism above and beyond the normal demands of duty.

#### **1030.5.8 LIFESAVING MEDAL**

The Lifesaving Medal is awarded to members whose immediate life sustaining actions result in the saving of human life. The action must be personally performed by the member and must be confirmed by medical personnel (when applicable), or by the member's supervisor, as a life sustaining or life extending action without which an apparent loss of life could have resulted.

#### **1030.5.9 VAN METER AWARD**

The Van Meter Award is given in memory of Officer Harry Van Meter, who was the first Fresno Police Officer to be killed in the line of duty, February 21, 1907. The Van Meter Award may be given to an officer who is seriously injured in the performance of duty. The injury must be a result of unlawful force aimed at the officer which could have resulted in death.

#### **1030.5.10 SAXON AWARD**

The Saxon Award is given in honor of K-9 Saxon, who was the first Fresno Police Service Animal to be seriously injured in the line of duty, August 22, 2002. The Saxon Award may be given to a police service animal that is seriously injured in the performance of duty. The injury must be a result of unlawful force aimed at the animal, or it's handler, which could have resulted in death.

### **1030.6 WEARING UNIFORM PINS (NOT COVERED IN POLICY 1046-UNIFORM STANDARDS)**

Members are allowed to wear Department issued pins or those pins mentioned in this order on Class C and Class A uniforms. Pins and medals issued by non-department entities may be worn with the written approval of the member's Division Commander. Where multiple medals are issued for the same time period or event (e.g. the annual MADD 23152 award and the Department's 23152 Career Award) then the member will select one of the awards only to display on their uniform.

### **1030.7 RECOGNITIONS**

#### **1030.7.1 EMPLOYEE OF THE QUARTER**

It is the responsibility of each commander/supervisor to nominate members (sworn or civilian) for Department Employee of the Quarter. Nominations may be submitted in writing by any member (co-workers, supervisors or managers) and forwarded to the division commander of the nominated member. Commanders are to submit the name and written nomination of their nominee to the division commander of the nominated member. The written nomination shall document the member's achievements, special assignments, projects, professional development, and civic involvement. Executive staff will review the nominations and then forward the name of the selected members to the Chief of Police, or designee.

The selected members will be presented with a Certificate of Appreciation at a designated City Council meeting.

### **1030.8 RECOGNITION FOR CITIZENS**

#### **1030.8.1 WRITTEN COMMENDATION**

When any member feels the actions of a citizen warrant commendation, the member may prepare a letter of commendation for the Chief of Police, or designee's signature. The letter of commendation shall be forwarded through the chain of command to the Chief of Police, or designee.

### **1030.9 MAJOR COMMENDATION AND ACHIEVEMENT AWARD CEREMONY**

The Fresno Police Department will hold a major commendations / achievement awards ceremony during the month of March of every year. This ceremony will present major commendations and achievement awards to members for their actions and accomplishments that occurred during the previous calendar year. When a member is unable to attend the ceremony, their medal will be accepted by the nominating supervisor or the member's designee. Other major commendation ceremonies may be added to meet the needs of the Department as directed by the Chief of Police.

### **1032.1 POLICY**

All officers are required to be free from any physical, emotional, or mental condition, which might adversely affect the exercise of peace officer powers.

#### **1032.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to ensure that all members of this Department remain fit for duty and able to perform their job functions (Government Code §1031).

#### **1032.1.2 FITNESS FOR DUTY**

A member may be scheduled for consultation with a medical service provider upon recommendation of the member's Division Commander and the concurrence of the Administrative Division Commander, when a member's behavior, actions, or performance is such that a reasonable person would have concerns regarding fitness for duty, the member's personal safety, or the safety of others. When a member is referred for a mental health or physical assessment to determine fitness for duty, the medical service provider will submit a report directly to the Chief of Police or a designated representative, and will report only diagnosis and prognosis pertaining to the member's fitness for duty.

### **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 the duties of their job function;
- (b) Each member of this Department shall perform their respective duties without physical, emotional, and/or mental constraints;
- (c) During working hours, all members are required to be alert, attentive, and capable of performing their assigned responsibilities;
- (d) Any member who feels unable to perform their duties shall promptly notify a supervisor. In the event that a member believes that another member is unable to perform their duties, such observations and/or belief shall be promptly reported to a supervisor.

### **1032.3 SUPERVISOR RESPONSIBILITIES**

- (a) A supervisor observing a member or receiving a report of a member who is perceived to be unable to perform their duties shall take prompt and appropriate action in an effort to resolve the situation;
- (b) When 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 member to perform their duties;
- (c) In the event the member appears to be in need of immediate medical or mental health treatment, a District Commander shall be notified all reasonable efforts should be made to provide such care;
- (d) The District and Bureau Commanders will make a joint determination as to whether or not the member should be temporarily relieved from their duties;
- (e) The Chief of Police shall be promptly notified in the event that any member is relieved from duty.

### **1032.4 NON-WORK RELATED CONDITIONS**

Any employee suffering from a non-work related condition which warrants a temporary relief from duty may be required to use sick leave or other paid time off (PTO) in order to obtain medical treatment or other reasonable rest period.

### **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.

### **1032.6 LIMITATION ON HOURS WORKED**

Absent emergency operations, members are limited to an accrued total of 70 work hours, including mandatory court appearances, within a work week. Of the 70 total work hours, members are not to exceed 16 hours of outside employment. Additionally, members shall have at least one non-work day during each work week.

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 temporarily relieve from duty any member who has exceeded the above guidelines.

Limitations on the number of hours worked apply to shift changes, shift trades, rotation, hold-over, training, general overtime and any other work assignments.

### **1032.7 EMPLOYEE INTERVENTION PROGRAMS**

Employee Intervention Programs (EIP's) are designed to provide support in a confidential and trustworthy environment, equipping and enabling our members to effectively address professional and personal challenges, thereby allowing them to better serve the community. By providing a variety of programs and levels of participation, the Department encourages personnel to access the services that best meet their individual needs. All EIP's are staffed by personnel trained in law enforcement critical incidents, stress management, and peer support.

#### **1032.7.1 COMPANION OFFICER PROGRAM**

The Companion Officer Program is designed to provide peer support to members, when they have been subjected to a traumatic incident, or when otherwise requested. Companion Officers also provide informal peer support to members dealing with the day-to-day challenges and cumulative stress of the law enforcement profession.

The use of the Companion Officer Program is voluntary. When a request for a companion officer is made, Duty Office personnel shall notify the Companion Officer Program Coordinator and contact a companion officer(s) to respond. Off-duty companion officers should relieve any on-duty companion officers as needed. The assigned companion officer should remain with the involved member as long as needed or requested.

#### **1032.7.2 CHAPLAIN PROGRAM**

The Fresno Peace Officers Chaplaincy (FPOC) provides spiritual crisis support to law enforcement personnel and the community. FPOC may also be used for the same purpose and within the same guidelines as the Companion Officer Program.

The FPOC also provides support, counseling, and referral services from their office. Their services are provided to all Department members.

### **1032.8 STRUCTURED ASSISTANCE FOR VALUED EMPLOYEES (SAVE)**

SAVE is a mandatory intervention program for members who are demonstrating observable difficulties dealing with traumatic events, professional challenges, or personal problems, utilizing approved mental health professionals and peer groups. The program relies on supervisors to identify potential problems before they become discipline issues. SAVE will provide alternatives and solutions for individuals through a process which ensures confidentiality.

SAVE is designed to address patterns of behavior and stress incidents before they manifest themselves into discipline. Conduct which may result in discipline shall be investigated consistent with existing policy guidelines. SAVE does not modify, alter, or change these guidelines. SAVE is not a substitute for the disciplinary process. The purpose of SAVE is to:

Provide training for first line personnel, supervisors, and staff, to identify stressful events and behavioral indicators before discipline is warranted; and

- (a) Provide resource options to assist members in dealing with challenges in both their personal life and at work.

#### 1032.8.1 SUPERVISOR RESPONSIBILITIES WITH SAVE

If a supervisor observes a pattern of behavior in a member that suggests there may be a stress related issue, the supervisor shall:

- (a) Advise the member that they will be meeting to discuss possible involvement in the SAVE program. Members will be provided adequate time before the meeting to consult with a Companion Officer or other Department member regarding questions they may have about the SAVE program;
- (b) While the initial SAVE meeting is mandatory, members are not obligated to discuss their personal issues with the supervisor, but may choose to do so;
- (c) Meet individually with the member to discuss the behavior and attempt to determine if counseling intervention may be appropriate;
- (d) If counseling intervention is appropriate, complete the SAVE Form which can be located on the LAN. The form requires the following information:
  - 1) Behavioral observations of supervisor;
  - 2) Information learned that is relevant to the behavior (e.g., any stressors or other challenges that may be present); and
  - 3) Requests for information from existing data sources that may indicate physical manifestations of stress; and
- (e) Only report the absence or presence of factors within the last six months, with a brief summary for each. Data sources may include:
  - 1) Prior SAVE referrals (based on information provided by the member);
  - 2) Sick leave review;
  - 3) Citizen complaints;
  - 4) On-duty accidents;
  - 5) IA investigations; and
  - 6) Performance evaluations, training memos, commendations, and letters of appreciation.
- (f) Once the information is collected and the package completed, the supervisor will forward the package to the ESC and request a log number. The ESC and the selected licensed mental health clinician will, as the SAVE Committee, review the package and determine whether or not intervention is warranted.
- (g) If intervention is warranted, the SAVE Committee will recommend a course of action.

**Note:** Prior to accessing SAVE, the supervisor must have attended SAVE training.

#### 1032.8.2 SAVE REVIEW COMMITTEE

The SAVE Review Committee will consist of the following:

- (a) The Employee Services Coordinator; and
- (b) A licensed mental health clinician experienced with law enforcement issues.

#### 1032.8.3 SAVE REVIEW COMMITTEE RESPONSIBILITIES

The SAVE Review Committee will determine whether all the information provided meets the threshold set for intervention. The committee may find that:

- (a) No intervention is warranted (supervisor notified); or
- (b) Intervention is warranted and recommend a course of action.

#### 1032.8.3 MANDATORY SAVE MEETING WITH A LICENSED MENTAL HEALTH CLINICIAN

After review of the information, the SAVE Review Committee may recommend the member attend stress management training and/or meet with a licensed mental health clinician for additional assessment. This meeting is mandatory and subject to the following:

- (a) Prior to scheduling a mandatory meeting with a licensed mental health clinician, the Administrative Division Commander must concur with the recommendation;

- (b) The ESC shall personally deliver the SAVE package to the licensed mental health clinician. The ESC will schedule the appointment with the licensed mental health clinician and notify the member of the appointment date and time;
- (c) While this meeting is mandatory, members are not obligated to discuss their personal issues with the licensed mental health clinician. However, members are strongly encouraged to speak with the licensed mental health clinician as the meeting is strictly confidential and the member enjoys privileged communication with the licensed mental health clinician;
  - 1) The licensed mental health clinician will discuss the issues identified, and determine what steps or information the member has taken to address their issues;
  - 2) This information, combined with the findings of the SAVE Committee will form the basis for the licensed mental health clinician's recommendations to the member on options available to them;
  - 3) Such options could include referral to the Department EIP's, or referral to professional counseling;
  - 4) Members are not mandated to participate in the recommended options;
  - 5) The licensed mental health clinician will not provide any report about the content of the meeting, written or verbal, to any Department member or anyone else.
  - 6) The licensed mental health clinician will only notify ESC that the member attended the mandatory meeting.

**Note:** For the purpose of this order, a licensed mental health clinician will be defined as a psychologist, licensed clinical social worker or a licensed marriage & family therapist. In addition to licensure, a qualified mental health clinician shall have had specific training and/or experience working with law enforcement.

Members shall meet with the responding licensed mental health clinician in an on-duty capacity. When follow-up meetings are required due to a problem not related to City employment, the member shall schedule the visits during off-duty time, or use sick leave, vacation, or leave without pay as appropriate.

#### 1032.8.4 STRESS MANAGEMENT TRAINING

When the SAVE Review Committee finds intervention is warranted, the ESC may schedule training with the Training Bureau. When it is determined stress management training is appropriate, the ESC will;

- (a) Notify the member of the scheduled date and time for the training;
- (b) After the member has attended the training, notify the referring supervisor. Once the training is complete, the package will be disposed of.

Where training is mandated as a result of the SAVE review process, this action will be in the form of an order. Failure to follow this order will subject the member to discipline. This issue is separate from the conduct or events that warranted the SAVE review. The ESC will ensure that the member follows this order, to the best of their ability. The ESC will notify the Administrative Division Commander in the event the member fails to follow the order.

#### 1032.8.5 SAVE RECORDS

The ESC is notified the appointment with the licensed mental health clinician was kept and/or verifies the member attended training. The ESC then closes out the file, and securely discards the entire package for shredding. No permanent record of the SAVE process, other than the numbered tracking log shall be maintained or recorded anywhere.

### 1032.9 MENTAL HEALTH REVIEW

#### 1032.9.1 MANDATORY REVIEWS

Members involved in one or more Officer Involved Shooting (OIS) or other intentional use of deadly force (e.g. vehicle) are required to meet with a licensed mental health clinician before returning to full duty. These reviews will be scheduled by the Employee Services Coordinator (refer to Policy §310).

### 1032.9.2 OPTIONAL REVIEWS

Members involved in other critical or traumatic incidents may be required to meet with a licensed mental health clinician before returning to full duty. Situations that may reasonably warrant a meeting with a licensed mental health clinician include, but are not limited, to the following:

- (a) On-duty motor vehicle collisions resulting in serious injury or death to any person;
- (b) Discharge of a firearm at an officer when injury results;
- (c) Incident where a member causes serious injury to another person by means other than a firearm (e.g., baton, take down hold); or
- (d) The member is involved in a physical confrontation in which they are seriously injured; or
- (e) A member is involved in an incident which could be considered disturbing such as child abuse, fatal traffic collisions, life threatening disturbances, in custody deaths, or any other significant traumatic event.

When a staff member determines that an optional review is appropriate, concurrence of the involved member's Bureau and Division Commanders is required.

Critical Incident Stress Debriefings (CISD) may also be considered for the above described circumstances, subject to approval by the Administrative Division Commander. The Employee Services Coordinator (ESC) will be responsible for coordinating CISD's approved by the Administrative Division Commander.

### 1032.9.3 IMMEDIATE REVIEWS

When an immediate review or response is determined necessary for an on-duty member, the recommending staff member shall seek the concurrence of the involved member's Division Commander. Upon agreement that an immediate review is necessary, the staff member will advise the Duty Office to contact a currently designated licensed mental health clinician. The staff member or a supervisor shall be available to brief the licensed mental health clinician. The Duty Office will advise the ESC of the member's need for an immediate review as soon as practical. The ESC will be responsible for coordinating any follow-up needs.

### **1032.10 EARLY ALERT SYSTEM (EAS)**

The Department recognizes that careful monitoring of employee behavior is a necessary element of effective personnel management. In order to maximize the Department's ability to detect and correct deficiencies before they become significant performance issues, an Early Alert System (EAS) has been developed.

EAS is intended to provide a means of positive, confidential, non-disciplinary intervention, primarily in the form of training and counseling to assist members with performance problems. The fact that an EAS report is generated regarding a member does not necessarily indicate a problem with that member's behavior.

#### 1032.10.1 EAS EVALUATION CRITERIA

The following incidents, events and documents will be included in the EAS review process:

- (a) Internal Affairs Investigations with a finding of Sustained or Not Sustained (final disposition);
- (b) Inquiry/Complaint Forms;
- (c) Vehicle Pursuits that are not within policy (for individual members);
- (d) Vehicle accidents while on duty or involving Department owned/leased vehicles when the member is at fault;
- (e) Reportable uses of force resulting in injury or complaint of pain; and
- (f) Risk management claims not already included in the above.

#### 1032.10.2 INFORMATION PROCESSING AND REPORTING REQUIREMENTS

The Internal Affairs Bureau is responsible for entering the data from the above incidents, events and documents into IA PRO, and for generating reports to be forwarded to the Administrative Division Commander.

Reporting requirements for employee conduct and behavior are contained in Policy §1020-Personnel Complaints, Policy §314-Vehicle Pursuit Policy, Policy §502-Vehicle Accidents, and Policy §300-Use of Force.

#### 1032.10.3 CRITERIA FOR EAS REPORTS

An EAS report will be generated when a member is accused in three IA investigations where the findings are Sustained or Not Sustained, or involved in three use of force incidents resulting in injury or complaint of pain, or involved in a combination of any six incidents involving IA investigation(s), inquiry/complaints, out of policy vehicle pursuits, at fault vehicle accidents, risk claims, and use of force incidents within a rolling six month time period. These criteria can be modified by the Chief of Police or their designee with the concurrence of the Fresno Police Officers' Association (FPOA).

#### 1032.10.4 ADMINISTRATIVE REVIEW

When a member meets the criteria, a confidential EAS report will be prepared by the IA Commander containing a synopsis of the incidents for the rolling six month period. The EAS report will be forwarded to the Administrative Division Commander. The Administrative Division Commander will review the totality of the circumstances (member's assignment, nature of the incidents, mitigating factors, etc.) contained in the EAS report.

If the Administrative Division Commander determines the member's behavior warrants further review, they shall assign a tracking number to the file and remove the member's name and other references which may cause identification of the member to occur. The Administrative Division Commander shall notify the EAS Committee to convene at the earliest opportunity to review the redacted report.

If the Administrative Division Commander determines the member's behavior does not warrant further review, they shall notify the IA Commander. The EAS report shall be given to the member for their retention or destruction. Should the member wish to discuss the EAS report they may contact Administrative Division Commander without going through their chain of command.

#### 1032.10.5 EAS COMMITTEE

The EAS Committee shall be composed of a FPOA representative, a Department staff representative and a third party mutually agreed upon by the Chief of Police and the FPOA. Committee members serve a one year term, but can be reappointed for additional terms. The committee shall meet to discuss the report's contents and the need for intervention. A majority vote is required for intervention to occur. All meetings shall be held on a confidential basis.

#### 1032.10.6 INTERVENTION MEETING

Upon a majority vote of the committee authorizing intervention, the report shall be returned to the Administrative Division Commander. The commander shall arrange for a personal meeting with the member to discuss their behavior and identify positive ways to address that behavior. The member shall be provided a copy of the EAS report prior to the meeting with the commander. Remedial training, referral to the Department's Employee Intervention Programs (EIP), peer support/counseling, and other methods which may be helpful in addressing the member's behavior will be explored. An agreed upon action plan may be prepared by the Administrative Division Commander and the member. If a plan is developed, the plan will only be provided to the member. The Department will not maintain the plan or any written document regarding the EAS review in any file(s). The Administrative Division Commander will not track the member's progress nor will punitive action result from the member's failure to follow the plan.

Once the meeting with the member occurs, the report shall be destroyed. No mention of the EAS review shall be made in a member's performance evaluation.

#### 1032.10.7 ACCESS TO EAS REPORT

Access to the non-redacted EAS report shall be limited to the Chief of Police, IA Commander, IA senior secretary, Administrative Division Commander, Administrative Division Senior Secretary, and the affected member.

### 1032.10.8 ANNUAL EVALUATION OF THE EAS PROGRAM

Annually, the FPOA and the Administrative Division Commander will conduct a joint evaluation and review of the EAS program. The report will evaluate the overall effectiveness of the EAS program and review compliance with this policy. The report will also evaluate the effectiveness of remedial training, EIP, or any other method which was helpful in addressing a member's behavior.

The review, along with recommendations for improvement, will be submitted to the Chief of Police. To ensure confidentiality, names shall not be contained in the annual evaluation.

### 1032.10.9 ROLE OF FIRST AND SECOND LEVEL SUPERVISORS

EAS is not a substitute for the first and second level supervisors' duty to counsel, train, and/or discipline their assigned members. A member's acceptance into EAS is not indicative of a failure of the first and second level supervisors' ability to resolve personnel issues. However, it should serve as a reminder of the supervisor's important role when leading and directing Department members.

First and Second level supervisors have a variety of methods which may prevent members from becoming subject to the provisions of EAS. These methods include coaching, training, referral to the Department's EIP, SAVE program, peer support/counseling, corrective action (oral counseling, letter of counseling, oral reprimand, documented oral reprimand), and recommendation for disciplinary action (second level supervisors only).

### 1032.11 FITNESS FOR DUTY EXAMINATIONS

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 mental health examination in cooperation with the Personnel Bureau to determine the level of the employee's fitness for duty. The order shall indicate the date, time and place for the examination.

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 their 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 [CC §56.10(c)(8)(B)].

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.

- (a) All reports and evaluations submitted by the treating physician or therapist shall be part of the employee's confidential personnel file.
- (b) Any employee ordered to receive a fitness for duty examination shall comply with the terms of the order and cooperate fully with the examining physician or therapist regarding any clinical interview, tests administered or other procedures as directed. Any failure to comply with such an order and any failure to cooperate with the examining physician or therapist may be deemed insubordination and shall be subject to discipline up to and including termination.
- (c) Once an employee has been deemed fit for duty by the examining physician or licensed mental health clinician the employee will be notified to resume their duties.

### 1032.12 CONFIDENTIALITY OF INFORMATION AND RECORDS

In general, all records resulting from mental health review or treatment shall be designated as confidential and afforded the same protection as other medical records.

When a member voluntarily seeks review under any of the aforementioned programs, all information remains confidential and shall not be reported to anyone, except when the member threatens to commit a crime of personal injury. When a member threatens to commit a crime of personal injury, the licensed mental health clinician will be required to make Tarasoff notifications (Refer to Policy §418 for Tarasoff notification requirements).



At the initial review between the licensed mental health clinician and the member, the licensed mental health clinician will provide the member with a statement, in duplicate, of the rules regarding the confidentiality of the review (s). The licensed mental health clinician and member will each sign the statement and the member will retain the original and the licensed mental health clinician the duplicate. When a member files a claim under Workers' Compensation for stress, emotional, or mental health injury, all records pertaining to the alleged claim and fitness for duty will be provided to the City.

### **1034.1 POLICY**

Members should conform to the policies governing all Department employees that have been established by the City of Fresno and appropriate MOUs, regarding meals and breaks.

#### **1034.1.1 PURPOSE AND SCOPE**

Due to the nature of the Department's mission to provide continual law enforcement and related services to the community, the provisions to provide meal periods and breaks to all employees consistent with the laws and MOUs in place, can oftentimes be difficult or impossible. However, when possible, all accommodations will be made to make certain everyone is afforded a reasonable opportunity to exercise the right to a meal period and/or breaks.

### **1034.2 ON DUTY MEALS**

The parameters governing hours of work are outlined in each applicable MOU, including any designated meal breaks. All sworn officers, either in uniform or in plain clothes, may take a meal break under the following conditions:

- (a) Officers must be in service and/or available by radio to respond to any call;
- (b) Generally no more than 30 minutes shall be allowed;
- (c) No more than two uniformed officers at any one time are allowed at the same restaurant; and
- (d) Members leaving their patrol units shall place themselves out "portable" via their MDS or by radio with their location.

The aforementioned provisions do not apply to personnel who are authorized in the MOU to have an uninterrupted meal breaks.

### **1034.3 BREAKS**

Breaks apply to civilian members only and are subject to the following:

- (a) Two 15minute breaks are allowed during a shift (eight-hour or ten-hour);
- (b) One 15minute break for each four or more hours of overtime worked;
- (c) Breaks shall be scheduled by supervisors, consistent with workload, so as to minimize the disruption of service to the public;
- (d) Breaks shall not be taken in conjunction with meal breaks or accumulated for use at a later time;
- (e) Generally, breaks should be taken on the worksite;
- (f) When there is a need to exceed the designated 15minute time limitation, supervisory approval shall be obtained; and
- (g) Department vehicles shall not be utilized during breaks without prior supervisory approval.

### **1035.1 POLICY**

The Department will provide, in compliance with the Fair Labor Standards Act and California Labor Code, reasonable break time and appropriate facilities to accommodate any employee desiring to express breast milk for the employee's nursing infant child, (29 United States Code §207 and Labor Code §1030).

#### **1035.1.1 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 (LC §§1030).

### **1035.2 LACTATION BREAK TIME**

A reasonable amount of break time should be permitted each time the employee has the need to express breast milk (29 USC §207; LC §1030). In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time. Such breaks, when feasible, should be taken at the same time as the employees' 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 (LC §1030). Employees who exceed regularly scheduled and paid break time shall submit a time-off request via the OTTO system to their supervisor prior to the completion of the employee's shift.

Employees desiring to take a lactation break shall notify Dispatch or a supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt department operations (LC §1032). Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

### **1035.3 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 LC §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.

### **1035.4 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 their shift.

### **1035.5 REQUESTS FOR LACTATION ACCOMMODATION**

Employees have the right to request lactation accommodations. When requesting a lactation accommodation, the employee shall submit their proposed accommodation, including a plan for specific break times, and a proposed plan for employees who are called out into the field.

If a break time or location accommodation cannot be provided, the supervisor shall provide the member with a written response regarding the reasons for the determination (LC §1034).

Employees who believe that their rights have been violated under this policy or have been the subject of discrimination or retaliation for exercising or attempting to exercise their rights under this policy, are encouraged to follow the chain of command in reporting a violation, but may also file a complaint directly with the Labor Commissioner (LC §1033).

### **1035.6 APPROVED LOCATIONS**

Lactation breaks should be taken at the approved location nearest to the employees' work site. Employees assigned to Patrol Division may take their break at home when they reside within their assigned policing district. The following private locations have been approved to accommodate employees needing to express milk during a lactation break:

- (a) Northeast District Station –A designated room located within the Northeast Investigations Office;
- (b) Northwest District Station – A designated room located across from the gym;
- (c) Central District Station –A designated room located within the Central Investigations Office;
- (d) Southwest District Station – A designated room located next to the DST/DPU office;
- (e) Southeast District Station – A designated room located next to the briefing room;
- (f) Regional Training Center –RTC Sergeant's Office;
- (g) Headquarters – A designated room located within the Women's Locker Room (2<sup>nd</sup> Floor) TV room; and
- (h) Annex – A designated room located within the Women's Restroom (2<sup>nd</sup> Floor, east wing).

Lactation rooms or other locations should comply with the prescribed feature and access requirements of LC §1031.

### **1036.1 POLICY**

Department members will utilize the Over-Time/Time-Off (OTTO) System to account for absences, additional time, or overtime earned, according to applicable MOU's. Members will utilize the Days-off System to account for regularly scheduled days off.

#### **1036.1.1 PURPOSE AND SCOPE**

The purpose of the OTTO and Days-off Systems is to accurately document time earned or time used by Department members and to provide timely processing of this information.

### **1036.2 RESPONSIBILITY FOR COMPLETION OF OTTO ENTRIES**

OTTO entries are submitted to the Fiscal Affairs Bureau for registering the absence, additional time, overtime earned, and any leave of absence for all members.

Days-off System entries are submitted to the Fiscal Affairs Bureau on a biweekly basis for the payment of wages.

Employees are responsible for the accurate and timely submission of all OTTO and Days-off entries. The OTTO entries for pre-planned absences (e.g., annual vacation, FMLA, etc.) shall be submitted prior to the first day of absence. Employees are responsible for monitoring their leave balances to ensure time off is accurately deducted and there is time available prior to requesting time off.

### **1036.3 TIME REQUIREMENTS**

All employees are paid on a bi-weekly basis usually on Friday with certain exceptions such as holidays. Days-off System entries shall be completed and submitted to the Fiscal Affairs Bureau by logging onto <http://daysoff.police.fresno/> no later than 8:00 a.m. on the Monday morning after first day of the pay period, unless otherwise specified. The acceptable method is to enter your days-off information via the intranet. This system is web-based, but only accessible INSIDE the PD network. A UserID and Password are required for access. The UserID is your PeopleSoft (Payroll) number. The Password is defaulted to your last name.

In addition, absence, overtime, and pay down requests shall be completed via the OTTO System and submitted to the Fiscal Affairs Bureau by logging onto <http://otto.police.fresno/>, no later than 8:00 a.m. on the Wednesday morning before the end of the pay period, unless otherwise specified.

As a courtesy to members, the Fiscal Affairs Bureau may send out a Department-wide voice mail each pay period indicating the due dates for such period. A written schedule shall be prepared and emailed Department wide once per year, usually in December, with the due dates for the full calendar period.

### **1036.4 SUPERVISOR RESPONSIBILITY**

Supervisors are responsible for ensuring that OTTO entries are completed by employees assigned to them no later than the first day following a return from any leave of absence.

Non-patrol supervisors or their designee shall advise their commander of the work status of all assigned employees including any days off, sick leave, and leaves of absence.

Supervisor's shall review overtime and time-off requests a minimum of once during their shift. The supervisor who verifies the overtime earned shall verify that the overtime was worked before signing approval. It shall then be forwarded to the appropriate Commander/Manager for final approval.

### **1036.5 DIVISION/BUREAU COMMANDER RESPONSIBILITY**

Commanders shall review overtime and time-off requests and forward to the Fiscal Affairs Bureau once approved.

### **1036.6 DUTY OFFICE RESPONSIBILITIES**

The Duty Office shall record all Patrol absences on the daily detail sheet. A hard copy of this detail shall be sent to the district supervisors daily. The Duty Office shall submit the OTTO entry for all time off requests by patrol members, except pre-planned absences (e.g., annual vacation, FMLA, etc.).

### **1036.7 AUDITING**

Commanders and managers shall periodically audit the attendance records for their personnel and submit a report to their Division Commander.

### **1036.8 RECORDS**

The Administrative Manager shall ensure that accurate and timely payroll records are maintained as required by 29 Code of Federal Regulations §516.2 for a minimum of three years (29 CFR §516.5).

### **1036.9 DAYS OFF ACCOUNTING**

On-duty employees shall submit a time-off request via the OTTO system to their supervisor prior to taking any time off from work. If an employee is granted leave while on days off, they shall complete a time-off request on the first day they return to work.

Employees shall not request or take any days off without first verifying they have sufficient hours in their account(s) to cover the type of leave they are requesting. Employees are expressly prohibited from requesting or taking a leave of absence which would result in a deficit in any of their leave accounts.

Members shall submit the Days-off System entries prior to the scheduled cutoff dates. The entry shall accurately reflect the member's days off. When there is a change in days off for a time period previously submitted, a new entry for the same time period shall be submitted electronically with the correct days off no later than the first working day after the change is identified. This will override the previously submitted days-off entry.

### **1036.10 ATTENDANCE VERIFICATION**

Supervisors and managers shall periodically audit the attendance records for their personnel and submit a report to their division commander/bureau manager. Supervisors are responsible for tracking all leaves of absence and days off of employees assigned to them, along with ensuring the accuracy of the information. Supervisors shall reconcile all absences reported on the daily detail sheet with an appropriately completed OTTO request. When an OTTO request is not received for any leave of absence, the member shall be notified and directed to complete the OTTO request no later than the first day following a return from any leave of absence.

A time-off request submitted via OTTO received by a supervisor that has not been appropriately completed by a member shall be returned to the member to be completed correctly.

### **1036.11 OVERTIME DOCUMENTATION**

#### **1036.11.1 EMPLOYEES RESPONSIBILITY**

Overtime requests should be submitted at the end of the member's shift whenever practical. If the overtime request submission is to be delayed beyond the end of the member's shift, then a supervisor shall be notified of the delay, the reason for the delay, and the anticipated submission date (e.g., after return from days off). Member's submitting a delayed overtime request shall do so via the OTTO system at the beginning of their next work shift.

When an overtime request has been delayed and the member is anticipated to be off for an extended period due to vacation, injury, or other acceptable reason prior to their next scheduled work shift, then the member shall make timely arrangements through their supervisor to have the overtime submitted through the business office for processing.

To avoid approval delays by supervisors and/or managers who are anticipated to be unavailable for extended periods, members may select an alternate supervisor and/or, manager to approve their request.

If the member is unable to submit a request due to the OTTO system being down, the member shall notify a supervisor that the system is down. Details of the overtime worked shall be provided to the supervisor and the member shall then submit the overtime request when the system is back on line.

**1036.12 ACCOUNTING FOR PORTIONS OF AN HOUR**

When accounting for less than a full hour, time worked shall be rounded down to the nearest tenth of an hour as indicated by the following chart:

<b>TIME WORKED</b>	<b>INDICATE ON CARD</b>
Less than 6 minutes	0.0 hour
At least 6 but less than 12 minutes	0.1 hour
At least 12 but less than 18 minutes	0.2 hour
At least 18 but less than 24 minutes	0.3 hour
At least 24 but less than 30 minutes	0.4 hour
At least 30 but less than 36 minutes	0.5 hour
At least 37 but less than 42 minutes	0.6 hour
At least 42 but less than 48 minutes	0.7 hour
At least 48 but less than 54 minutes	0.8 hour
At least 54 but less than 60 minutes	0.9 hour
60 minutes	1 hour

**1036.13 COURT TIME**

Refer to Policy §348.

**1036.14 FLEX TIME**

Members assigned to non minimum-staffing units may request and be assigned flexible hours of work. A member’s supervisor may adjust hours of work under conditions set forth in the applicable MOU.

The occasional granting of a flex schedule shall be only for specific qualified purposes as determined by a Supervisor. Granting a long-term flex schedule shall require concurrence of the Bureau Commander. Personnel shall obtain their supervisor approval and submit an OTTO request for all Flex Time adjustments to their regular work schedules. All dates involving a flexing of a member’s schedule should occur within the same pay period. Also refer to Policy §1040.

**1036.15 RECORDS**

The Administrative Manager shall ensure that accurate and timely payroll records are maintained as required by 29 CFR §516.2 for a minimum of three years (29 CFR §516.5).

Policy  
**1038**

Fresno Police Department Policy Manual  
**Overtime Payment Requests**

**1038.1 POLICY**

The Department will compensate non-exempt employees who work authorized overtime either by payment of wages or by accrual of compensatory time off at the rate of time and one-half, or as otherwise specified in an applicable MOU.

In order to qualify for either, the employee must complete and submit an overtime request via the Over-Time/Time-Off (OTTO) System as soon as practical after overtime is worked. When the electronic system is not functioning, Scantron forms shall be completed.

**1038.1.1 PURPOSE AND SCOPE**

Because of the nature of police work, and the specific needs of the Department, a degree of flexibility must be maintained. The purpose of this policy is to assure timely and accurate overtime compensation is achieved for employees and to provide for adequate Department staffing needs.

**1038.1.2 GUIDELINES**

Members are not authorized to volunteer work time to the Department. Therefore time in excess of the normal work schedule will be compensated according to this policy.

All requests to work overtime shall be approved in advance by a supervisor. If circumstances do not permit prior approval, then approval shall be sought as soon as practical during the overtime shift and in no case later than the end of shift in which the overtime is worked.

The individual employee may request compensatory time in lieu of receiving overtime payment with the exception of those specifically pre-designated as cash only assignments.

The maximum number of hours for compensatory time is governed by current MOU's for each classification.

**1038.2 EMPLOYEES RESPONSIBILITY**

Employees shall complete an OTTO request after working the overtime and turn it in to a supervisor for approval.

**Note:** Failure to submit an OTTO request in a timely manner may result in a delay of compensation.

**1038.3 ACCOUNTING FOR OVERTIME WORKED**

Employees are to record the actual time worked in an overtime status. In some cases, the applicable MOU provides that a minimum number of hours will be paid, (e.g., two hours for court on regular duty days, three hours for automatic go and court appearances on regular days off, etc.). The supervisor shall confirm the actual time worked.

(Refer to Policy §1036 Use of Scantrons/OTTO/Days-Off System)



### **1040.1 POLICY**

Departmental employees engaging in outside employment, who hold full time permanent positions, shall obtain an approved City of Fresno work permit through the Personnel Bureau prior to engaging in any outside employment. These provisions do not apply to policing Special Events or Contract Law Enforcement Services (CLES).

#### **1040.1.1 PURPOSE AND SCOPE**

In order to avoid actual or perceived conflicts of interest, approval of outside employment shall be at the discretion of the Chief of Police or their designee in accordance with the provisions of Fresno Municipal Code §3-102(b) and this policy.

### **1040.2 DEFINITIONS**

**Outside Employment** - 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.

### **1040.3 WORK HOUR LIMITS**

The work hour limits prescribed in the below sections shall not apply during an emergency situation as declared by the Chief of Police, or designee. Members shall track their work hours to ensure that they do not exceed limits established herein. Work hours and any OTTO submissions for time off or flexing shall be tracked on an Outside Employment Calendar. The calendar shall be submitted to the employee's immediate supervisor by the 5<sup>th</sup> of the month following any hours worked. After approving the calendar, the supervisor will place the Outside Employment Calendar in the employee's divisional file for two years.

**Daily Limit** – Members are limited to 15 continuous work hours of all types or 15 accrued hours within a 24-hour period. When 15 continuous work hours have been accumulated, and members are off duty, work for compensation shall not resume for at least eight hours.

**Exception:** Calls for service and mandatory court appearances shall be completed even though the 15-hour limit may be exceeded.

**Weekly Limit** – Members are limited to an accrued total of 70 work hours, including mandatory court appearances, within a workweek, unless expressly authorized by the Chief of Police, or designee. Of the 70 total work hours, members are not to exceed 16 hours of outside employment (pursuant to FMC §3-102). Additionally, members shall have at least one non-workday during each workweek.

**Flex Time** – Members with flexible work schedules may adjust their city work schedule/hours to accommodate their outside employment with supervisor approval. All requests to flex schedule/hours must be submitted through OTTO.

**Exception:** Members may work more than the weekly 16-hour limit of outside employment under all of the following circumstances:

- (a) The outside employment benefits the Department;
- (b) The member has written commander approval to exceed the limit; and
- (c) The member takes an equal amount of time off (for those hours exceeding the 16-hour limit) from their Department duties using their accrued leave hours, excluding their accrued sick leave.

**Discredit & Fatigue** – Members are prohibited from accepting employment or engaging in any occupation or business which reflects discredit on the member or the Department, or which employment, occupation, or business causes criticism of the member or the Department, or where the activity affects the physical condition of the member in the performance of their regular duties by reason of fatigue or other detrimental condition. The number of hours worked per week shall not exceed the hours approved on the work permit.

**Working While on Leave** – Members are prohibited from engaging in any off-duty work [including Order Back, AWS, Contract Law Enforcement Services (CLES), etc.] or activity for which they are compensated or derive personal gain when they are:

- (a) On sick leave (including Special Sick);
- (b) On Family Sick/Family Care Leave pursuant to FMLA or CFRA
- (c) On injury leave or receiving temporary disability payments; or
- (d) On leave without pay for illness or injury.

**Note:** Members on Family Sick/Family Care Leave pursuant to FMLA, may not work extra duty assignments (i.e. Order Back, AWS, CLES, etc.). Exceptions to this rule require prior approval by the member's division commander.

Members on leave without pay may be permitted to engage in outside employment with the approval of the City Manager. Outside employment may not conflict with restrictions placed on the member, which prevent participation in regular duties. Members shall initiate any approval requests through the chain of command, beginning with their immediate supervisor.

#### **1040.4 OBTAINING APPROVAL**

Members may not engage in any outside employment without first obtaining prior written approval of the Chief of Police or designee. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy may lead to disciplinary action.

Probationary members and recruits shall generally not be issued work permits, nor shall they engage in any off-duty work during their probationary period. On a case-by-case basis, the Chief of Police or designee may approve work permits for probationary members and recruits if they do not interfere with the members duties or create a conflict of interest between the City of Fresno and the outside employer. This does not prohibit officers and recruits from performing their normal duties by working extra for the Department on an overtime basis.

Applications for work permits are available from the Personnel Bureau. Probationary members and recruits shall submit their work permit application and a memorandum through their chain of command to the Chief of Police or designee. The memorandum shall outline the reason(s) for the work permit.

Members must submit their work permit applications annually between June 1 and June 15 to the Personnel Bureau. Failure to submit the annual application during this period may result in an extended review and approval. First time applications can be turned in anytime but must be submitted before the member begins any outside employment, and also submitted again during the renewal period above. Completed applications shall be returned to the Personnel Bureau for approval and forwarding to the City Personnel Services Division. Work permits are not valid until all required signatures have been obtained.

If an employee terminates their outside employment during the period of a valid permit, the employee shall promptly submit written notification of such termination to the Chief of Police or designee through their chain of command. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Any member 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)].

**Note:** These provisions do not apply to policing Special Events or Contract Law Enforcement Services (CLES).

Work permits may be rescinded if a conflict of interest develops, or the member is unable to perform their duties.

#### 1040.4.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

If an employee's Work Permit 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 their current Memorandum of Understanding (MOU).

#### 1040.4.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT PERMITS

Any work permit may be revoked or suspended under the following circumstances:

- (a) When an employee's performance at this Department declines to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of competency, the Chief of Police or their designee may, at their discretion, revoke any previously approved work permit(s). That revocation will stand until the employee's performance has been reestablished at a satisfactory level and their supervisor recommends reinstatement of the work permit;
- (b) Suspension or revocation of a previously approved work permit may be included as a term or condition of sustained discipline;
- (c) If, at any time during the term of a valid work permit, an employee's conduct or outside employment conflicts with the provisions of Department policy, the permit may be suspended or revoked; or
- (d) When an employee is unable to perform at a full duty capacity due to an injury or other condition, any previously approved work permit may be rescinded until the employee has returned to a full duty status.

#### 1040.5 PROHIBITED OUTSIDE EMPLOYMENT

Consistent with the provisions of Government Code §1126, the Department expressly reserves the right to deny any Work Permit application submitted by an employee seeking to engage in any activity which:

- (a) Involves the employee's use of Departmental time, facilities, equipment or supplies, the use of the Department badge, uniform, prestige or influence for private gain or advantage;
- (b) Involves the employee's receipt or acceptance of any money or other consideration from anyone other than this Department for the performance of an act which the employee, if not performing such act, would be required, or expected to render in the regular course or hours of employment or as a part of the employee's duties as a member of this Department;
- (c) Involves the performance of an act in other than the employee's capacity as a member of this Department that may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other employee of this Department; or
- (d) Involves time demands that would render performance of the employee's duties for this Department less efficient

#### 1040.5.1 OUTSIDE SECURITY EMPLOYMENT

Consistent with the provisions of PC §70, and because it would further create a potential conflict of interest, no member of this Department may engage in any outside employment as a private security guard, private investigator or other similar private security position.

#### 1040.5.2 OUTSIDE CANNABIS RELATED EMPLOYMENT

Consistent with the Federal Law (CSA), no employee shall be an owner, employee, investor, lender/silent partner, or independent contractor of a cannabis business. This includes providing a service/consultation to a cannabis business as it may still be viewed as committing a federal crime.

#### 1040.6 CITY RESOURCES

Employees are prohibited from using any City equipment or resources in the course of or for the benefit of any outside employment.

#### 1040.7 TERMINATION OF OUTSIDE EMPLOYMENT

If an employee terminates their outside employment during the period of a valid permit, the employee shall promptly submit written notification of such termination to the Chief of Police or their designee through their chain of command. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

#### 1040.8 CONTRACT LAW ENFORCEMENT SERVICES

Pursuant to FMC §§3-122(b) and (c), citizens may request uniformed police services for law enforcement, traffic safety, or crowd control purposes.

Staff Officers and sergeants shall not work in place of an officer for purposes of delivering contract law enforcement services. Ride-a-longs are prohibited.

##### 1040.8.1 NOTIFICATION OF AVAILABLE CLES DETAILS

An e-mail listing the available CLES details will be sent out at approximately 1230 hours on Thursdays, eleven days prior to the week of available CLES details. Members wishing to be advised of available CLES details shall provide the CLES Coordinator with their Department e-mail address by e-mailing [Police.ContractServices@fresno.gov](mailto:Police.ContractServices@fresno.gov). Department e-mail will be the ONLY means by which a member can request, accept, or cancel CLES details.

For notification purposes only, members may provide one personal e-mail address to the coordinator by e-mailing the Coordinator with this request from their personal e-mail account.

##### 1040.8.2 MEMBER REQUEST FOR CLES DETAIL(S)

Members interested in a detail must respond by 2359 hours on the Sunday following the notification, unless otherwise directed in the notification email. In order for the member's request(s) to be accepted, it must be sent from the member's Department e-mail account.

##### 1040.8.3 ASSIGNMENT & ACCEPTANCE OF CLES DETAILS

Members who have been assigned a CLES detail will receive notification of their assignment(s) on Tuesday, by 2200 hours, the week prior to the CLES detail(s). Notifications of assigned CLES details will be e-mailed to the member's Department e-mail address, along with a 'Read Receipt Request'.

When opening the notification e-mail, the member will be prompted with the "Read Receipt" and they must click on the "Yes" box. Only receipts from the member's Department e-mail address will be accepted. The member's response to this receipt will serve as acceptance of the CLES detail(s). A member will have until 1230 hours on the Thursday prior to the week of the CLES detail to accept the detail. Failure to respond to the receipt request will result in the CLES detail being assigned to someone else.

##### 1040.8.4 OFFICER RESPONSIBILITIES

Officers performing supplemental law enforcement services during contracted assignments are responsible for enforcement of laws and not enforcement of rules established solely by the employer unless specifically authorized by the Chief of Police or their designee (e.g., The Big Fresno Fair, etc.). Prohibited activities may include:

- (a) Permitting unauthorized entrance to any person(s);

- (b) Taking tickets; and
- (c) Ejecting patrons only on the employer's request (absent a criminal violation).

Absent the aforementioned authorization, members shall not perform any duties outside of enforcing the law or providing those services that are normally performed by on-duty officers. The same regulations and procedures that apply to officers working patrol assignments shall apply to contractual work arrangements.

Officers working a contract assignment shall first contact the on-duty supervisor in the district that they are working (or the contract supervisor when one is assigned).

- (a) The officer will be briefed about any activity occurring or anticipated at the contract assignment.
- (b) Officers then shall respond directly to the location of the assignment at the designated time unless otherwise directed.
- (c) Officers are responsible for notifying the contractor when beginning and ending their shift.
- (d) At the specified start time of the assignment, officers shall log on the radio channel controlling the policing district in which the officer is working with the radio designator assigned by the CLES Coordinator.

**Exception:** When an officer is assigned to pick up a patrol vehicle they shall respond to the district where the contract assignment is occurring, check out the vehicle, logon to the controlling radio channel at the designated time and report to the worksite as soon thereafter as possible. The officer may add an additional half hour of time to the total time worked as travel time for picking up/dropping off the vehicle. Officers assigned to utilize a patrol vehicle as part of their assignment shall first utilize high mileage vehicles if available. If one is not available, then other patrol vehicles without MDS or a hard mount radio should be utilized. If none of these vehicles are available, then officers may utilize a fully equipped patrol vehicle.

Members who must leave their assignment shall notify the contractor and Department supervisor as soon as possible and inform them of the expected duration and reason for the absence.

When a member leaves their assignment as the result of injury, illness, court, or an emergency situation occurring in the officer's presence (occurring off the contractor's premises), the officer shall call the Duty Office and provide the reason/length of absence.

Officers should not volunteer to handle calls for service unless they occur on the contractor's premises or the call is an emergency and it is occurring in the immediate area. When transportation of arrestees is required a wagon or patrol unit shall be utilized.

#### 1040.8.5 STAFF OFFICERS

At the direction of the Chief of Police, staff officers including lieutenants, captains, and deputy chiefs may be assigned to CLES events. CLES shall be limited to one staff officer per event, with limited exceptions determined by the Chief of Police or their designee. The assigned staff officer shall have overall command of the event. Compensation for the CLES event will be in accordance with the applicable MOU.

#### 1040.8.6 DISTRICT COMMANDER RESPONSIBILITIES

District commanders shall:

- (a) Determine whether or not an applicant will be allowed to contract with the Department for supplemental law enforcement services under Approval Guidelines listed below;
- (b) When an applicant requests vehicles, determine whether or not vehicles will be available and authorized;
- (c) Determine whether staffing in excess of that which has been requested will be required;
- (d) Notify the CLES Coordinator of applications that have been denied or require modification;
- (e) Return the application to the CLES Coordinator; and
- (f) Arrange for a designee to complete the tasks described in this section in the event of their absence.

## 1040.8.7 APPROVAL GUIDELINES

Generally, contracted law enforcement services may be approved when the location/event:

- (a) Generates an above average number of calls for service;
- (b) Is in a high crime area;
- (c) Is frequented by known drug dealers or gang members; or
- (d) Has received approval by the Chief of Police, or designee.

Contracted law enforcement services may also be approved when, in the district commander's judgment, the Department and/or the community would benefit from the delivery of supplemental law enforcement services.

All CLES events shall require at least one marked patrol vehicle. Additional patrol vehicles will be required when more than two officers are assigned, at the rate of one patrol vehicle for every two officers.

Additional guidelines for types of non-approved events, etc., are contained within the Application for Contract Law Enforcement Services.

## 1040.9 SPECIAL EVENT POLICING

### 1040.9.1 NOTIFICATION OF AVAILABLE SPECIAL EVENT DETAILS

An e-mail announcing upcoming Special Event details will be sent out by the Special Events Coordinator at least three weeks prior to the special event. The announcement will list the available details, applicable deadlines to submit shift preference sheets, and any other pertinent information.

### 1040.9.2 MEMBER REQUEST FOR SPECIAL EVENT DETAIL(S)

Members interested in a detail must respond by 2359 hours on the application deadline date listed in the notification. In order for the member's request(s) to be accepted, it must be sent from the member's Department e-mail account.

### 1040.9.3 ASSIGNMENT & ACCEPTANCE OF SPECIAL EVENT DETAILS

Members who have been assigned a Special Event detail will receive notification of their assignment(s) at least one week prior to the Special Event detail(s). Notifications of assigned Special Event details will be e-mailed to the member's Department e-mail address, along with a 'Read Receipt Request'. When opening the notification e-mail, the member will be prompted with the "Read Receipt" and they must click on the "Yes" box. Only receipts from the member's Department e-mail address will be accepted. The member's response to this receipt will serve as acceptance of the Special Event detail(s). A member will have until the deadline listed on the email to accept the detail. Failure to respond to the receipt request will result in the Special Event detail being assigned to someone else.

Members may not swap their Special Event detail assignments.

## 1040.10 GENERAL GUIDELINES FOR CLES AND SPECIAL EVENTS POLICING

For the purposes of this section, the term contracted events/assignments includes CLES as well as special events policing (e.g., The Big Fresno Fair, Hmong New Year, etc.).

Officers shall work contracted events in their Class B uniforms and shall have related equipment available (i.e., report forms, baton, flashlight, etc.). Specialized items, such as shotguns, canines, etc., are specifically prohibited.

### 1040.10.1 CANCELLATIONS

When an officer is unable to work, or complete their contract assignment due to injury, illness, court appearance or other unavoidable event they shall immediately call the Duty Office or Special Events Coordinator as appropriate.

- (a) For cancellations, an e-mail notice must be sent by the member to the CLES Coordinator or Special Events Coordinator, and the Duty Office, a minimum of 24 hours prior to the start of the assigned CLES detail/special event.
- (b) Members cancelling with less than 24 hours notice to the CLES Coordinator/Special Events Coordinator are subject to provisions of the MOU regarding removal from the assignment list.
- (c) Once a contract or special event is accepted, members are prohibited from cancelling and then accepting another contract, AWS, or overtime shift.
- (d) When a member is ill and cannot fulfill the contract, the Duty Office must be notified a minimum of 1.5 hours prior to the start of the CLES detail/special event, per Department policy.
- (e) When the Coordinator cannot be contacted the officer shall immediately notify the Duty Office and the duty officer will attempt to locate a volunteer to complete the contract.
- (f) The duty officer shall promptly notify the contractor when a replacement officer cannot be located.

#### 1040.10.2 COMPLAINTS

When a complaint arises regarding an officer's conduct it shall be referred to the supervisor on-duty in the policing district where the contract service is being performed. When the complaint is not resolved and is not assigned to the Internal Affairs Bureau, the decision as to the assignment of the complaint will be made by the Patrol Commander. Concerns relating to the terms or execution of the contract that are not of an immediate nature shall be referred to the CLES Coordinator or Special Events Coordinator as appropriate.

#### 1040.10.3 REPORTS

Reports, which were the result of an incident occurring on the contractor's premises, shall be written by the contract officer.

When activities such as report writing result in contract officer time in excess of that which was contracted, the contract officer shall notify the CLES Coordinator or Special Events Coordinator as appropriate by voicemail with the reason for and length of time involved with the activity.

#### 1040.10.4 SUPERVISOR RESPONSIBILITIES

Supervisors assigned in the district where a contract event is occurring shall be responsible for supervising the contract officers including any associated administrative duties.

- (a) The contract officers shall be contacted at least once during their shift.
- (b) Supervisors will ensure that contract officers are not dispatched on calls or otherwise leave the assignment unless the call is occurring on the contractor's premises or the call is an emergency and it is occurring in the immediate area.

**Exception:** When sergeants are working in a contract capacity, they shall be responsible for any administrative duties associated with the contracted event (i.e., the investigation of complaints against contract officers including officers who fail to appear as assigned).

#### 1040.10.5 APPLYING FOR PAY

When a contracted assignment is completed, the officer(s) who worked the assignment shall complete an OTTO request and mark the designated special project box (e.g., 'S4' for Contract Services).

- (a) The OTTO request will automatically be routed to the CLES Coordinator or Special Events Coordinator as appropriate for review, approval, and submission to the Fiscal Affairs Bureau.
- (b) Officers shall receive overtime compensation at the hourly rate agreed to in the MOU.

Court time which results from contracted law enforcement services shall not be charged to the contractor.

# FPD OUTSIDE EMPLOYMENT CALENDAR

Supervisor:		Received Date:	
Name:		Assignment:	Watch:
MONTH/ YEAR:		Outside Employer:	

**INSTRUCTIONS:**

**\*\*THIS FORM MUST BE COMPLETED TO DOCUMENT ALL HOURS OF OUTSIDE EMPLOYMENT\*\***

**\*\*Form MUST be submitted to your immediate supervisor by the 5th of the month following any hours worked.**

**Used a separate form for each employer/ job.**

**Members may work more than the weekly 16 hour limit of outside employment under all of the following circumstances:**

- (a) The outside employment benefits the Department;
- (b) The member has written commander approval to exceed the limit; and
- (c) The member takes an equal amount of time off (for those hours exceeding the 16 hour limit) from their Department duties using their accrued leave hours, excluding Their accrued sick leave.

**\*\*\*\*NOTE THAT ALL WEEKS START ON MONDAY AND END ON SUNDAY\*\*\*\***

Please list the start and end time of outside employment.

Also list any timeoff and/or flex requests completed though OTTO.

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY

Supervisors Approval \_\_\_\_\_

Date \_\_\_\_\_



**1042 Injured Employees / Modified Duty Assignments**

**1042.1 POLICY**

All work-related injuries and illnesses must be reported to the member's supervisor immediately, but no later than 24 hours of its occurrence if the member cannot reasonably provide immediate notice of the injury/illness. A claim form shall be provided to the injured/ill member within one business day from the time the injury/illness was reported or discovered by the member's supervisor. This policy covers only matters regarding work-related injuries/illnesses, with the exception of Section 1042.10 and 1042.10.1 Temporary Light Duty Assignments which applies to both work-related and non-work-related injuries/illnesses.

**1042.1.1 PURPOSE AND SCOPE**

The purpose of this policy is to ensure proper medical attention is received for work related injuries, illnesses, or deaths, along with prompt documentation describing circumstances of the incident.

Documentation shall be completed to ensure compliance with Workers' Compensation Fund and Risk Management requirements.

**1042.2 DEFINITIONS**

**Long Term Absence (LTA)** - Refers to any member who is incapacitated and unable to perform their regular job duties and are unable to work in any capacity for longer than one week, a work-related injury/illness, or the Department's inability to reasonably accommodate their temporary medical limitations and/or restrictions.

**Temporary Total Disability (TTD)**- Applies to a member whose work-related injury/illness temporarily keeps them from doing any type of work, including modified light duty or alternative work. Members on TTD are expected to recover and be able to return to their job doing all essential job duties they had before their injury/illness, with or without reasonable accommodation(s).

**Workers Compensation Coordinator (WC Coordinator)**- The Fresno Police Department WC Coordinator acts as the central point of communication and case management for members who have work-related injuries/illnesses and the Department. They also act as the Department's point of contact with other stakeholders, including the City's Third-Party Administrator, medical providers, City Attorney's Office, Risk Management, and others regarding Department worker's compensation matters.

**1042.3 LONG TERM ABSENCE MEMBER (LTA MEMBER)**

When an employee is on Long Term Absence (LTA) due to a work-related injury/illness, the WC Coordinator is responsible for tracking the member's recovery progress to ensure appointments and necessary documents are completed in a timely manner. The WC Coordinator will retain such responsibilities until the employee returns to their prior duty, with or without reasonable accommodations, or it is determined by a medical professional that the employee is permanently unable to return to work performing all of their essential job duties, with or without reasonable accommodation(s).

When a member is on LTA and is placed on injury pay or medical absence the member will be carried on that disability status and respective pay until that member is released to perform all of their essential job duties, with or without reasonable accommodation, or placed in a temporary light duty assignment.

## **1042.4 MEMBER'S RESPONSIBILITY**

When an injury/illness is incurred related to the member's job, the member shall notify their supervisor immediately, but in any event no later than 24 hours of its occurrence if the member cannot reasonably provide immediate notice of the injury/illness. All members shall comply with the following instructions for work-related injuries/illnesses, whether they are on-duty or off-duty.

### **1042.4.1 INITIAL NOTIFICATION**

Immediately upon learning that they meet or reasonably anticipate meeting the criteria of LTA, members shall notify their immediate supervisor, the Duty Office (if assigned to the patrol matrix), and, the WC Coordinator to provide the following information:

- (a) Their name and a phone number where they can be contacted;
- (b) When the injury/illness occurred;
- (c) The anticipated length of disability;
- (d) The date available for temporary light duty assignment;
- (e) The treating medical provider's name and telephone number;
- (f) The current medical limitations and/or restrictions;
- (g) Their next appointment with their treating medical provider's;  
and
- (h) Copies of all Medical Status Report Forms.

Any member sustaining a work-related injury/illness that requires relief from duty is required to be examined / treated by a medical provider from the Workers' Compensation Alternative Dispute Prevention and Resolution Program (ADR) list of providers. Non-sworn members may pre-designate a medical provider or select from the Medical Provider Network. The ADR list may be obtained from the WC Coordinator or the Duty Office.

Hospital emergency rooms should be used only in cases of extreme emergency or when other service providers are unavailable (e.g., after normal business hours for those on the ADR list).

### **1042.4.2 WORK STATUS UPDATE**

Injured/ill members shall provide an updated status report to the WC Coordinator on their work restrictions and/or limitations and work status (i.e. release date) after each medical appointment, no later than 5 p.m. on the date of their medical appointment. The work status reporting requirement applies to members on temporary light duty assignments, as well as members on TTD. All required Work Status Reports shall be provided to the WC Coordinator. This update should be provided in person to the WC Coordinator or the Duty Office. In an extenuating circumstance the notification may be made via email, text, or fax.

### **1042.4.3 MEDICAL APPOINTMENTS FOR WORK-RELATED INJURIES/ILLNESSES**

Members are responsible for scheduling and keeping all workers' compensation medical appointments and cooperating with their established medical treatment plan. Members shall make every attempt to seek prompt treatment for their injury/illness in order to facilitate their full return to work.

Members are required to appear for medical examinations, treatments and procedures as scheduled.

When a member cannot attend a scheduled workers' compensation appointment or wishes to reschedule an appointment, they shall first contact the WC Coordinator and explain the need to reschedule. After obtaining approval from the WC Coordinator, the member will reschedule the appointment with the medical provider, then shall report back to the WC Coordinator the new date and time for the appointment. Failure to properly communicate with the Department and/or to appear at scheduled medical appointments may result in the denial of workers' compensation benefits.

Members shall provide a medical providers' note, or verification of the visit, to the WC Coordinator for every medical appointment for a work-related injury/illness. The note must specify which injury/illness claim the appointment was for to ensure the member is properly compensated for the absence.

For members on TTD leave or assigned to a temporary light duty assignment , medical appointments should be scheduled during regular or modified duty hours, whenever possible.

For members released to full duty, with or without reasonable accommodations, but still attending worker's compensation medical appointments, reasonable efforts should be made to schedule those appointments outside of normal working hours or on days off.

If a member assigned to a temporary light duty assignment or released to full duty, with or without reasonable accommodations, attends a workers' compensation medical appointment while on duty, an OTTO entry shall be submitted for On-the-Job (OJI) Injury Pay (i.e., workers' compensation benefits pay)

#### 1042.4.4 WORK STATUS REPORT FORM

The supervisor contacted by the member shall provide the injured/ill member with a Work Status Report Form. The member shall have these forms completed by the attending medical provider at the time initial medical treatment is provided for any work-related injury/illness. The completed form, along with any other necessary paperwork, shall be forwarded to the WC Coordinator as soon as practical.

Members shall take blank copies of the Work Status Report Form to each subsequent appointment with their treating medical provider. The form or other approved report form shall be completed by the medical provider, or designee, and returned via FAX/email to the WC Coordinator by 5:00 p.m. on the date of their medical appointment. Failure by the member to provide copies of the Work Status Report Form after each appointment with their treating medical provider may impact the member's worker's compensation claim benefits.

#### 1042.4.5 ACTIVITY RESTRICTIONS

LTA and TTD members, and members on temporary light duty assignments, shall not become involved in activities that would conflict with their injury/illness medical restrictions and/or limitations or interfere with their medical treatment. For sworn members, these same restrictions apply absent a life-threatening emergency that requires an immediate response and the use of peace officer powers only if they meet their qualifications under Policy 312.7, Firearms Qualifications.

LTA and TTD members, and members on temporary light duty assignments are prohibited from working outside employment including self-employment, in violation of Fresno Municipal Code Section 3-102(b). Any approved work permits are automatically suspended until the member is no longer receiving workers' compensation benefits, unless: (1) written approval is provided to the WC Coordinator from the member's treating medical provider that the outside work to be performed does not interfere with the progress of the member's treatment and is consistent with the medical limitations and restrictions imposed by the provider, and (2) no light duty work is available in the City. LTA and TTD members shall not participate in any activities that require them to be in uniform.

Members with work-related injuries/illnesses that are not working full duty for longer than one work week or where temporary light-duty restrictions cannot be accommodated, shall be assigned to a temporary modified work schedule, Monday through Friday, 9 am to 5 pm. Members shall remain at their residential address of record in Peoplesoft during the designated temporary modified work schedule hours and be personally available to respond to any official telephonic and/or personal contact by the Department, except when engaging in workers' compensation activities, such as medical appointments, treatments, prescribed activities, or with approved time off as in Section 1042.4.6.

Members assigned to attend (or who request to) attend training while on LTA or TTD shall seek approval from their commander prior to attending. LTA and TTD members shall not participate in any training activities outside of their work restrictions and/or limitations.

#### 1042.4.6 OTTO TIME TRACKING

Members placed on LTA or TTD and members on temporary light duty assignments must submit OTTO requests for time off, including Vacation Leave, Holiday Leave, and CTO. The WC Coordinator will serve as the temporary supervisor/manager for members placed on LTA/TTD for OTTO tracking purposes. All requests for time off must be sent to the WC Coordinator for preapproval. Time away from the member's residence for scheduled workers' compensation medical appointments, treatments, prescribed activities, do not require an OTTO entry. However, unscheduled absences during the member's temporary modified work schedule from the member's residence of more than 2 hours require preapproval from the WC Coordinator. If the WC Coordinator is unavailable, the member may contact the Duty Office to report the absence

Members on temporary light duty will be assigned to a temporary work location within the Department consistent with their limitations and/or restrictions. The shift and work schedule will be determined based on the work location assigned. The supervisor of their temporary assignment workplace will serve as the member's immediate supervisor / manager for OTTO tracking purposes. All requests for time off must be sent to the member's temporary supervisor/manager, except worker's compensation for OJI- related medical appointments, which are sent to the WC Coordinator and listed as OJI Pay.

Members released to full duty with or without restrictions, who are required to attend ongoing compensation medical appointments during working hours are required to submit an OTTO entry for OJI Pay, which is forwarded to the WC Coordinator for approval.

The member shall provide a copy of medical documentation to the WC Coordinator upon returning to work after a medical appointment. The note must specify which injury/illness claim the appointment was for in order for the member to be properly compensated for the absence.

### **1042.5 SUPERVISOR'S RESPONSIBILITY**

#### 1042.5.1 AUTHORIZATION FOR MEDICAL CARE

Supervisors shall complete an Authorization for Medical Care form before a member seeks medical attention, when possible. Supervisors shall refer members to medical facilities within the Medical Provider Network (MPN), on the workers' compensation list of "first treatment sites", unless the non-sworn member has pre-designated their personal physician, in writing, prior to the current injury. Sworn members shall be referred to one of the ADR providers.

#### 1042.5.2 SUPERVISOR'S REPORT OF INJURY (SRI) FORM

The supervisor shall complete the Supervisor's Report of Injury Form (SRI) when any injury / illness arising out of a member's employment is reported. The SRI shall contain the case number (when applicable) and a detailed account of exactly how the injury occurred. Even when self-administered first aid is the only treatment required, an SRI must still be completed. The form shall be completed before the end of the shift during which the injury/illness is reported.

#### 1042.5.3 EMPLOYEE'S CLAIM FOR WORKERS' COMPENSATION BENEFITS FORM

Every injured/ill member must be provided with an Employee's Claim for Workers' Compensation Benefits Form (DWC1) within 24 hours the injury/illness was reported or discovered by the member's supervisor, in the event the member will be missing work or seeking medical attention.

The supervisor shall complete the 'Employer' section. The injured member, and not the supervisor, shall complete the 'Employee' section when the member will be missing work or seeking medical attention. A copy of the DWC1 form shall then be given to the member as their claim receipt.

Members shall also complete the "Workers' Compensation-Employee Obligations Notice" at the time the DWC1 form is completed. The original shall remain in the member's medical claim file in the WC Coordinator's office and a copy shall be provided to the member.

**Note:** If a member is unable to complete the DWC1 form at the time of the injury/illness, the supervisor shall make a copy of the partially completed form to send in with the SRI and give the claim form to the member. The member shall complete the DWC1 claim form as soon as possible and return it to the WC Coordinator's office

#### 1042.5.4 DISTRIBUTION OF FORMS

The SRI and DWC1 shall be faxed (or emailed) to the WC Coordinator (457-1123) prior to forwarding the originals. The original SRI and original DWC1 shall be forwarded to the WC Coordinator's office **within** one business day of the reported injury/illness.

When a member returns the DWC1 to their supervisor, the DWC1 shall be faxed (or emailed) to the WC Coordinator (457-1123). The original and remaining copies shall be forwarded to the WC Coordinator's office within 24 hours of its return by the injured member.

#### **1042.6 BUREAU / DISTRICT / SECTION COMMANDER / MANAGER RESPONSIBILITY**

It is the responsibility of the LTA member's regular Bureau / District / Section Commander / Manager (or designee) to maintain weekly contact with said member and to determine any changes or updates to their status. Any changes / updates to the member's status shall be brought to the attention of the WC Coordinator.

The Bureau / District Commander/Manager, as soon as it is medically permissible, shall personally contact the member to inquire whether or not any assistance may be rendered.

When a member is determined to be LTA or has been assigned to temporary light duty their Commander / Manager shall ensure the member has signed the "Employees Obligation Notice" , and understands the information and instructions in the memo.

The Commander / Manager shall designate a representative who shall be the Bureau / District contact person for members on temporary disability due to industrial injury/illness. In cases where there is traumatic injury or illness, hospitalization, or family members in need of assistance due to incapacitation of a Department member, the Bureau / District designee may contact the appropriate personnel for assistance. LTA members shall be contacted on a regular basis, at least once per week, to determine the status of the injured / ill member and document the anticipated return to work time. The contacts may be made telephonically or, when appropriate, in person. A record of this contact, either memo or e-mail, shall be forwarded to the Commander / Manager and the WC Coordinator.

Commanders / Managers should remain aware of positions under their command that could be filled with temporary modified light duty personnel. The availability of these positions should be communicated to the WC Coordinator for consideration when light duty personnel become available.

#### 1042.6.1 CONTACT FOR NON-WORK RELATED INJURIES/ILLNESSES

When a member is LTA while recovering from a non-work related injury/illness (i.e., off-duty injury/illness), the Commander / Manager shall maintain weekly contact with the member throughout the recovery process. Whenever issues or concerns are brought to the attention of the Commander / Manager by an injured member or member's family, available resources should be considered to remedy the situation.

#### **1042.7 WC COORDINATOR RESPONSIBILITY**

Once it has been determined by a medical professional that a member is permanently unable to return to perform their essential duties with or without reasonable accommodation, the member will be removed from any assigned temporary light duty assignment and will be placed on injury pay (for accepted workers' compensation claims, provided leave time is still available) or use personal time accruals for other absences that are not accepted workers' compensation claims in accordance with the applicable MOU and salary resolution. The Department will initiate the interactive process with Risk Management. Risk will schedule an interactive process meeting with the member, which includes a discussion regarding potential alternate work in another job position/classification. In the event the

member does not accept another job position/classification within the City as a reasonable accommodation, the interactive process will conclude and Risk will notify the WC Coordinator's office.

The WC Coordinator's office will prepare a letter to the member stating temporary light duty assignments will no longer be available. The member's commander will also be notified. The injured member will remain on appropriate leave time pending separation from the Department.

Depending on time vested and retirement eligibility, the options available to the member are: pursuing alternative work with the City, subject to minimum qualifications and ability to perform all essential job duties with or without accommodation(s) filing for service connected disability retirement, filing for service retirement, resigning or medical separation (termination). Members may file for both a service and service-connected disability retirement, with the understanding that separation from the Department has occurred, while the disability retirement process is completed.

#### **1042.7.1 ROLE OF THE WC/LTA COORDINATOR**

The WC Coordinator acts as the central point of communication and case management for injured members and the Department and acts as the Department's point of contact with other stakeholders, including the City's Third-Party Administrator, medical providers, City Attorney's Office, Risk Management, and others.

Responsibilities of the WC Coordinator include (but are not limited to):

- (a) Receiving the initial notification of an injured member;
- (b) Ensuring contact and progress updates with injured members (only those on the Patrol Unassigned list);
- (c) Maintaining and distributing a weekly status report of all injured members;
- (d) Liaison between the Department and the Third Party Administrator's primary case manager;
- (e) Liaison with medical providers (physicians, licensed mental health clinician, chiropractors, radiologists, etc.);
- (f) Coordinate with the Patrol Administrative Bureau Commander for temporary modified duty (light duty) assignments; and
- (g) Supervisor / Manager for temporarily disabled members.

#### **1042.8 DIVISION COMMANDER RESPONSIBILITY**

Long Term Absence personnel may be assigned other light duty assignments to meet the needs of the Department. Division Commanders seeking a change to a light duty assignment will contact the Chief of Police for concurrence with the proposed change. Following this decision, the Division Commander will advise the Patrol Administrative Bureau Commander of the change. The Patrol Administrative Bureau Commander will notify the affected personnel of the change in assignment within 24 hours to allow for changes to the detail and/or work schedule.

#### **1042.9 FISCAL AFFAIRS RESPONSIBILITY**

Members who are absent from work due to a work-related injury shall be placed on injury pay in accordance with the provisions of Fresno Municipal Code §3-118, Administrative Order §2-22 and Labor Code 4850.

#### **1042.10 TEMPORARY LIGHT DUTY ASSIGNMENTS-ALL INJURIES/ILLNESSES**

The Department may offer temporary light duty assignments to members who are unable to perform their usual and customary duties. Temporary light duty assignments will be made based on the needs of the Department and all temporary light duty assignments will be made by the Patrol Administrative Bureau Commander, or as otherwise directed by the Chief of Police.

Members being treated for a work-related injury/illness shall inform the attending medical provider that a temporary modified duty assignment is available at the Department.

Members incapacitated, but who are expected to return to their regular duties in less than one week, may be allowed to remain in their Division. Upon learning their absence from regular duties will

continue beyond one week, members shall immediately notify the Duty Office (if assigned to the patrol matrix), and the WC Coordinator to be placed on a temporary modified work schedule, Monday through Friday, 8 a.m. to 5 p.m.

Members who are eligible for temporary light duty and have been released by their medical provider to perform modified duties, shall immediately contact the Patrol Administrative Bureau Commander for assignment.

- (a) Prior to commencing their assignment, members shall provide their Medical Status Report and any medical provider notes to the WC Coordinator.
- (b) Members will report to their assignment in training attire unless arrangements have been made with their assigned supervisor to accommodate medical disabilities.
- (c) Any members who learn they are to be released to full duty shall immediately notify the Duty Office (if assigned to the patrol matrix) and the WC Coordinator. The member shall also forward written verification of the release to the Duty Office and the WC Coordinator.
- (d) Members will not be allowed to resume duty until a completed Medical Status Report, or medical provider release, is received.
- (e) The completed form / release may be faxed, emailed or sent via text to the Duty Office / LTA Coordinator.
- (f) Sworn members' range training / qualification status must be current prior to resuming their regularly assigned duties.

The Department may be limited in the number of temporary light duty assignments available due to department needs. All temporary modified duty assignments will be made by the Patrol Division Administrative Commander, or as otherwise directed by the Chief of Police

Members assigned to a light duty assignment may be assigned to work a five-day, eight-hour schedule, with work hours and days off based on the needs of the Department. Exceptions involving temporary light duty assignments and/or work schedules shall be at the direction of the Patrol Division Administrative Commander, or as otherwise directed by the Chief of Police.

Once assigned to a temporary light duty assignment, the members shall ensure OTTO accurately reflects their temporary supervisor / manager when submitting for any time off, except injury/illness leave, which is to be submitted to the WC Coordinator for approval. Members shall ensure medical appointments, including physical therapy and workers' compensation appointments during work hours, are accounted for in OTTO. Injured/ill members will provide medical documentation to their temporary supervisor / manager and the LTA Coordinator for verification in OTTO.

When a member assigned to temporary light duty becomes unable to work in this capacity per medical provider's order, the WC Coordinator and the member's temporary immediate supervisor shall be notified. The member shall ensure OTTO accurately reflects their regular supervisor / manager before being placed on injury/illness leave.

#### 1042.10.1 DURATION OF ASSIGNMENT

Light duty assignments will be reviewed when there is a change in the member's medical status, or when the temporary light duty assignment is no longer available due to business reasons, or, after 30-days from LTA assignment, and again once (6) months have passed in any case. The review to determine will determine whether the member is likely to return to full-duty, (with or without reasonable accommodation(s)), or if another course of action should be considered (i.e., Interactive Process to discuss further reasonable accommodations, fitness for duty examination (**Fresno Municipal Section 3-288**)).

### **1042.11 INJURY NOT REQUIRING MEDICAL ATTENTION**

Those injuries not requiring medical attention shall be recorded on an SRI form. This form shall be completed, signed by a supervisor, and forwarded to the WC Coordinator at the end of the shift.

This form shall be signed by the affected member, indicating that they desire no medical attention at the time of the report. By signing this form, the member will not preclude their ability to seek medical attention later.

### **1042.12 ADMISSION TO HOSPITAL**

When a member is admitted to a hospital due to a work related injury/illness, a District, Operations or Field Commander will determine whether to request a "normal" admission or a "security" admission. Notification to the WC Coordinator is required.

#### **1042.12.1 NORMAL ADMISSION**

A normal admission shall be requested when there is no necessity for security associated with the member's stay at the hospital. Normal hospital procedures shall apply to the member. The Department will not request any special conditions regarding access to the member.

#### **1042.12.2 SECURITY ADMISSION**

The Chief of Police, or designee, shall determine the necessity for a police guard. When a police guard is necessary, the injured member's supervisor shall ensure a police guard is provided. The guard shall be placed at a location that will prevent unauthorized access to the member's room. Only those persons who have a valid reason to see the injured member will be allowed entry.

### **1042.13 IN LINE OF DUTY DEATH**

When the death of a member is believed to be in the line of duty, the Employee Services Coordinator will be a liaison between the member's family and the Department. The Coordinator will guide the member's family through the process of filing for Federal, Workers Compensation, retirement, and other available benefits.



Policy  
**1044**

Fresno Police Department Policy Manual  
**Personal Appearance Standards**

**1044 Uniform Regulations**

**1044.1 POLICY**

Members of this Department shall maintain their personal hygiene and appearance to project a professional image appropriate for this Department and for their assignment.

**1044.1.1 PURPOSE AND SCOPE**

Unless otherwise stated, the following appearance standards shall apply to all members, except those whose current assignment would deem them not appropriate, and where the Chief of Police has granted exception.

**1044.2 GROOMING STANDARDS**

Members shall present a neat, professional, and businesslike appearance whether in uniform or plainclothes.

Civilian members shall conform to the same standards as sworn members except those provisions regarding hair length do not apply.

Members assigned to a special unit or detail, while in an undercover capacity may, with their commander's permission, be exempted from this policy section on a case-by-case basis for the duration of the undercover assignment.

**1044.2.1 HAIR**

Hairstyles of all members shall be neatly trimmed, neat in appearance, and styled in a professional manner. Hair may be worn in keeping with contemporary styles, but not in an extreme or unsightly fashion, (e.g., mohawks, mullets, or writing/designs cut into hair, etc.). Hair dyed unnatural colors (e.g., blue, pink, green, etc.) is also prohibited. When in uniform or working in a patrol capacity, hair shall not be so long as to interfere with the wearing of the helmet or cap. Hair that exceeds shoulder length shall be worn up in a tightly wrapped bun, braid, or ponytail.

**1044.2.2 MUSTACHES**

Facial hair shall be restricted to the wearing of a mustache. Mustaches shall be neatly trimmed. Mustaches shall not protrude below the upper lip at any given point along the upper lip. The ends of the mustache shall not extend past the bottom of the lower lip.

**Exception:** Handlebar mustaches shall be permitted if the ends of the mustache are kept above the level of the lower lip. Handlebar mustaches shall be moderate in length. No extreme styles or variations are allowed.

**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 BEARD/GOATEE**

Beards and goatees are permitted but must have a natural human hair color and be well maintained to present a professional appearance. Beard and goatee facial hair shall not exceed one quarter inch (1/4") in length, must be accompanied by a mustache, and is contiguous with no designs shaved into it. A beard must be connected with the sideburns. The neck and area above the cheek bones must remain cleanly shaven and the perimeter lines of the beard and goatee must be neatly trimmed and defined. Beards and goatees shall not extend beyond the top of the Adam's apple.

If a member intends to grow facial hair, they must initiate growing the facial hair during a period of at least two consecutive days off to not give the appearance of failing to shave.

The wearing and appropriateness of facial hair as defined by this policy shall remain at the sole discretion of the Chief of Police or designee.

#### 1044.2.5 UNIFORMS

Uniforms shall be neat, clean, and in good repair. Uniforms shall not be faded. Members are personally responsible for maintaining their uniforms in this condition. "Leather" items shall be polished regularly and shall not appear scuffed or dull in finish. (Refer to Policy §1046).

#### 1044.2.6 JEWELRY AND ACCESSORIES

Jewelry may be worn by members. It will not be gaudy, extreme, or excessive, and be in good taste. No more than one ring may be worn on each hand. Jewelry shall not be attached to the uniform. While in uniform, earrings will be limited to a single stud pierced earring worn in each lobe of a female's ear. Male members shall not wear earrings.

#### Appeals Process

Members wishing to wear jewelry that may conflict with this order shall request an appeal, through their immediate supervisor, to the Tattoo Review Committee according to 1044.3.

#### 1044.2.7 BODY PIERCING

No body piercing shall be visible while any employee is on duty or officially representing the Department, except as provided for in §1044.2.6 above.

#### 1044.2.8 BODY IMPLANTS, DERMAL PUNCHING, DENTAL ORNAMENTATION, BODY ART, and SCARIFICATION

Members shall not display any visible intentional scarring, mutilation, brandings, dermal punching, body implants or dental ornamentation while on duty or officially representing the Department. All items in this section shall be completely covered by wearing an approved uniform, appropriate non-uniform clothing, a plain neutral skin patch or plain neutral skin bandage (e.g., ace bandage or Band-Aid type bandage) while maintaining a professional appearance.

- (a) Body implants are generally objects inserted beneath the skin of the hands, arms, head, face, neck, upper chest, or ears resulting in a visible protrusion of the skin outlining the object for other than reconstructive purposes.
- (b) Dermal punching is the removal of tissue for the insertion of jewelry or other objects, or for the creation of visible holes larger than a standard piercing.
- (c) Dental ornamentation includes the affixing to the teeth of gold, platinum, or other veneers or caps used for decorative purposes. Dental ornamentation does not include braces for orthodontic reasons, veneers, or other fillings/methods used to repair a cavity or damaged teeth.
- (d) Body art includes any markings added intentionally and that are visible such as temporary henna ink markings, Indian ink markings, or other similarly applied markings that may resemble a tattoo.
- (e) Scarification means any intentional scarring that is similar to tattoos in that the scarring shows letters, patterns or other recognizable figures. This will also include intentional mutilation such as a split or forked tongue or stretched out holes in the ears.

#### 1044.2.9 TATTOOS

Department members are prohibited from displaying any tattoos while on duty or representing the Department in any official capacity. Members with visible tattoos shall have the following options:

- (a) On duty personnel shall cover all tattoos by wearing a long sleeve shirt and /or pants; or
- (b) Cover the tattoo with a solid black full, half, or ¼ tattoo cover-up sleeve (no logos).
  - 1) Cover-up sleeve must originate under the shirt sleeve; no skin shall be exposed between the cover-up sleeve and the shirt sleeve.
  - 2) Forearm tattoos must be covered with either a full cover-up sleeve or bandage. The bandage shall be no larger than 3" x"4" and limited to one bandage per arm: or
- (c) Have the tattoos removed at the member's expense; or

- (d) Have the tattoo exempted by the tattoo review committee.

### **1044.3 TATTOO REVIEW COMMITTEE**

The committee was created to provide a case-by-case review for members seeking an exemption from the policy requiring all visible tattoos to be covered while on duty or when representing the Department in any official capacity. The committee serves at the discretion of the Chief of Police and will convene at the direction of the committee chair. The Chief retains final control over the appearance of all department members.

The tattoo review committee will be comprised of five members. The Fresno Police Officers' Association and the Fresno City Employees Association will each appoint one member to the committee. The Chief will appoint three members to the committee, including the Committee Chair.

Members wishing to have a tattoo reviewed by the committee will complete a "Visible Tattoo Approval Application" available on the Department network ("L" Drive) and provide photographs of the tattoos to be reviewed. The application and photographs shall be submitted to the review committee's email at [tattoo.review@fresno.gov](mailto:tattoo.review@fresno.gov). If the tattoo consists of foreign language symbols or non-English text, the applying member shall accurately state what the symbol or text states when translated to English. The committee will review any text symbols or non-English text before approval. The committee will convene on a quarterly basis, or as needed, to review member submissions.

If the committee has additional questions for the member or wishes to physically see the tattoo being reviewed, a meeting with the committee and member will be scheduled. Members will not be allowed to use overtime to meet with the committee but may attend on duty with their supervisor's permission. The committee chair will inform the member of the committee's decision, in writing, or by electronic mail, within one week of the committee's convening.

If the tattoo is approved to be visible, a copy of the application, photo, and letter of exemption will be kept on file in the member's personnel file in the Personnel Bureau and the member's divisional file. Supervisors should review the member's file to ensure policy compliance.

If the member disagrees with the committee's decision, the member can appeal that decision to the Chief or the Chief's designee. The decision of the Chief on any appeal will be final. As societal norms change over time, exemptions to the visible tattoo policy are not a permanent guarantee, and the Chief has the right to re-evaluate previously approved tattoos to maintain the public's trust. The Chief's decision related to tattoo review approval or disapproval is final and considered non-grievable.

Tattoos that are specifically prohibited from being visible while on duty include the following:

- (a) Tattoos visible on the head, neck, or face;
- (b) Tattoos covering the majority (more than 50%) of the back of hands, fingers, or palms.
  - 1. Tattoos such as a wedding band, initials, or other discrete designs are eligible for committee review provided they are not extreme or excessive;
- (c) Tattoos that are vulgar, profane, or racist in nature;
- (d) Tattoos depicting nude images;
- (e) Tattoos that promote hate or violence;
- (f) Tattoos that violate City of Fresno [AO 2-16](#), harassment, and discrimination; and
- (g) Any tattoo that a member knows or reasonably should know is unbecoming a member of the Department or which is contrary to good order, morale, or tends to reflect unfavorably upon the Department or its members.

### **1044.4 SUPERVISOR DISCRETION & CONTROL**

It shall be the responsibility of supervisors to monitor the appearance of members under their command to ensure that they present a professional appearance, in keeping with accepted standards throughout the Department and the professional community.

Superiors shall instruct their subordinates to maintain these standards. Supervisors may require members under their command to conform to more stringent standards than those described herein when it is necessary to promote acceptance by a particular portion of the public served by a particular unit but shall not impose more stringent requirements based solely on personal preferences.

#### **1044.5 EXEMPTIONS**

Members who seek cultural (e.g., culturally protected hairstyles) or other exemptions to this policy that are protected by law should generally be accommodated (Government Code §12926). A member with an exemption may be ineligible for an assignment if the individual accommodation presents a security or safety risk. The Chief of Police should be advised any time a request for such an accommodation is denied or when a member with a cultural or other exemption is denied an assignment based on a safety or security risk.

## Fresno Police Department Policy Manual Transgender and Gender Non-Conforming Employees

### and Gender Non-Conforming Employees

#### 1045.1 POLICY

The Fresno Police Department is committed to creating and maintaining a work environment that is free of all forms of discrimination and harassment. The Department will take preventative, corrective and disciplinary action for any behavior that violates this policy or the rights and privileges it is designed to protect. This policy is designed to create a safe and productive workplace environment for all members.

##### 1045.1.1 PURPOSE AND SCOPE

The purpose of this policy is to set forth guidelines to address the needs of transgender and gender non-conforming members and clarify how the law should be implemented in situations where questions may arise about how to protect the legal rights or safety of such members. This policy does not anticipate every situation that might occur with respect to transgender or gender non-conforming members, and the needs of each transgender or gender non-conforming member must be assessed on a case-by-case basis.

#### 1045.2 DEFINITIONS

The definitions provided are not intended to label individuals, but rather to assist in understanding this policy.

**Gender Expression** - An individual's external and social characteristics and behaviors (such as appearance, dress, mannerisms, speech, and social interactions) that may be perceived as masculine, feminine, or androgynous.

**Gender Fluid/Genderfluid** - A person whose gender identification and presentation shifts, whether within or outside of societal, gender-based expectations. Being fluid in motion between two or more genders.

**Gender Identity** - An individual's internal sense of being male or female, or something not defined by traditional definitions of male or female.

**Gender Non-Conforming** - Individuals who display gender traits which are not generally associated with their birth-assigned sex. Gender non-conforming individuals may or may not identify as male, female, or transgender. Also known as gender-variant, gender atypical or androgynous. Keep in mind that these expectations can vary across cultures and have changed over time.

**LGBTQ+ (sometimes LGBTQIQA)** - A common abbreviation that stands for Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Questioning, and Asexual.

**Sexual Orientation** - A person's physical and emotional attraction to people of the same and/or other gender. Straight, gay, and bisexual are some ways to describe sexual orientation. It is important to note that sexual orientation is distinct from gender identity and expression. Transgender people can be straight, gay, lesbian, or bisexual, just like non-transgender people.

**Transgender** - Individuals with a gender identity that is different from the sex assigned to them at birth. Someone who was assigned the male sex at birth but who identifies as female is a transgender woman. Likewise, a person assigned the female sex at birth but who identifies as male is a transgender man. Some individuals who would fit this definition of transgender do not identify themselves as such, and identify simply as men and women, consistent with their gender identity. The guidance discussed in this policy applies whether or not a particular individual self-identifies as transgender.

**Transition** - The process of changing one's gender from the sex assigned at birth to one's gender identity. There are many different ways to transition. These individuals often seek some form of medical treatment such as counseling, hormone therapy, electrolysis, and reassignment surgery. Some individuals, however, will not pursue some (or any) forms of medical treatment. Transitioning may also include the emotional task of telling one's family, friends, and co-workers, and the process of changing one's name and gender on legal documents and identification.

### **1045.3 TRANSITIONING EMPLOYEES**

Transitioning individuals have the right to openly be who they are. This means that while transitioning employees will still be expected to conduct their professional responsibilities, they may express their gender identity without fear of discrimination or harassment. With that right comes the expectation that they will work with others to ensure their needs are understood and that there will also be expectations made of them. It is important they do their part to make their transition in the workplace successful.

### **1045.4 PRIVACY/CONFIDENTIALITY**

A member's transition should be treated with as much sensitivity and confidentiality as any other member who is going through a significant life experience. Transgender members have the right to discuss their gender identity or expression openly, or to keep that information private. The transgender member decides when, with whom, and how much to share their private information. If a transgender member does choose to share information about their own gender transition, they are reminded that they are still subject to the Policy § 328- Discrimination, Harassment & Retaliation.

Members should not disclose information that may reveal a member's transgender status or gender non-conforming presentation to others without the member's permission, except where legally required. Information about a member's transgender status (such as the sex they were assigned at birth) can constitute confidential medical information under privacy laws like HIPAA. That kind of personal or confidential information may only be shared with the transgender member's consent and with co-workers who truly need to know to do their jobs. If the member is in the process of transitioning from one gender to another, guidance for preparing co-workers and providing workplace sensitivity training is presented in the section below titled Transitioning on the Job.

### **1045.5 TRANSITIONING ON THE JOB**

Transgender members who transition on the job can expect the support of Department management and Personnel staff. The Employee Service Coordinator (ESC) will work with each transitioning member individually to ensure a successful workplace transition.

Any member, who desires to transition from one gender to another, is strongly encouraged to contact the ESC. This initial contact may also be requested by the member's supervisor or other staff with the consent of the transitioning member. ESC will work with the transgender member to assist them in making the transition as smooth as possible. ESC will assist the member with name changes on Department paperwork and computer systems, will work as a liaison with the member's unit of assignment to assist with changes in restroom and/or locker room accessibility if requested, and can help to coordinate educational training for the member's co-workers prior to the transition date. The ESC should periodically contact the transitioning member to determine if the member has any concerns.

The transitioning member's Commander should also assign a supervisor (minimum rank of sergeant/ supervisor) from their staff to act as the member's primary point of contact regarding transition issues while at work on a day-to-day basis. This supervisor should be educated on basic transgender terminology and transition issues, and familiar with Administrative Order 2-39. This supervisor should be supportive to the transitioning member. A guide to developing a Workplace Transition Plan is attached at the end of this Policy.

#### **1045.6 SUPERVISOR/MANAGER RESPONSIBILITIES**

It is important that supervisors and managers demonstrate an understanding and sensitive approach to the needs and concerns of employees who are transitioning, as their support is critical. It may be frightening to an employee to make themselves vulnerable to a person in a supervisory capacity.

If an employee informs a supervisor or manager of their desire to transition or if an individual in the workplace is currently transitioning, it is the supervisor's or manager's professional responsibility to ensure that the employee is not the target of discrimination or harassment and that compliance is maintained with the city's policy. Any employee's failure to comply with the non-discrimination policy could result in corrective action, including termination of their employment.

Supervisors and managers are not expected to understand all of the employee's needs, but are expected to fully inform themselves and provide the necessary support to enable the individual to receive the assistance they need in a respectful manner. The employee would like to feel confident that the individuals who will help plan their workplace gender transition will take steps to inform themselves about transgender issues.

Supervisors/Managers should:

- (a) Make it clear that the conversation will be held in confidence, not only to ensure the employee's rights are protected but also help avoid inadvertent violations of the employee's right to medical privacy.
- (b) Obtain permission from the employee prior to discussing the transition with or seeking further assistance from anyone, including other staff, your own supervisor, other managers, and the ESC.
- (c) Listen carefully to what the individual is telling you about how they want the workplace transition to proceed.
- (d) Become informed. See the Resources section of this guide as a starting point. Let the employee know that you are taking steps to educate yourself about how you can assist their workplace gender transition, and let the employee also know that you welcome their input.
- (e) Remind them about the additional resources available to them, such as the Employee Assistance Program.
- (f) Make sure the employee is aware of the city's protocols, procedures and encourage them to contact the ESC with any questions or feedback.
- (g) Familiarize themselves with Administrative Order 2-39.

Supervisors/Managers should **NOT**:

- (a) Ask the employee about their medical decisions, as medical information is private and protected by law. If the employee needs time off for medical care or recovery, follow the same steps used for any request for time off for medical reasons.

#### **1045.7 OFFICIAL RECORDS**

Transgender members have the right to be addressed by the name and pronoun corresponding to the member's gender identity. The Department will change a member's official record to reflect a change in name and/or gender upon presentation of a current California Driver's License or California Identification Card in the member's new name and/or gender. Information Technology Section should be contacted to change the member's name in the Outlook Address Book database and in HRP

*If a new or transitioning member has questions about Department records, identification cards, transitioning on the job, or other transgender-related issues, the member should contact the Employee Services Coordinator.*

### **1045.8 NAMES/ PRONOUNS**

*A member has the right to be addressed by the name and pronoun that correspond to the member's gender identity, upon request. A court-ordered name or gender change is not required. The intentional or persistent refusal to respect a member's gender identity (for example, intentionally referring to the member by a name or pronoun that does not correspond to the member's gender identity) can constitute harassment and is a violation of Policy § 328- Discrimination, Harassment & Retaliation. When unsure what name or pronoun a transitioning co-worker might prefer, members may politely ask the transitioning co-worker how they would like to be addressed.*

*Supervisors and managers shall use the name and pronoun requested by the member, regardless of the supervisor's perception of the member's gender expression. Supervisors and managers should also monitor the workplace regularly to make sure co-workers are using the member's desired name and pronoun.*

### **1045.9 RESTROOM ACCESSIBILITY**

*Members shall have access to restrooms corresponding to their gender identity. Any member who has a need or desire for increased privacy, regardless of the underlying reason, will be provided access to a single stall or private restroom, when available. However, no member shall be required to use such a restroom. All members have a right to safe and appropriate restroom facilities, including the right to use a restroom that corresponds to the member's gender identity, regardless of the member's sex assigned at birth. The decision about which restroom to use should be left to the transgender member to determine the most appropriate and comfortable option for them. (California Protections for Transgender Individuals, AB 1732: The Equal Restroom Access Act, City of Fresno Administrative Order 2-39)*

*Some members – transgender or non-transgender – may desire additional privacy. Where possible, the effected unit should make available a unisex private or single-stall restroom that can be used by any member who has a need for increased privacy, regardless of the reason. If a single-stall restroom is not available, another option might be to install an "Occupied / Unoccupied" sign and an interior slide lock on the door of a multi-stall restroom, which could be used by any member desiring additional privacy. Under no circumstances may the Department require a member to use facilities that are unsanitary, potentially unsafe for the member, or located at an unreasonable distance from the member's work station.*

### **1045.10 LOCKER ROOM ACCESSIBILITY**

*All members have the right to use the locker room that corresponds to their gender identity. Transitioning members are not required to provide proof or have undergone any particular medical procedure (including gender reassignment surgery) in order to have access to facilities designated for use by a particular gender. Any member who has a need or desire for increased privacy, regardless of the underlying reason, may be provided with a reasonable alternative changing area, such as the use of a private room. A member's schedule may also be slightly adjusted so that they may use the locker room that corresponds to their gender identity before or after other members. Any alternative arrangement for a transgender member will be provided in a way that allows the member to keep their transgender status confidential, according to their needs.*



### **1045.11 DRESS CODE**

Transgender and gender non-conforming members may wear clothing and hair consistent with their gender identity. Transgender and gender non-conforming members must still comply with Department dress codes and grooming standards in a manner consistent with their gender identity or gender expression.

### **1045.12 SEX-SEGREGATED JOB ASSIGNMENTS**

For sex-segregated jobs, transgender employees will be classified and assigned in a manner consistent with their gender identity, not their sex assigned at birth.

# Gender Transition Plan Guide

This sample Transition Plan addresses some of the processes that may occur during a member transition. This sample plan should be customized to fit your unit's staffing structure and procedures, and should be modified individually with each transitioning member to meet their individual needs.

Once a tentative Transition Plan has been agreed on, the Employee Service Coordinator (ESC), the members commander, assigned supervisor, and the transitioning member must work together to see that each portion of the plan is addressed. It is important to remember that this plan is flexible and is completely up to the transitioning member. Every member is different and the individual needs of one member may be different than the needs of the member authoring the plan.

## **Before Gender Transition Begins:**

- 1) If the member's Commander has been contacted first, the Commander should immediately notify the ESC so that a liaison may be assigned to the transitioning member with the member's consent. If the ESC is contacted first, ESC personnel should notify the member's Commander as soon as possible.
- 2) An initial meeting should be set up with the transitioning member, their assigned ESC liaison, and a supervisor from their unit of assignment who has been assigned as their primary point of contact. Copies of the Department's transgender-related policies and the availability of transition-related support through Employee Services should be made available to the member.
- 3) Next, if the transitioning member's immediate supervisor was not the first point of contact, a meeting between the ESC liaison and the member's supervisor(s) should be scheduled, with the member's consent, to ensure the supervisor knows of the member's planned transition. The transitioning member may or may not want to attend this meeting.

**Note:** Management above the transitioning member's supervisor should be made aware of the member's planned transition so that supervisors and management can express their support when the member's transition is made known to the member's co-workers.

- 4) Create a Transition Plan. Make sure it addresses all of the following areas:
  - (a) The date when the transition will officially and formally occur. This means the date that the member will change their gender expression, name, and pronouns. The transitioning member may or may not choose to begin using the restroom and locker room associated with their gender identity on this same date.
  - (b) Decide how, and in what format, the transitioning member's co-workers should be made aware of the member's transition. It is up to the transitioning member to decide if they would like to make some co-workers aware of their transition on a one-on-one basis before it is officially announced.
  - (c) Decide what, if any, training will be given to co-workers. Training may be provided before, during or after transition.
  - (d) Determine what updates should be made to the transitioning member's records and email address, and when these updates will be made.
  - (e) Determine dates of any leave, if needed, for pre-scheduled medical procedures.

### **The Day the Gender Transition Will Be Made Known to Co-Workers:**

- 1) If the transitioning employee has decided, the announcement will be made in a briefing/meeting that includes the member's co-workers, the member's supervisors, and the member's Commander and/or Operations staff. The assigned ESC liaison and support personnel from Employee Services should also attend. It is up to the member whether they feel comfortable attending or would prefer not to be there.
- 2) Preferably, the Commander should announce the transition, along with any other high level management who can attend, showing solidarity with the transitioning member. The speaking supervisor should:
  - (a) Emphasize the transitioning member's importance within the Department and management's complete support of the member's transition.
  - (b) Review the Department's Policy § 328- Discrimination, Harassment & Retaliation
  - (c) Indicate that the transitioning member will be presenting themselves in accordance with their gender identity and this should be respected. The supervisor should also advise co-workers about the transitioning member's new name and preferred pronoun which must be used from this point forward.
  - (d) Address bathroom/locker room concerns.
  - (e) Be an example by using the transitioning member's new name and pronoun.
  - (f) Make a point that the Chief of Police and the City of Fresno are inclusive employers and disrespectful behaviors will not be tolerated.
  - (g) Solicit any questions. Refer questions to the ESC or ES representatives if appropriate.
  - (h) If training is going to occur, the date should be announced at this meeting. If possible, the training should occur before the date of the member's official workplace transition.

### **The First Day of the Member's Official Workplace Transition:**

The transitioning member's supervisor should be clear that all elements are in place, in the same way the supervisor would for a new hire or transferred member. These elements include:

- 1) Making sure the transitioning member has a new Department ID, name tag, if required.
- 2) Making sure the member has an updated locker assignment if necessary.
- 3) Ensuring all work documents and workstations (i.e. mailboxes, business cards, computer log in's, e-mails, etc.) have the appropriate name and gender.
- 4) Continue monitoring the workplace to ensure co-workers are using the member's new name and pronoun and continuing to monitor the workplace to stop inappropriate behaviors or comments.

### **1046.1 POLICY**

The uniform policy of the Fresno Police Department is established to ensure that uniformed members will be readily identifiable to the public through the proper use and wearing of Department uniforms.

#### **1046.1.1 PURPOSE AND SCOPE**

Police members wear the uniform to be identified as the law enforcement authority in society. The uniform also serves an equally important purpose to identify the wearer as a source of assistance in an emergency, crisis or other time of need.

Members should also refer to the following associated Policy Manual sections:

- (a) §700 Department Owned and Personal Property;
- (b) §701 Department Issued and Optional Equipment; and
- (c) §1044 ~~Grooming Standards~~ Personal Appearance Standards.

### **1046.2 WEARING AND CONDITION OF UNIFORM AND EQUIPMENT**

The designation of members and/or units that are to be in uniform shall be made by the Chief of Police or designee.

- (a) All members of this Department authorized to wear a uniform shall possess and maintain a serviceable uniform and the necessary equipment to perform uniformed field duty at all times.
- (b) All members of this Department authorized to wear a uniform shall be provided with a complete uniform specifications list during initial orientation.
- (c) Uniforms are only to be worn while on-duty, while in transit to or from work, for court, at other official Department functions or events, or if authorized by the Chief of Police.
- (d) If the uniform is worn while in transit, an outer garment shall be worn over the uniform so as not to bring attention to the member while they are off-duty.

For more detailed information, the "Uniform Specification List" can be located at the Personnel Bureau, through the Policy & Procedures Unit, on the Department library at L:\LIBRARY\BLUEBOOK, or authorized uniform shop(s).

#### **1046.2.1 UNAUTHORIZED UNIFORMS, EQUIPMENT, AND ACCESSORIES**

Members may not wear any uniform item, accessory or attachment unless specifically authorized in the Uniform Specification List or by the Chief of Police or designee.

Members may not use or carry any safety item, tool or other piece of equipment unless specifically authorized in Policy §701, Department Issued and Optional Equipment, or by the Chief of Police or designee.

#### **1046.2.2 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS**

Members of the Fresno Police Department may not wear any part of the uniform, be photographed wearing any part of the uniform, or identify themselves as a member of the Fresno Police Department to do any of the following (Government Code §§3206 and 3302):

- (a) Endorse, support, oppose, or contradict any political campaign or initiative;
- (b) Endorse, support, oppose, or contradict any social issue, cause, or religion; or
- (c) Endorse, support, or oppose, any product, service, company or other commercial entity.

#### **1046.2.3 PUBLIC FORUMS**

Male members required to attend public forums shall wear a business suit, or sport coat with slacks, and tie. Female members shall wear professional clothing of modest style when attending public forums. Uniformed members shall wear a tie with a tie bar and a long sleeve shirt.

#### 1046.2.4 CONCEALMENT OF EQUIPMENT

When outside of Department facilities, non-uniformed sworn members may wear their handgun in a visible manner when they prominently display their badge in a manner that readily identifies the member as a police officer. Otherwise, members shall wear attire that will conceal equipment such as handcuffs and firearms.

#### 1046.3 UNIFORM COMMITTEE

The Chairperson of the Uniform Advisory Committee may authorize members to wear items not specified in the Uniform Specification List on a test basis. The Chairperson shall supply the Training Bureau and authorized uniform shops with complete uniform specifications (e.g., style, construction, and material). The Personnel Bureau and Policy & Procedures Unit shall have the uniform specifications available for review by members.

### **1047.1 POLICY**

Community Service Officers will perform assignments which involve responsible public contact work in crime prevention and the delivery of nonemergency police services as assigned.

#### **1047.1.1 PURPOSE AND SCOPE**

CSO's work under direct supervision, performing a variety of nonemergency police services in support of the division they are assigned within the Department.

### **1047.2 SAFETY ISSUES**

Although screening of calls shall be performed prior to assignment of a CSO, the CSO assigned shall be alert to potential hazards. When upon arrival at a call, or during the investigation of an incident, the CSO becomes aware of a potentially hazardous situation or the actual nature of the incident is found to be other than one specified for a CSO to handle, the CSO shall immediately request an officer to respond, via radio. The CSO shall take whatever steps necessary to protect themselves including leaving the immediate area of the call.

### **1047.3 COMMUNITY SERVICE OFFICER (CSO) RESPONSIBILITIES**

CSO's shall:

- (a) Perform assignments which involve responsible public contact work in crime prevention and the delivery of non-emergency police services as assigned;
- (b) Not be responsible for or assigned tasks relative to the immediate apprehension of suspects or known criminals;
- (c) Not confront or pursue subjects when the incident may lead to a physical encounter between the subject and the CSO; and
- (d) Not take any enforcement or prevention action to in-progress incidents. CSO's shall immediately report the location and nature of the incident and assume the role of a witness.

### **1047.4 PROHIBITED ACTIVITIES**

CSO's shall not be dispatched to or assigned to perform any police service when there is a likelihood that the CSO may come in contact with the perpetrator of the crime, or any other hazardous situation.

### **1047.5 SPECIFIC FIELD ASSIGNMENTS**

CSO's may be assigned to calls involving:

- (a) Prior burglary with suspect not present;
- (b) Prior vehicle burglary with suspect not present;
- (c) Follow-up with suspects not present;
- (d) Non-injury and minor-injury vehicle accidents;
- (e) Vehicle blocking a driveway;
- (f) Abandoned vehicle;
- (g) Illegal parker;
- (h) Other traffic problem;
- (i) Barking Dog;
- (j) Prior threatening phone call;
- (k) Missing person other than foul play;
- (l) Suspicious person, information only;
- (m) Prior prowler report;
- (n) Public assist;
- (o) Prior stolen vehicle report;
- (p) Recovered or unfounded stolen vehicles;
- (q) Prior bike theft;

- (r) Prior theft from vehicle;
- (s) Prior theft of vehicle accessories;
- (t) Prior grand theft;
- (u) Prior petit theft;
- (v) Lost property report;
- (w) Found property report;
- (x) Prior vandalism;
- (y) Noise or other disturbances that involve no contact with the offender; and
- (z) Other calls approved by a supervisor or the Department.

CSO's may be assigned to various support service tasks within any division of the Department.

#### **1047.6 SAFETY ISSUES**

Although screening of calls shall be performed prior to assignment of a CSO, the CSO assigned shall be alert to potential hazards. When upon arrival at a call, or during the investigation of an incident, the CSO becomes aware of a potentially hazardous situation or the actual nature of the incident is found to be other than one specified for a CSO to handle, the CSO shall immediately request an officer to respond, via radio. The CSO shall take whatever steps necessary to protect themselves including leaving the immediate area of the call.

While investigating vehicle accidents, when the CSO suspects that any party to the accident has committed a crime (except offenses for which a CSO may issue a citation), the CSO shall immediately call for an officer and a supervisor. Once the officer has stabilized the situation, the CSO shall continue their investigation unless advised by the supervisor to do otherwise.

#### **1047.7 CSO UNIFORMS**

CSO assigned to positions in the Patrol Division shall be in uniform. The bureau commander/manager has the discretion to allow a CSO to wear plainclothes due to the variation of a duty assignment or need for the day. (See Policy §1046 for uniform guidelines.) These uniform regulations will be strictly adhered to.

**1048.1 POLICY**

The Cadet Program (Cadet I & II) is a four year maximum position (Fresno Municipal Code §3-266) and is used to prepare individuals for a career in law enforcement, as such, cadets shall be held to the same standards of conduct as a regular police officer established in the Policy Manual.

**1048.1.1 PURPOSE AND SCOPE**

Cadets work under direct supervision, perform a variety of routine and progressively more advanced tasks in an apprenticeship program in preparation for a career in law enforcement.

**1048.2 POLICE CADET PROGRAM**

The authority to appoint qualified persons to the position of police cadet is vested in the Chief of Police. Cadets progress through a two stage program; Police Cadet I and Police Cadet II (which includes police academy training).

Police cadets are prohibited from having ride-alongs.

**1048.2.1 POLICE CADET I**

A Police Cadet I is a non-sworn public officer who assists police personnel in nonhazardous duties.

Police Cadet I duties include, but are not limited to:

- (a) Completing police reports after conducting non-hazardous investigations;
- (b) Collecting evidence at crime scenes;
- (c) Booking property and evidence;
- (d) Processing and identifying persons through fingerprints;
- (e) Traffic and parking control;
- (f) Performing related clerical duties; and
- (g) Other unspecified non-emergency duties as assigned by their assigned supervisor.

**1048.2.2 POLICE CADET II**

A Police Cadet II is a non-sworn, public officer who is assigned to the police academy or has successfully completed a California Law Enforcement Basic Academy approved by the Commission on Peace Officer Standards and Training.

Police Cadet II duties include, but are not limited to the following:

- (a) Transporting and/or booking of in-custody arrestee(s) to/from the FCJ, FCJH and HQ/IDS;
- (b) Serving arrest warrants on arrestee(s) that have been transported to the FCJ or FCJH for such warrant arrest;
- (c) Providing standby guard duty for injured prisoners and prisoner standby;
- (d) Traffic and parking control;
- (e) Investigation of non-injury traffic collisions;
- (f) Assist police officers with non-enforcement duties as needed;
- (g) Completion of paperwork related to their duties;
- (h) Other unspecified transportation or non-enforcement duties as assigned by the Division Commander and approved by their assigned supervisor; and
- (i) Attending the Police Academy when assigned to do so.

Police Cadet II's assigned to transportation duty (the "wagon") will be assigned to the Patrol Division. These Cadets will not be responsible for the completion of the paperwork related to an arrest by a



police officer unless requested to do so by their supervisor. Police Cadet II's shall only be dispatched to transportation calls while working in this capacity.

Police Cadet II's shall respond to calls for service only when they are requested to do so by an officer at the scene or dispatched by the ComGen. They shall not respond to in-progress incidents unless it involves one of their specified duties, (i.e. traffic collisions). When a Police Cadet arrives on, or is confronted by, an in-progress incident, they shall immediately report the location and nature of the incident and assume the role of a witness including leaving the immediate area of the call if necessary.

### **1048.3 SAFETY ISSUES**

Although screening of calls shall be performed prior to the assignment of a police cadet, the cadet assigned shall be alert to potential hazards.

During transport, a Police Cadet II may use physical force to prevent an escape, overcome resistance, or to defend themselves and others from injury (See Policy §300- Use of Force).

Police Cadet II's are allowed to possess firearms only while engaged in specific duties as outlined in Policy § 312.

Upon arrival at a call, or during the investigation of an incident, when the cadet becomes aware of a potentially hazardous situation or the actual nature of incident is found to be other than one specified for a cadet to handle, the cadet shall immediately request an officer to respond. The cadet shall take whatever steps necessary to protect themselves including leaving the immediate area of the call.

When, while investigating an incident, a cadet suspects that a crime has been committed and enforcement action may be necessary; they shall request that an officer respond. Once the officer has stabilized the situation; the cadet shall continue their investigation unless advised otherwise by the officer or supervisor.

The Police Cadet II is allowed to possess their Department issued firearm only while engaged in specific duties outlined under Sections 1048.2.2 (a), (b) and (c). When not performing duties outlined above, Cadet II's shall transport and store their Department issued firearm consistent with State law. Cadet II's are subject to the same range qualifications as listed in Policy §312.6.

### **1048.4 CADET COORDINATOR**

The Cadet Coordinator will be responsible for tracking the educational and job performance of cadets as well as making their individual assignments throughout the Department.

### **1048.5 ORIENTATION AND TRAINING**

Newly hired cadets will receive an orientation of the organization and facilities before reporting to their first assignment. On the job training will be conducted in compliance with the Police Cadet Program Manual. In addition to job specific training, information will be offered to prepare cadets to compete successfully for assignment to the Police Academy.

All training will focus on improving job performance, as well as preparation to become police officers.

### **1048.6 POLICE CADET STAFFING REQUIREMENTS**

- (a) Police Cadet staffing is subject to the needs of the Department; and
- (b) When Police Cadet II's not are available to serve as transportation officers, the Department may order back a Police Cadet II to fill the vacant slot or utilize an extra patrol officer to function as a transportation officer.

**1048.7 CADET UNIFORMS**

Police cadet assignments will require a cadet uniform, unless specific permission is given to wear plainclothes, from the Commander or Manager of the cadet's area of assignment (See Policy §1046 for uniform guidelines). These uniform regulations will be strictly adhered to.

**1048.8 ROTATION OF ASSIGNMENTS**

Rotating job assignments should occur every six to eight months, to enhance the career development for each cadet, as determined by the Cadet Coordinator. Department needs and concerns will take precedence over individual considerations.

**1048.9 RIDEALONG PROCEDURES**

All cadets are authorized to participate in the Ride-Along Program on their own time and as approved by their immediate supervisor.

**1048.10 PERFORMANCE EVALUATIONS**

Performance evaluations for all cadets shall be completed by the cadet's immediate supervisor every three months (quarterly) The evaluations will be sent to the FTO/Cadet Coordinator to be added to the cadet's personnel folder. Cadets assigned to the Police Academy do not require evaluations.

### **1049.1 POLICY**

Park Rangers (PRs) will inform the public about parks, recreation facilities, activities, environmental awareness, and education on the proper use of park recreation facilities operated by the City of Fresno.

#### **1049.1.1 PURPOSE AND SCOPE**

PRs work under close supervision of the Fresno Police Department, performing a variety of non-sworn enforcement of State and City Municipal Codes. PRs are responsible for enforcing rules and regulations within public parks, trails, and recreation facilities operated by the City of Fresno while supporting their assigned policing district.

### **1049.2 PARK RANGER RESPONSIBILITIES**

PRs should:

- (a) Provide information to the public on parks, recreational facilities, activities, environmental awareness, and education on the proper use of park recreation facilities operated by the City of Fresno;
- (b) Issue warnings and citations as required by law;

### **1049.3 PROHIBITED ACTIVITIES**

PRs shall not:

- (a) Be dispatched to or assigned to perform any police service when there is a likelihood that the PR may encounter the perpetrator of the crime or any other hazardous situation;
- (b) Be responsible for or assigned tasks relative to the immediate apprehension of suspects or known criminals;
- (c) Confront or pursue subjects when the incident may lead to a physical encounter between the subject and the PR;
- (d) Take any enforcement or prevention action to in-progress incidents. PRs shall immediately report the location and nature of the incident while assuming the role of a witness.

### **1049.4 SPECIFIC FIELD ASSIGNMENTS**

PRs may be assigned to take calls and reports within public parks, trails, and recreation facilities operated by the City of Fresno involving:

- (a) Prior burglary with suspect not present;
- (b) Prior vehicle burglary with suspect not present;
- (c) Follow-up with suspects not present;
- (d) Non-injury and minor-injury vehicle accidents;
- (e) Vehicle blocking a roadway;
- (f) Abandoned vehicle;
- (g) Illegal parker;
- (h) Other traffic problems;
- (i) Animal complaints;
- (j) Prior threatening phone call;
- (k) Missing person other than foul play;
- (l) Suspicious person, information only;
- (m) Public assistance;
- (n) Prior stolen vehicle report;

- (o) Recovered or unfounded stolen vehicles;
- (p) Prior bike theft;
- (q) Prior theft from vehicle;
- (r) Prior theft of vehicle accessories;
- (s) Prior grand theft;
- (t) Prior petty theft;
- (u) Lost property report;
- (v) Found property report;
- (w) Prior vandalism;
- (x) Noise or other disturbances that involve no contact with the offender; and
- (y) Other calls approved by a supervisor or the Department.

PRs shall perform all related duties as required or directed and may be assigned to various community events designated by the commander of their policing district. The events should be within public parks and recreational facilities operated by the City of Fresno.

#### **1049.5 SAFETY ISSUES**

Although screening of calls shall be performed before the assignment of a PR, the PR assigned shall be alert to potentially dangerous situations. Upon arrival at a call for service or during the investigation of an incident, if the PR becomes aware of a potentially dangerous situation or the actual nature of the incident is found to be other than specified for a PR to handle, the PR shall immediately request an officer to respond. The PR shall take whatever steps necessary to protect themselves, including leaving the immediate area of the call.

While investigating vehicle accidents, when the PR suspects that any party to the accident has committed a crime (except offenses for which a PR may issue a citation), the PR shall immediately call for an officer. Once the officer has stabilized the situation, the PR shall continue their investigation unless advised otherwise.

#### **1049.6 PARK RANGER UNIFORMS**

PRs assigned to positions in the Patrol Division shall be in uniform. The bureau commander/manager has the discretion to allow a PR to wear plain clothes due to the variation of a duty assignment or need for the day. (See Policy §1046 for uniform guidelines.) These uniform regulations will be strictly adhered to.

### **1050.1 POLICY**

All members shall avoid situations which give rise to an actual or apparent conflict of interest between their professional responsibilities and their relationships with other members.

#### **1050.1.1 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 members of the Department.

### **1050.2 DEFINITIONS**

**Business Relationship** – Serving as an employee, independent contractor, compensated consultant, owner, board member, shareholder, or investor in an outside business, company, partnership, corporation, venture, or other transaction where the Department member'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 member's action, inaction, or decisions are or may be influenced by the member's personal or business relationship.

**Personal Relationship** – Includes marriage, dating, cohabitating, or any other intimate relationship beyond mere friendship.

**Relative** – A member's "relative by blood or marriage within the third degree" includes parents, children, siblings, grandparents, grandchildren, uncles/aunts, nieces/nephews, first cousins, great grandparents, and great grandchildren, as well as the spouses or domestic partners of each.

**Subordinate** – A member who is subject to the temporary or ongoing direct or indirect authority of a supervisor.

**Supervisor** – A member who has temporary or ongoing direct or indirect authority over the actions, decisions, evaluation, and/or performance of a subordinate member.

### **1050.3 RESTRICTED DUTIES AND ASSIGNMENTS**

While the Department will not prohibit personal or business relationships between members, the following reasonable restrictions shall apply [Government Code §12940(a)]:

- (a) Members are prohibited from directly supervising, or being directly supervised by, any other member who is a relative or with whom they are involved in a personal or business relationship.
  - 1) If circumstances require that such a supervisor/subordinate relationship exist temporarily, the supervisor shall make every reasonable effort to defer matters involving the involved member to an uninvolved supervisor.
  - 2) When personnel and circumstances permit, the Department will attempt to make every reasonable effort to avoid placing members in such supervisor/subordinate situations. The Department however, reserves the right to transfer or reassign any member to another position within the same classification as it may deem necessary in order to avoid conflicts with any provision of this policy.
- (b) Members are prohibited from participating in, contributing to, or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting a member who is a relative, or with whom they are involved in a personal or business relationship.
- (c) Police Training Officer's (PTO's) will not be assigned to train relatives, members with whom they have (or had) a personal relationship, and/or members with whom they have a business relationship.

Members who are relatives or otherwise involved in a personal relationship, should not be assigned to work together in a specific unit or team. When they are assigned within the same Bureau, District, or shift, they shall not be assigned together as a double-unit.

#### 1050.3.1 MEMBERS RESPONSIBILITY

Prior to entering into any personal or business relationship or other circumstance which the member knows or reasonably should know could create a conflict of interest or other violation of this policy, members shall promptly notify their uninformed, immediate supervisor.

Whenever any member is placed in circumstances which would require the member to take enforcement action or provide other official information or services to any relative or other individual(s) with whom the member is involved in a personal or business relationship, the member shall promptly notify their uninformed, immediate supervisor.

#### 1050.3.2 SUPERVISORS RESPONSIBILITY

Upon being notified of or becoming aware of any circumstance which could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps to resolve the conflict. Supervisors shall also promptly notify their division commander of such actual or potential violations through the chain of command.

#### 1050.3.3 AUTHORITY TO TRANSFER

Division Commanders, or their designee, shall have the authority to transfer involved members should their relationship impair their ability to do their job, or involve potential conflicts of interest. In the case of any such transfer the Department will, to the extent reasonably possible, attempt to accommodate the affected members by maintaining their respective workdays and assigned hours.

### **1058.1 POLICY**

Any Department member or its agent authorized to post information on any Department or City social media site shall use caution to ensure the information is true, timely, and accurate, prior to posting to any social media site. Under no circumstances shall confidential information be posted on any social media site. Refer to Policy §346 for scope of release as well as restricted information.

#### **1058.1.1 PURPOSE AND SCOPE**

This policy is intended to provide guidelines for social media uses for the Fresno Police Department. Social media sites and applications are primarily mobile and Internet based tools for information sharing and discussion and used to reach constituents to not only disburse, but also receive information and requests. Social media combines social interaction with technology which can integrate text, audio, video and graphics or pictures. Examples of such systems are Facebook, Twitter, MySpace, weblogs, texting as well as real-time web communications such as instant messaging.

#### **1058.2 SOCIAL MEDIA**

Social media may be used to provide information to our community. Information not appropriately shared with the public in other settings should not be posted via social media platforms either. This applies to written, audio, photographic and video information.

Work related use of any Department or City social media site by Department members is limited to platforms approved by the Chief of Police and administered by the Department PIO. In order to utilize an approved platform, the member must be authorized to release information per Policy §346, and utilize an account that is approved by the PIO.

#### **1058.3 APPLICABILITY**

This policy applies to any member or agent of the Fresno Police Department who utilizes social media sites, tools or technology in an administrative capacity or as an agency representative. This includes 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, email, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, video and other file-sharing sites.

#### **1058.4 DEPARTMENT PROPERTY**

Any information that is posted on a Fresno Police Department sanctioned social media site and/or is posted by a Department member via a City network, email or other electronic account is considered the property of the Department. All use of social media and information is governed by applicable state and federal laws and regulations as well as any usage policies and administrative orders by the City of Fresno. This includes any copyright and records retention laws. It should be noted that any information that is posted on any social media site by a Department member utilizing City Information Systems and/or accounts are subject to be discovered as governed by the Freedom of Information Act (FOIA) and the Public Records Act (PRA) which can be disclosed via a PRA request.

##### **1058.4.1 PRIVACY EXPECTATION**

Members 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). Any information created, transmitted, downloaded, exchanged, or discussed in a public online forum may be accessed by the Department at any time without prior notice. Members should be aware that privacy settings and social media sites are constantly in flux, and they should never assume that personal information posted on such sites is protected.

#### **1058.4.2 DEPARTMENT MAINTAINED SOCIAL MEDIA SITES / PAGES**

All Department maintained social media sites or pages shall be approved by the Chief of Police or designee and shall be administered by the Departmental Public Information Officer (PIO).

General guidelines:

- (a) Where possible, social media pages shall clearly indicate they are maintained by the Department and shall have Department contact information prominently displayed;
- (b) Social media content shall adhere to applicable laws, regulations, and policies, including all information technology and records management policies;
  - 1) Content is subject to public records laws. Relevant records retention schedules apply to social media content; and
  - 2) Content must be managed, stored, and retrieved to comply with open records laws and e-discovery laws and policies.
- (c) Where possible, social media pages should state that the opinions expressed by visitors to the page(s) do not reflect the opinions of the Department;
  - 1) Pages shall clearly indicate that posted comments will be monitored and that the Department reserves the right to remove obscenities, off-topic comments, and personal attacks; and
  - 2) Pages shall clearly indicate that any content posted or submitted for posting is subject to public disclosure.

#### **1058.5 APPROVED USES OF SOCIAL MEDIA**

Department members may utilize social media sites:

- (a) As an investigative tool to seek evidence or information regarding: missing persons; wanted persons; gang participation; crimes perpetrated online (i.e., cyberbullying, cyberstalking); and photos or videos of a crime posted by a participant or observer;
- (b) For community outreach and engagement including: Providing crime prevention tips; offering online-reporting opportunities; sharing crime maps and data; and soliciting tips about unsolved crimes (i.e., Crimestoppers, text-a-tip);
- (c) To make time-sensitive notifications related to road closures, special events, weather emergencies, and missing or endangered persons;
- (d) As a recruitment mechanism for persons seeking employment and volunteer positions within the Department; and
- (e) As otherwise approved by the PIO.

#### **1058.6 INVESTIGATIVE SOCIAL MEDIA ACCOUNTS**

Department members may utilize social media sites as an investigative tool to accomplish the following objectives:

- (a) Seeking evidence or information about personal associations, friends and/or acquaintances of criminals, or wanted persons;
- (b) Seeking evidence or information about gang participation and affiliation;
- (c) Seeking evidence or information about criminal activities, including online criminal activities;
- (d) Seeking evidence or information, such as photos or videos of a crime posted by a participant or observer;
- (e) Seeking evidence or information to verify or substantiate information from other sources.

Department members shall not use investigative social media sites to seek or retain information about:

- (a) Individuals or organizations solely on the basis of their religious, political, social views;
- (b) An individual's participation in a non-criminal organization or lawful event;
- (c) An individual's race, ethnicity, citizenship, disability, gender, or sexual orientation, unless such information is relevant to identify an individual's connection to criminal conduct.
- (d) Unless such information is relevant to identify an individual's connection to criminal conduct or another legitimate public safety purpose.



### **1058.6.1 APPROVAL OF INVESTIGATIVE SOCIAL MEDIA ACCOUNTS**

Department member shall not create an investigative social media account unless they have the approval of their Bureau Commander. Once approved the use of investigative social media accounts shall be established and coordinated through the Bureau commander, or designee. Once a member leaves the investigative unit, they shall check with their direct supervisor(s) to see if the continued use of the account is beneficial to the department and the unit. If decision to keep account is made, the member shall continue the use of the account in their new position with approval of their new supervisor. If the account is no longer needed, the account will be closed by the member.

Once an investigative Social Media Account is closed the member shall ensure that a retention of all available data from the account is made to be ready for any future reference.

### **1058.6.2 CONFLICT AVOIDANCE OF ACCOUNTS & DOCUMENTATION**

Once approved all investigative Social Media Accounts shall be phoned into the WSIN/LA Clear fusion center. Assigned member shall provide the fusion center with the username/handle of the investigative Social Media Accounts. This will serve as the record of the account.

### **1058.7 CONDUCT**

When using social media in an administrative capacity or as an agency representative for Department business, all City regulations, rules and standards of conduct are applicable. Use of City systems including cell phones, email, computers, Internet, etc. for social media that is not related to City of Fresno business operations is prohibited. The City's systems shall not be used for personal gain and/or benefit.

Members authorized to use social media in an administrative capacity or as an agency representative for Department business will:

- (a) Prior to use, ensure they have the appropriate knowledge of how the account and platform work. This is gained through training received by the PIO or other properly trained supervisor;
- (b) Utilize the account to disseminate information in a timely manner;
- (c) Act in a respectful manner, maintaining professionalism in their interactions on social media sites;
- (d) Post information in a factual and clear manner that summarizes the event, but keeps the post to a minimum. Brevity and photos are the preferred methods of relating an incident.
  - 1) Photographs which have been downloaded and/or emailed to a supervisor to be used for the Fresno Police Department Facebook page or End of Watch Report shall be identical to those photographs that were downloaded into DMMS;
- (e) Maintain the privacy of information in accordance with the provisions of Policy §810 - Release of Records and Information. This includes, but is not limited to;
  - 1) Applicable privacy protection laws [Health Insurance Portability and Accountability Act (HIPAA)]; and
  - 2) The release of photos and/or videos which might compromise the privacy of citizens (e.g. the interior of their residences, faces of uninvolved persons, juveniles or license plates). Generally, photos of areas not open to public view should not be posted.
- (f) Identify themselves at the conclusion of each post by name, badge number and assignment. This will allow for identification of the person making the post; and
- (g) Log out of the account when not in use;

Members may respond to questions regarding Department policy on the posts they created. All other inquires shall be handled by the PIO.

Members authorized to use social media in an administrative capacity or as an agency representative for Department business shall not:

- (a) Modify any account settings or delete posts unless expressly authorized by the Chief of Police or PIO;
- (b) Engage in exchanges that are offensive and/or adversarial; and

- (c) Misrepresent any information.

### **1058.8 PROHIBITED SPEECH, EXPRESSION AND CONDUCT**

When using social media, members should be mindful that their post becomes part of the worldwide electronic domain. Therefore, adherence to the Department's code of conduct is required in the use of social media. In order to meet the Department's safety, performance and public-trust needs, the following are prohibited:

- (a) Posts containing obscene or sexually explicit language, images, or acts and statements or other forms of speech that ridicule, malign, disparage, or otherwise express bias against any race, any religion, or any protected class of individuals;
- (b) Posts involving themselves or other Department members reflecting behavior that would reasonably be considered reckless or irresponsible; and
- (c) Posts containing any confidential information.